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R-BCEA-2011-03  
1/19/2011

**CRA FUNDING AGREEMENT BETWEEN THE HOLLYWOOD, FLORIDA  
COMMUNITY REDEVELOPMENT AGENCY AND MARGARITAVILLE  
HOLLYWOOD BEACH RESORT, LLC**

THIS CRA FUNDING AGREEMENT (the "Agreement") dated as of this 9 day of February, 2011, by and between the HOLLYWOOD COMMUNITY REDEVELOPMENT AGENCY, a dependent special district of the City of Hollywood ("CRA") and MARGARITAVILLE HOLLYWOOD BEACH RESORT, LLC a Florida limited liability company ("Developer").

**RECITALS**

A. WHEREAS, on even date herewith, Developer has entered into that certain Development Agreement and Ground Lease (the "Lease Agreement") with the City of Hollywood, Florida ("City"), which, among other things, provides for the 99 year lease of the City owned property commonly referred to as Johnson Street located within the CRA for the construction, development, operation and maintenance of a resort hotel, together with a parking garage (as hereinafter defined as the "Project") pursuant to the Site Plan (the "Site Plan") approved by the City Commission in Resolution No. R-2010-364; and

B. WHEREAS, CRA is desirous of improving certain public properties and public rights-of-way within the Project known herein as the "Johnson Street Parcel" and the "Intracoastal Parcel", and Developer is willing to perform same pursuant to the terms of this Agreement (the "Public Improvements"); and

C. WHEREAS, the Lease Agreement provides for the development and construction by the Developer of the Public Improvements on the Johnson Street Parcel, the Intracoastal Parcel and other rights-of-way within or adjacent to the Project; and

D. WHEREAS, the Developer and City, on even date herewith, have also entered into License Agreements for the Johnson Street Parcel and the Intracoastal Parcel, which provide for the use, maintenance and operation by the Developer of those Public Improvements thereon; and

E. WHEREAS, the Developer has estimated that the Public Improvements, as required by the Site Plan and desired by the CRA, have an estimated cost of Five Million (\$5,000,000) Dollars; and

F. WHEREAS, the Project and the Public Improvements will significantly reduce the blight in the CRA and will bring significant economic redevelopment to the area; and

G. WHEREAS, the appropriate officials of the CRA have worked with representatives of Developer to negotiate the terms and conditions of this Agreement relating to the Public Improvements, and the appropriate officials of the CRA are recommending this Agreement to the CRA Board.

NOW, THEREFORE, in consideration of the obligations of the parties one to another

as set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the CRA and Developer agree as follows:

**ARTICLE 1**  
**RECITALS INCORPORATED AND DEFINITIONS**

Section 1.1 Recitals. The foregoing recitals are true and correct and are incorporated in this Agreement.

Section 1.2 Definitions. For all purposes of this Agreement, the terms defined in this Article I shall have the following meanings and other provisions of this Article I shall apply:

“Agreement” is defined as this CRA Funding Agreement by and between Developer and the CRA evidencing the funding provided by the CRA to Developer for the development and construction of the Public Improvements in accordance with the Site Plan.

“City” is defined as the City of Hollywood, Florida, its successors and assigns, in whole or in part.

“City Indemnified Party” is defined collectively as City, CRA and the City's and CRA's respective elected and appointed officials, directors, officers, employees and agents.

“CRA” is defined as the City of Hollywood Community Redevelopment Agency, a dependent special district of the City, its successors and assigns, in whole or in part.

“Default Notice” is defined as written notice by the CRA to DEVELOPER of Default under this Agreement.

“Developer” is defined as Margaritaville Hollywood Beach Resort, LLC, a Florida limited liability company and the successors, assigns or transferees thereof expressly approved or permitted by the terms and provisions of this Lease.

“Developer Indemnified Party” is defined collectively as Developer, its directors, officers, shareholders, partners, members, employees and agents.

“Effective Date” is defined as the date the last party executes this Agreement.

“Event of Default” is defined as set forth in Section 4.1 hereof.

“Notice” is defined as set forth in Section 6.1 hereof.

“Project” is defined as the hotel resort development set forth within the Site Plan, civil plans and landscaping plans as prepared by the Adache Group Architects consisting of approximately 74 pages submitted to the City of Hollywood's Development Review Board, Planning and Zoning Board, and City Commission and approved in Resolution No. R-2010-364 on December 15, 2010.

“Public Improvements” are defined as improvements to public property and/or public rights-of-way, known as the Johnson Street Parcel, the Intracoastal Parcel, A1A and Michigan Street as required by the Site Plan to be completed by the Developer and which improvements are specifically described in Exhibit “A” hereto.

“Substantial Completion” or “Substantially Complete” is defined as (i) all Public Improvements have been substantially completed in accordance with the Site Plans and Specifications, and (ii) all Public Improvements therein shall have been issued temporary or final certificates of completion and may be used for their intended purposes.

## **ARTICLE 2**

### **DEVELOPER'S OBLIGATIONS**

Section 2.1 The Developer shall build the Public Improvements consistent with the Site Plan approved by the City Commission.

Section 2.2 The Developer shall perform the Public Improvements set forth in Exhibit "A". Such Public Improvements shall be completed no later than two (2) years from the Effective Date. The estimated value of the Public Improvements set forth in Exhibit "A" is \$5,000,000. The Developer shall be responsible for the actual payment of these Public Improvements. CRA shall reimburse the Developer for said Public Improvements in an amount not to exceed \$5,000,000. Said reimbursement shall be in accordance with Section 3.1 hereof. The Developer shall bear all costs for these Public Improvements exceeding \$5,000,000. Further, Developer shall be required and be solely responsible for obtaining any and all federal, state and local approvals and permits relating to the Public Improvements. Developer shall obtain such approvals expeditiously and with reasonable due diligence.

Section 2.3 In order to protect the CRA and City from all accidents and occurrences that occur prior to the CRA's or City's acceptance of the Public Improvements, the Developer shall:

(i) Indemnify, hold harmless and, at the City Attorney's/General Counsel's option, defend, or pay for an attorney selected by the City Attorney/General Counsel to defend the City and CRA, their officers, agents, servants and employees, against any and all claims, losses, liabilities, and expenditures of any kind, including attorney's fees, court costs, and expenses, caused by the negligent act or omission of contractor(s) or subcontractor(s), their employees, agents, servants or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages to any person or property.

(ii) In order to insure the indemnification obligation contained above, the Developer's contractor(s) shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement (unless otherwise provided), the insurance coverages set forth below, in accordance

with the terms and conditions of this section.

(iii) Such policy or policies shall contain deductible amounts no greater than those standard in the insurance industry and shall be issued by United States Treasury approved companies authorized to do business in the State of Florida, and having agents upon whom service of process may be made in Broward County, Florida. Contractor(s) shall specifically protect City and CRA by naming City, CRA and the City Commission Members as additional insureds.

(iv) Comprehensive General Liability Insurance. A Comprehensive General Liability Insurance Policy with the minimum limits of Five Million Dollars (\$5,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

Premises and/or operations.

Independent contractors.

Product and/or completed operations for contracts.

Broad Form Contractual Coverage applicable to this specific contract, including any hold harmless and/or indemnification agreement.

Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

Underground coverages.

(v) Business Automobile Liability Insurance. Business Automobile Liability Insurance with minimum limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

Owned vehicles.

Hired and non-owned vehicles.

Employers' non-ownership.

(vi) Workers' Compensation Insurance. Workers' Compensation Insurance shall apply for all employees in compliance with the "Worker's Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include: Employers' Liability with a limit of One Hundred Thousand Dollars (\$100,000.00) each accident.

(vii) Developer shall furnish to the CRA's Executive Director, certificates of insurance or endorsements (collectively, "Certificates of Insurance") evidencing the insurance coverages specified by this subsection prior to beginning performance any work under this Agreement. The required Certificates of Insurance shall name the types of policies provided, refer specifically to this Agreement, and state that such insurance is as required by this Agreement.

(viii) Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required under this Agreement is completed. All policies must be endorsed to provide CRA with at least thirty (30) days' prior written notice of cancellation and/or restriction. If any of the insurance coverages will expire prior to the completion of the work, copies of renewal policies shall be furnished at least thirty (30) days' prior to the date of their expiration.

Section 2.4 Except as provided in Section 2.3 above, Developer shall have the full right and authority to enter into any and all construction agreements it deems necessary for the development and construction of the Public Improvements. Neither the City nor CRA shall have any right of approval over said construction agreements or contractors or subcontractors, and each agrees not to unreasonably interfere with same, except to the extent required to carry out its governmental functions. All such construction agreements shall be the sole responsibility of Developer.

Section 2.5 In connection with any construction work, and with the maintenance, management, use and operation of the Public Improvements and Developer's performance of its obligations hereunder, Developer shall comply promptly with all requirements, without regard to the nature of the work required to be done, whether extraordinary or ordinary, and whether requiring the removal of any encroachment (but Developer may seek to obtain an easement in order to cure an encroachment, if permitted by requirements), or affecting the maintenance, management, use or occupancy of the Public Improvements, or involving or requiring any structural changes or additions in or to the Public Improvements and regardless of whether such changes or additions are required by reason of any particular use to which the Project, or any part thereof, may be put.

Section 2.6 During the construction period Developer shall maintain all of the Public Improvements, except for the roadway, curb and gutter improvements, at all times, and

keep said Public Improvements in good and safe order and condition, and in compliance with all applicable laws, rules, regulations, codes and ordinances.

### **ARTICLE 3** **CRA'S OBLIGATIONS**

Section 3.1 Reimbursement for the Public Improvements. The CRA shall provide Developer with reimbursement for the Public Improvements specifically set forth in Exhibit "A" in an amount not to exceed Five Million Dollars (\$5,000,000) as follows:

Each month Developer shall submit unto the Executive Director of the CRA an application and Certificate for Payment for the percentage of completed work as per the draw schedule attached hereto as Exhibit "B", together with other information or documentation reasonably deemed necessary by the CRA, including, but not limited, to releases of liens. The Executive Director shall have thirty (30) days from such submittal to review the application and Certificate for Payment and may request further documentation to substantiate the expenditures. Upon approval of the application and Certificate for Payment, the Executive Director shall forward the approval to the City's Director of Financial Services for reimbursement to the Developer within fifteen (15) days. If Developer submits an application and Certificate of Payment seeking reimbursement for a particular Public Improvement that exceeds the dollar amount indicated for that Public Improvement in Exhibit "A," the application and/or Certificate of Payment shall specify transfers from other Public Improvements in Exhibit "A" in amounts that equal the amount of excess.

### **ARTICLE 4** **EVENTS OF DEFAULT, REMEDIES, ETC.**

Section 4.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Developer shall default in the observance or performance of any term, covenant or condition of this Agreement, the Lease Agreement and related documents, on Developer's part to be observed or performed and Developer shall fail to remedy such Default within thirty (30) days after written notice by the CRA of such Default (the "Default Notice"). If, however, such a Default is of such a nature that it cannot reasonably be remedied within thirty (30) days (but is otherwise susceptible to cure), the following events shall be an "Event of Default" hereunder: (i) if Developer shall fail, within thirty (30) days after the giving of such Default Notice, to advise the CRA of Developer's intention to institute all steps necessary to remedy such Default, (ii) from time to time, as reasonably requested by the CRA, if Developer shall fail to advise the CRA of the steps being taken that are necessary to remedy such Default (which steps shall be reasonably designed to effectuate the cure of such Default in a professional and expeditious manner), or (iii) if Developer shall fail thereafter to diligently prosecute to completion all such steps necessary to remedy such Default.

(b) to the extent permitted by law, if Developer admits, in writing, that it is generally unable to pay its debts as such become due;

(c) to the extent permitted by law, if Developer makes an assignment for the benefit of creditors;

(d) to the extent permitted by law, if Developer files a voluntary petition under Title 11 of the United States Code, or if Developer files a petition or an answer seeking, consenting to or acquiescing in, any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future Federal bankruptcy code or any other present or future applicable federal, state or other bankruptcy or insolvency statute or law, or seeks, consents to, acquiesces in or suffers the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Developer's, of all or any substantial part of its properties, or of all or any part of Developer's interest in the Project, and the foregoing are not stayed or dismissed within one hundred and fifty (150) days after such filing or other action; or

(e) to the extent permitted by law, if, within one hundred and eighty (180) days after the commencement of a proceeding against Developer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or future federal bankruptcy code or any other present or future applicable Federal, state or other bankruptcy or insolvency statute or law, such proceeding has not been dismissed, or if within one hundred eighty (180) days after the appointment, without the consent or acquiescence of Developer, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Developer, of all or any substantial part of its properties, or all or any part of Developer's interest in the Project, such appointment has not been vacated or stayed on appeal or otherwise, or if, within one hundred eighty (180) days after the expiration of any such stay, such appointment has not been vacated; or

(f) if CRA fails to make any payments required by Article 3 when due hereunder, and such failure continues for a period of thirty (30) days after written notice is given by Developer that the same is past due; or

(g) if CRA shall default in the observance or performance of any term, covenant or condition of this Agreement on CRA's part to be observed or performed and CRA shall fail to remedy such Default within thirty (30) days after written notice by the Developer of such Default (the "Default Notice"). If, however, such a Default is of such a nature that it cannot reasonably be remedied within thirty (30) days (but is otherwise susceptible to cure), the following events shall be an "Event of Default" hereunder: (i) if CRA shall fail, within thirty (30) days after the giving of such Default Notice, to advise the Developer of CRA's intention to institute all steps, (ii) from time to time, as reasonably requested by the Developer, if CRA shall fail to advise the Developer of the steps being taken that are necessary to remedy such Default (which steps shall be reasonably designed to effectuate the cure of such Default in a professional and expeditious manner), or (iii) if CRA shall fail thereafter to diligently prosecute to completion all such steps necessary to remedy such Default.

Section 4.2 Enforcement of Performance; Damages; and Termination. If an Event of Default occurs, the non-defaulting party may elect to either: (a) enforce performance or observance by the defaulting party of the applicable provisions of this Agreement, or (b) subject to the provisions of Article 5, recover damages from the defaulting party for breach of this Agreement. The exercise of a remedy hereunder with respect to an Event of Default shall not limit or otherwise affect a party's right to exercise any of the remedies available hereunder with respect to that Event of Default or to any other Event of Default.

Section 4.3 Strict Performance. No failure by CRA or Developer to insist upon strict performance of any covenant, agreement, term or condition of this Agreement or failure to exercise any right or remedy available to such party by reason of the other party's Default or an Event of Default, shall constitute a waiver of any such Default or Event of Default or of such covenant, agreement, term or condition or of any other covenant, agreement, term or condition. No covenant, agreement, term or condition of this Agreement to be performed or complied with by a party, and no Default by a party, shall be waived, altered or modified except by a written instrument executed by the parties. No waiver of any Default or Event of Default shall affect or alter this Agreement, but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent Default.

Section 4.4 Right to Enjoin Default. In the Event of Developer's Default or Event of Default, the CRA shall be entitled to seek to enjoin the Default or Event of Default and shall have the right to invoke any rights and remedies allowed at law or in equity or by statute or otherwise, except to the extent the CRA's remedies are expressly limited by the terms hereof. In the event of any Default by the CRA of any term, covenant or condition under this Agreement, Developer shall be entitled to seek to enjoin the Default and shall have the right to invoke any rights and remedies allowed at law or in equity or by statute or otherwise, except to the extent Developer's remedies are expressly limited by the terms hereof. Each right and remedy of the CRA and Developer provided for in this Agreement shall be cumulative and shall be in addition to every other right or remedy provided for in this Agreement or now or hereafter existing at law or equity or by statute or otherwise except to the extent the CRA's remedies and Developer's remedies are expressly limited by the terms hereof, and the exercise or beginning of the exercise by the CRA or Developer of any one or more of the rights or remedies provided for in this Agreement or now or hereafter existing by law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the CRA or Developer of any or all other rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, except to the extent the CRA's remedies and Developer's remedies are expressly limited by the terms hereof.

Section 4.5 Remedies Under Bankruptcy and Insolvency Code. If an order for relief is entered or if any stay of proceeding or other act becomes effective in any proceeding which is commenced by or against Developer, under the present or future Federal Bankruptcy Code or in a proceeding which is commenced by or against Developer seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any



other present or future applicable federal, state or other bankruptcy or insolvency statute or law, CRA shall be entitled to invoke any and all rights and remedies available to it under such bankruptcy or insolvency code, statute or law or this Agreement.

## **ARTICLE 5** **ENFORCEMENT OF AGREEMENT**

Section 5.1 CRA Exculpation. Notwithstanding any other provisions of this Agreement, Developer's remedies under this Agreement shall be solely limited to the amount of unpaid reimbursements which are legally owing to Developer pursuant to this Agreement. Nothing contained in this Section or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon the CRA's liability as set forth in Section 768.28, Florida Statutes, or of any other constitutional, statutory, common law or other protections afforded to public bodies or governments.

Section 5.2 Developer's Exculpation. Except for the rights and remedies available to the CRA under Sections 2.3, 4.2, 4.4 and 4.5 of this Agreement, CRA's remedies under this Agreement shall be limited to the reimbursement of any monies paid to Developer pursuant to this Agreement.

## **ARTICLE 6** **NOTICES, CONSENTS AND APPROVALS**

### Section 6.1 Service of Notices and Other Communications.

(a) In Writing. Whenever it is provided herein that notice, demand, request, consent, approval or other communication shall, or may be given to, or served upon, a party, either of the parties by another, or whenever a party or either of the parties desire to give or serve upon another any notice, demand, request, consent, approval or other communication with respect hereto or to the Public Improvements, each such notice, demand, request, consent, approval or other communication shall be in writing (whether or not so indicated elsewhere in this Agreement) and shall be effective for any purpose only if given or served by certified or registered U.S. Mail, postage prepaid, return receipt requested, personal delivery with a signed receipt or a recognized national courier service, addressed as follows or to such other address as a party may provide in writing to the other party:

If to CRA:                      Executive Director  
                                         Hollywood, Florida Community Redevelopment Agency  
                                         2600 Hollywood Blvd.  
                                         Hollywood, Florida 33020

With a copy to:                CRA General Counsel  
                                         City of Hollywood  
                                         2600 Hollywood Blvd.  
                                         Hollywood, Florida 33020

If to Developer: Margaritaville Hollywood Beach Resort, LLC  
3501 N. Ocean Drive  
Hollywood, FL 33019  
Attn: Lon Tabatchnick

With a copy to: Wilson C. Atkinson, III, Esquire  
Atkinson, Diner, Stone, Mankuta & Ploucha, P.A.  
100 SE 3<sup>rd</sup> Avenue, Suite 1400  
Ft. Lauderdale, FL 33394

(b) Effectiveness. Every Notice shall be effective on the date actually received, as indicated on the receipt therefore or on the date delivery thereof is refused by the recipient thereof.

(c) References. All references in this Agreement to the "date" of Notice shall mean the effective date, as provided in the preceding subsection (b).

Section 6.2 Consents and Approvals. All consents and approvals which may be given under this Agreement shall, as a condition of their effectiveness, be in writing. The granting by a party of any consent to, or approval of, any act requiring consent or approval under the terms of this Agreement, or the failure on the part of a party to object to any such action taken without the required consent or approval, shall not be deemed a waiver by the party whose consent was required of its rights to require such consent or approval for any other act unless provided for elsewhere in this Agreement. Wherever consent or approval is required by either party within this Agreement, such consent or approval shall not be unreasonably withheld.

## ARTICLE 7 MISCELLANEOUS

Section 7.1 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, without regard to principles of conflict of laws.

Section 7.2 Assignment. This Agreement shall not be assigned nor transferred by Developer.

Section 7.3 References.

(a) Captions. The captions of this Agreement are for the purpose of convenience of reference only, and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement.

(b) Reference to Successors and Assigns. The use herein of the words "successors and assigns" shall be deemed to include the heirs, legal representatives and assigns of any of the parties hereto.

(c) City's and CRA's Governmental Capacity. Nothing in this Agreement or in the parties' acts or omissions in connection herewith shall be deemed in any manner to waive, impair, limit or otherwise affect the authority of the CRA or City in the discharge of its police or governmental powers.

(d) Reference to "herein", "hereunder", etc. All references in this Agreement to the terms "herein", "hereunder" and words of similar import shall refer to this Agreement, as distinguished from the paragraph, Section or Article within which such term is located.

Section 7.4 Entire Agreement, etc.

(a) Entire Agreement. This Agreement, together with the exhibits and attachments hereto, contains all of the promises, agreements, conditions, inducements and understandings between the CRA and Developer concerning the Public Improvements and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between them other than as expressly set forth herein and in such exhibits and attachments hereto or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall represent one instrument.

(b) Waiver, Modification, etc. No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by the CRA and Developer. No waiver of any Default or Event of Default shall affect or alter this Agreement, but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent Default or Event of Default thereof.

Section 7.5 Invalidity of Certain Provisions. If any provision of this Agreement or the application thereof to any person or circumstances is, to any extent, finally determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, and the application of such provision to persons or circumstances other than those as to which it is held invalid and unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 7.6 Remedies Cumulative. Each right and remedy of either party provided for in this Agreement shall be cumulative and shall be in addition to every other right or

remedy provided for in this Agreement, or now or hereafter existing at law or in equity or by statute or otherwise (except as otherwise expressly limited by the terms of this Agreement), and the exercise or beginning of the exercise by a party of any one or more of the rights or remedies provided for in this Agreement, or now or hereafter existing at law or in equity or by statute or otherwise, except as otherwise expressly limited by this Agreement, shall not preclude the simultaneous later exercise by such party of any or all other rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise except as otherwise expressly limited by the terms of this Agreement.

Section 7.7 Performance at Each Party's Sole Cost and Expense. Unless otherwise expressly provided in this Agreement, when either party exercises any of its rights, or renders or performs any of its obligations hereunder, such party shall do so at its sole cost and expense, except in the event of litigation between the parties hereto, in which case attorneys fees shall be paid to the prevailing party in any such litigation.

Section 7.8 Agreement Negotiated by All Parties. The parties recognize and acknowledge that they both participated, with the assistance of respective counsel in negotiation and preparation of this Agreement and no party shall have any negative inference or presumption raised against it for having drafted the Agreement.

Section 7.9 Successors and Assigns. The agreements, terms, covenants and conditions herein shall be binding upon, and inure to the benefit of, CRA and Developer and, except as otherwise provided herein, their respective permitted successors and permitted assigns and shall be construed as covenants running with the land.

Section 7.10 Nonliability of Officials and Employees. No member, officer, director, stockholder, partner, elected or appointed official or employee of the CRA, City or Developer shall be personally liable to Developer, CRA or City, as the case may be, or any successor in interest, in the event of default or breach by a party or for any amount or obligation which may become due to the other party or successor under the terms of this Agreement; and, any and all such personal liability, either at common law or in equity or by constitution or statute, any and all such rights and claims against, every such person, or under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom are expressly waived and released as a condition of, and as a consideration for, the execution of this Agreement.

Section 7.11 Conflict of Interest. Developer represents and warrants that, to the best of its knowledge, no member, official or employee of CRA or City has any direct or indirect financial interest in this Agreement, nor has participated in any decision relating to this Agreement that is prohibited by law. Developer represents and warrants that, to the best of its knowledge, no officer, agent, employee or representative of CRA or City has received any payment or consideration for the making of this Agreement, directly or indirectly from Developer. Developer warrants and represents that it has not been paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement,

other than normal costs of conducting business and cost of professional services such as architects, engineers, and attorneys providing services to Developer. Developer acknowledges that CRA and City are relying upon the foregoing representations and warranties in entering into this Agreement and would not enter into this Agreement absent the same.

Section 7.12 No Partnership. The parties hereby acknowledge that it is not their intention under this Agreement to create between themselves a partnership, joint venture, tenancy-in-common, joint tenancy, or agency relationship for the purpose of developing the Site Plan, or for any other purpose whatsoever. Accordingly, notwithstanding any provisions contained herein, nothing in this Agreement or other documents executed by the parties with respect to the Site Plan and Public Improvements, shall be construed or deemed to create, or to express an intent to create, a partnership, joint venture, tenancy-in-common, joint tenancy or agency relationship of any kind or nature whatsoever among the parties hereto. The provisions of this section shall survive the expiration of the Agreement.

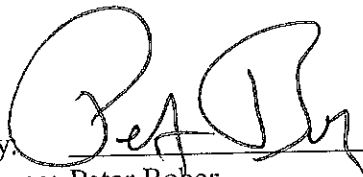
Section 7.13 No Third Party Beneficiaries. Nothing in this Agreement shall confer upon any person, other than the parties hereto and their respective successors and permitted assigns, any rights or remedies under or by reason of this Agreement.

Section 7.14 Progress of Construction/CRA's Representative. Developer shall keep the CRA at all times apprised of the progress of Developer with respect to the Public Improvements, and shall deliver written reports of same not less than monthly. The CRA may, from time to time, designate one or more employees or agents to be the CRA's representative ("CRA's Representative") who may, during normal business hours, in a reasonable manner, visit, inspect or appraise the Public Improvements, the materials to be used thereon or therein, contracts, records, plans, specifications and shop drawings relating thereto, whether kept at Developer's offices or at the construction site or elsewhere, and the books, records, accounts and other financial and accounting records of Developer wherever kept, and to make copies thereof as often as may be requested. Further, CRA's Representative shall be advised of, and entitled to attend, meetings among Developer, Developer's representative and the contractor or subcontractor or any subset of this group. Developer will cooperate with the CRA to enable CRA's Representative to conduct such visits, inspections and appraisals. Developer shall make available to CRA's Representative, upon request, daily log sheets covering the period since the immediately preceding inspection showing the date, weather, subcontractors on the job, number of workers and status of construction.

**CRA FUNDING AGREEMENT BETWEEN THE HOLLYWOOD, FLORIDA  
COMMUNITY REDEVELOPMENT AGENCY AND MARGARITAVILLE  
HOLLYWOOD BEACH RESORT, LLC**

IN WITNESS WHEREOF, CRA and DEVELOPER intending to be legally bound,  
have executed this Agreement as of the day and year first above written.


By authority of Resolution No. R-BCRA-  
2011-03 duly passed and adopted by the  
Board of the Hollywood Community  
Redevelopment Agency on January 19,  
2011.

By:   
Name: Peter Bober  
Title: Chair

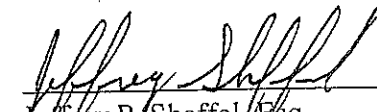
HOLLYWOOD COMMUNITY  
REDEVELOPMENT AGENCY, a dependent  
special district of the City of Hollywood

By:   
Name: Jorge A. Camejo  
Title: Executive Director

**ATTEST:**

By:   
Phyllis Lewis, Board Secretary

APPROVED AS TO FORM AND  
SUFFICIENCY FOR THE USE AND  
RELIANCE OF THE HOLLYWOOD  
COMMUNITY REDEVELOPMENT  
AGENCY ONLY:

By:   
Name: Jeffrey P. Sheffel, Esq.  
Title: General Counsel

CRA FUNDING AGREEMENT BETWEEN THE HOLLYWOOD, FLORIDA  
COMMUNITY REDEVELOPMENT AGENCY AND MARGARITAVILLE  
HOLLYWOOD BEACH RESORT, LLC

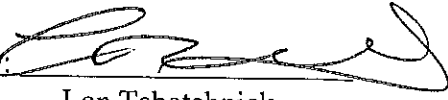
DEVELOPER

ATTEST:

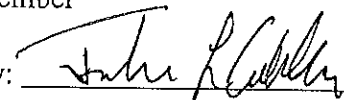
MARGARITAVILLE HOLLYWOOD,  
BEACH RESORT, LLC, a Florida limited  
liability company

By: Hollywood Resort Partners, L.P.  
Member

By: Lojeta-Millennium Group, LLC  
Its: General Partner

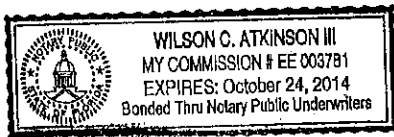
By:   
Lon Tabatchnick  
Its: Manager

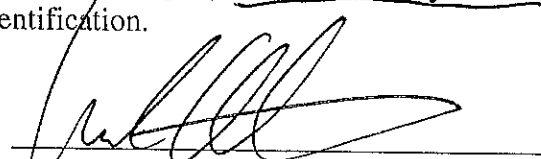
By: Margaritaville of Hollywood, Florida,  
LLC  
Member

By:   
John Cohlman  
Its: Manager

STATE OF FLORIDA )  
COUNTY OF BROWARD )

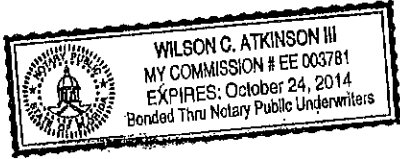
The foregoing instrument was acknowledged before me this 9 day of February, 2011, by Lon Tabatchnick, Manager of Lojeta-Millennium Group, LLC, General Partner of Hollywood Resort Partners, L.P., Member of Margaritaville Hollywood Beach Resort, LLC, a Florida limited liability company. He is personally known to me or has produced \_\_\_\_\_ as identification.

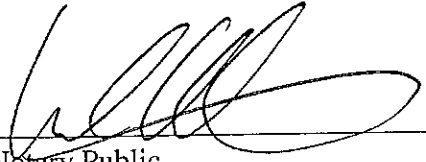


  
\_\_\_\_\_  
Notary Public  
Name: \_\_\_\_\_  
Commission Number: \_\_\_\_\_  
Commission expires: \_\_\_\_\_

STATE OF FLORIDA )  
COUNTY OF BROWARD )

The foregoing instrument was acknowledged before me this 9 day of February, 2011, by John Cohan, Manager of Margaritaville of Hollywood, Florida, LLC, Member of Margaritaville Hollywood Beach Resort, LLC, a Florida limited liability company. He is personally known to me or has produced \_\_\_\_\_ as identification.



  
\_\_\_\_\_  
Notary Public  
Name: \_\_\_\_\_  
Commission Number: \_\_\_\_\_  
Commission expires: \_\_\_\_\_



**EXHIBIT "A"**  
**PUBLIC IMPROVEMENTS**

**EXHIBIT "A" TO CRA FUNDING AGREEMENT BETWEEN THE  
HOLLYWOOD, FLORIDA COMMUNITY REDEVELOPMENT AGENCY AND  
MARGARITAVILLE HOLLYWOOD BEACH RESORT, LLC**

The relocation and installation of all off-site underground utilities and infrastructure, as well as the ground level installation of sidewalks, curbing, landscaping, public restrooms, and brick pavers and other depicted improvements, all as more formally set forth within the Site Plan on those certain Civil Plans prepared by Consulting Engineers & Science, Inc., Sheets C-4 and C-10, dated 10/27/2010 which may be subsequently revised at the request of the City of Hollywood and other authorizing agencies for the purpose of permitting.

Off-Site Public Improvements & Estimated Costs:

<u>No.</u>	<u>Description</u>	<u>Amount</u>
1	General Requirements	\$454,546
2	Construction Layout/Survey	\$ 46,000
3	Maintenance of Traffic	\$ 39,675
4	Demolition	\$241,560
5	Walkway & Breezeway Pavers	\$460,794
6	Pavers & Subbase - Street	\$307,050
7	Asphalt Paving	\$108,867
8	Great Lawn @ Band Shell	\$ 50,140
9	Dance Area	\$ 36,760
10	Curbing / Bands & Site Concrete	\$168,238
11	Traffic Signalization	\$247,250
12	Landscaping	\$603,750
13	Site Lighting	\$293,250
14	Refurbish Band Shell Stage & Equipment*	\$402,500
15	Restrooms, Storage & Information Booth	\$619,620
16	Relocation Bury Overhead Booth	\$575,000
17	Utilities - Water, Sewer & Drainage	<u>\$345,000</u>
18	PROJECT TOTALS (CRA PUBLIC IMPROVEMENTS)	\$5,000,000

\* Although Developer intends to construct or install a control booth on the Leased Property for the operation of the technical equipment within the Bandshell area, said equipment will also be operational and fully functional from the Bandshell area itself independently of the Leased Property.

**EXHIBIT "B"**

**DRAW SCHEDULE**

**EXHIBIT "B" TO CRA FUNDING AGREEMENT BETWEEN THE  
HOLLYWOOD, FLORIDA COMMUNITY REDEVELOPMENT AGENCY AND  
MARGARITAVILLE HOLLYWOOD BEACH RESORT, LLC**

**(SEE NEXT PAGE)**

MARGARITAVILLE RESORT AT HOLLYWOOD BEACH, LLC.  
APPLICATION AND CERTIFICATE FOR PAYMENT

JOB: MARGARITAVILLE RESORT  
CRA Public Improvements

APPLICATION NO:  
APPLICATION DATED:  
PERIOD FROM:  
PERIOD TO:  
PROJECT NO:

Arch# 94 08A

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)		H BALANCE TO FINISH (C-G)	I RETAINAGE (IF VARIABLE RATE)
			FROM PREVIOUS APPLICATION (D+E)	THIS PERIOD		% (G/C)			
1	General Requirements	454,546.00	.	.				454,546.00	
2	Construction Layout/Survey	46,000.00	.	.				46,000.00	
3	Maintenance of Traffic	39,675.00	.	.				39,675.00	
4	Demolition	241,560.00	.	.				241,560.00	
5	Walkway & Breezeway Pavers	460,794.00	.	.				460,794.00	
6	Pavers & Subbase - Street	307,050.00	.	.				307,050.00	
7	Asphalt Paving	108,867.00	.	.				108,867.00	
8	Great Lawn @ Band Shell	50,140.00	.	.				50,140.00	
9	Dance Area	36,760.00	.	.				36,760.00	
10	Curbing / Bands & Site Concrete	168,238.00	.	.				168,238.00	
11	Traffic Signalization	247,250.00	.	.				247,250.00	
12	Landscaping	603,750.00	.	.				603,750.00	
13	Site Lighting	293,250.00	.	.				293,250.00	
14	Refurbish Band Shell Stage & Equipment	402,500.00	.	.				402,500.00	
15	Restrooms, Storage & Information Booth	619,620.00	.	.				619,620.00	
16	Relocation - Bury Overhead Booth	575,000.00	.	.				575,000.00	
17	Utilities - Water, Sewer & Drainage	345,000.00	.	.				345,000.00	
	<b>PROJECT TOTALS (CRA Public Improvements):</b>	<b>5,000,000.00</b>	-	.	.		0.00%	5,000,000.00	.

