

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
	*				
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes ___ No ___

Budget Account No: Fund ___ Dept ___ Unit ___ Object ___

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Department Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

*The County had proposed to finance this project with non-ad valorem revenue bonds plus the cost of the land for the hotel, the debt service on the parking garage and tunnel were to be paid with the Tourist Development Tax. All other debt service was to be paid from non-ad valorem revenues.

Although the contract is being terminated with Ocean Properties, LTD the project and fiscal impact remain unchanged at this time.

Adwillhite 9-30-08
 OFMB
 (NO) *updates on 9/21/08*

A. J. Jacobs 10/1/08
 Contract Development & Control
 At the time of our review, documents were not available for our review.

B. Legal Sufficiency:

[Signature]
 Assistant County Attorney

C. Other Department Review:

 Department Director

LAW OFFICES
CASEY CIKLIN LUBITZ MARTENS & O'CONNELL

A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

LINDA DICKHAUS AGNANT, P.A.
BRUCE G. ALEXANDER, P.A.
JERALD S. BEER, P.A.
JOHN D. BOYKIN, P.A.
JESSICA M. CALLOW
PATRICK J. CASEY, P.A.
RICHARD R. CHAVES, P.A.
PATRICIA M. CHRISTIANSEN, P.A.
ALAN J. CIKLIN, P.A.
ROBERT L. CRANE, P.A.
RONALD E. CRESCENZO, P.A.
JEFFREY M. GARBER, P.A.
ASHLEY N. GIROLAMO
JASON S. HASELKORN, P.A.
CHRISTINE M. HOKE

W. JAY HUNSTON, III
RICHARD A. JAROLEM, P.A.
BRIAN B. JOSLYN, P.A.
GREGORY S. KINO, P.A.
CHARLES A. LUBITZ, P.A.
JASON C. MAIER
RICHARD L. MARTENS, P.A.
BRIAN M. O'CONNELL, P.A.
PHIL D. O'CONNELL, P.A.
CHARLES L. PICKETT
NICHOLAS J. PURVIS
MATTHEW N. THIBAUT, P.A.
DEAN VEGOSEN, P.L.
GARY WALK, P.A.
JOHN R. YOUNG, P.A.

PHILLIP D. O'CONNELL, SR. (1907-1987)

OF COUNSEL
MICHAEL J. MONCHICK, P.A.
MICHAEL J. KENNEDY, P.A.
JOHN L. REMSEN

515 NORTH FLAGLER DRIVE, STE. 1900
WEST PALM BEACH, FLORIDA 33401-4343
TELEPHONE: (561) 832-5900
FACSIMILE: (561) 833-4209

October 3, 2008

VIA HAND DELIVERY

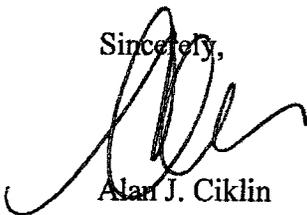
Jim Mize, Esq.
Palm Beach County
Attorney's Office
301 N. Olive Avenue
West Palm Beach, FL 33401

Re: Termination Agreement/Convention Center Hotel

Dear Jim:

Enclosed is the revised Termination Agreement for the Convention Center Hotel. If you have any questions, please don't hesitate to contact me.

Sincerely,



Alan J. Ciklin

AJC/cmm

Enclosure

cc: Shannon LaRocque (via e-mail)

**MUTUAL RELEASE AND TERMINATION OF
CONVENTION CENTER HOTEL AGREEMENTS**

THIS MUTUAL RELEASE AND TERMINATION OF CONVENTION CENTER HOTEL AGREEMENTS (this "Release and Termination Agreement") is made and entered into this _____ day of _____, 2008, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida ("County"), OCEAN PROPERTIES, LTD., a Maine corporation ("OPL"), CONVENTION CENTER HOTEL DEVELOPMENT LLC, a Florida limited liability company ("Hotel Developer"), CONVENTION CENTER RESIDENTIAL DEVELOPMENT LLC, a Florida limited liability company ("Residential Building Developer"), CONVENTION CENTER GARAGE DEVELOPMENT LLC, a Florida limited liability company ("Garage Developer"), CONVENTION CENTER TUNNEL DEVELOPMENT LLC, a Florida limited liability company ("Tunnel Developer"), CONVENTION CENTER RESIDENTIAL LEASING LLC, a Florida limited liability company ("Residential Tenant") and WPB WEST, LLC, a Florida limited liability company ("Hotel Tenant") (collectively, the "Hotel Entities").

WHEREAS, County and OPL, Hotel Developer, Residential Building Developer, Garage Developer and Tunnel Developer entered into that certain Development Agreement dated April 10, 2007 (R2007-0579) (the "Development Agreement") relating to the development of a convention center hotel and residential condominium on the real property legally described in Exhibit "A" attached hereto and incorporated herein by reference (the "Real Property");

WHEREAS, County and Hotel Tenant entered into that certain Hotel Lease dated April 10, 2007 (R2007-0580) (the "Hotel Lease") relating to a portion of the Real Property;

WHEREAS, County and Hotel Tenant entered into that certain Hotel Room Block Agreement dated April 10, 2007 (R2007-0582) (the "Room Block Agreement") relating to the Real Property;

WHEREAS, County and Residential Tenant entered into that certain Residential Land Lease dated April 10, 2007 (R2007-0581) (the "Residential Land Lease") relating to the Real Property;

WHEREAS, the parties have agreed to terminate the Agreements (as defined hereinafter) and, in connection with such termination, to release each other of and from any and all liabilities and claims of whatsoever kind, type, nature, description or characterization whatsoever and hereinafter set forth;

NOW, THEREFORE, in consideration of TEN AND NO/100 (\$10.00) DOLLARS, in lawful money in hand paid, the mutual releases contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:



1. The foregoing recitals are true and correct and are hereby incorporated herein by reference. The term "Agreements" as used herein shall mean, collectively, the Development Agreement, the Hotel Lease, the Room Block Agreement and the Residential Land Lease and any and all agreements or documents relating in any way thereto.

2. The Hotel Entities each hereby represent and warrant that none of them has assigned, transferred, subleased, mortgaged or otherwise encumbered the Agreements or the rights of any of them in the Real Property.

3. County and the Hotel Entities hereby absolutely and unconditionally: (a) terminate and cancel the Agreements and hereby waive any and all notice requirements, if any, contained and set forth in the Agreements which require any party to provide notice to the other party in connection with the termination of the Agreements, (b) do hereby extinguish all promises, undertakings, covenants, warranties, terms and all other performances owed, owing or to be owed under the Agreements and do hereby discharge one another from all liabilities and obligations contained therein. The Hotel Entities each hereby release, relinquish, and quit claim to County all right, title and interest of the Hotel Entities in and to the Real Property and the Palm Beach County Convention Center property adjacent thereto.

4. County and the Hotel Entities, as a material inducement to each of the parties to execute this Release and Termination Agreement and as a mutually-negotiated and agreed-upon consideration for the performances of each of the parties hereunder, each hereby remise, release, acquit, satisfy, and forever discharge the other and any and all entities affiliated with the other and the past, present and future employees, stockholders, members, directors, managers, officers, attorneys, accountants, agents and the predecessors, successors and assigns of each of said persons or entities, of and from all, and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, covenants, contracts, controversies, agreements, promises, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which either party ever had, now has, or which any successor or assign of either party ever had, hereafter can, shall or may have, against the other party, for, upon or by reason of any matter, cause or thing whatsoever, including, without limitation, the Agreements, from the beginning of the world to the date of these presents; it being the purposes and intention of the parties to release and discharge any and all claims of each party against the other parties as if there had never been any business dealings, contractual or other arrangements between them and to totally eliminate the possibility of the commencement or furtherance of any litigation, or the possibility of any dispute or claim between them, and each party covenants and warrants that, in addition to this mutual general release, that it will not bring or attempt to bring any action against any other party arising out of the Agreements, or any of them, or arising out of any act, omission, contract, or based upon any other theory of recovery, for any acts or events occurring prior to the date of this Release and Termination Agreement and each party specifically acknowledges and agrees that this mutual general release is a bar to any such claim, action, suit or proceeding.



5. In the event that any action or proceeding is commenced in connection with this Release and Termination Agreement, the prevailing party shall be entitled to recover from the other party the prevailing party's costs and expenses in such action or proceeding, including reasonable attorneys' fees whether or not suit is filed, and if suit is filed, then the prevailing party may recover from the other party its reasonable attorneys' fees at all trial and appellate levels.

6. If any term, covenant or condition of this Release and Termination Agreement, or the application thereof to any person or circumstance, shall be determined to be unenforceable by a court of competent jurisdiction (the "Offending Provision"), then the remainder of this Release and Termination Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which its is invalid or unenforceable, shall not be affected thereby and each term, covenant and condition of this Release and Termination Agreement shall be valid and enforced to the fullest extent permitted by law; provided, however, that the parties affected by the Offending Provision shall endeavor in good faith, within sixty (60) days after the date such determination is made, to agree upon alternative provisions which shall have the same practical effect as the Offending Provision and upon any agreement being reached, the new provision shall be incorporated into and form a part of this Release and Termination Agreement.

7. Each party warrants, with respect to itself, that the execution of this Release and Termination Agreement does not violate any provision of law or any judgment, writ, injunction, order or decree of any court or governmental authority having jurisdiction over it; result in or constitute a breach or default under any indenture, contract, other commitment or restriction to which it is a party or by which it is bound; or require any consent, vote or approval which has not been taken. Each party covenants that it has the full right to enter into this Release and Termination Agreement and perform its obligations hereunder.

8. This Release and Termination Agreement shall be construed under and shall be governed by the laws of the State of Florida and venue for any action or proceeding shall lie in Palm Beach County.

9. The parties acknowledge that each party and its counsel have reviewed this Release and Termination Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Release and Termination Agreement or any amendments or exhibits hereto.

10. This Release and Termination Agreement, together with other writings signed by the parties expressly stated to be supplemental hereto and together with any instruments to be executed and delivered pursuant to this Release and Termination Agreement constitute the entire agreement between the parties and supersede all prior understandings, whether oral or written, of whatsoever kind, type, nature, description or characterization.

11. This Release and Termination Agreement may be executed in two or more counterparts, each of which shall be an original but all of which shall together constitute one and the same agreement. Counterparts with facsimile or electronic signatures shall be deemed original counterparts for all purposes; however, each party shall promptly furnish counterparts with original signatures upon request. This Release and Termination Agreement may be declared null and void by the Hotel Entities, at the option of the Hotel Entities, if this Release and Termination Agreement is not executed by the County, the date of execution by the County inserted in the preamble hereof, and an unaltered counterpart hereof is not delivered to the Hotel Entities on or before October 10, 2008.

12. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION (INCLUDING BUT NOT LIMITED TO, ANY CLAIMS, CROSS-CLAIMS OR THIRD-PARTY CLAIMS) BASED HEREON OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS RELEASE AND TERMINATION AGREEMENT OR ANY DOCUMENT EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. EACH PARTY HEREBY CERTIFIES TO THE OTHER PARTIES THAT NO REPRESENTATIVE OR AGENT OF ANY PARTY OR ANY PARTY'S COUNSEL HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE PARTIES WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION.

13. This Release and Termination Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Release and Termination instrument on the date first above written.

PALM BEACH COUNTY, a political
Subdivision of the State of Florida

ATTEST
SHARON R. BOCK, Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA
By its Board of County Commissioners

By: _____
Deputy Clerk

By: _____
Addie L. Greene, Chairperson

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

APPROVED AS TO FORM AND
CONTENT

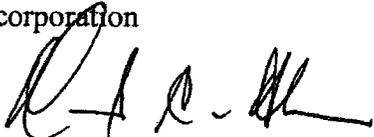
By: _____
Assistant County Attorney

By: _____
Department Director

AS TO ALL SIGNATORIES

OCEAN PROPERTIES, LTD.,
a Maine corporation

Kathryn S. Douglas
Signature of Witness

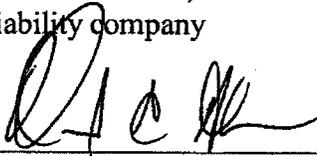
By: 
Richard C. Ade
Its Executive Vice President

Kathryn S. Douglas
Print Name of Witness

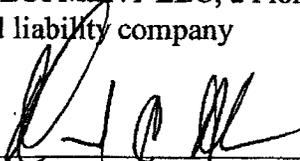
Kathryn S. Douglas
Signature of Witness

Kathryn S. Douglas
Print Name of Witness

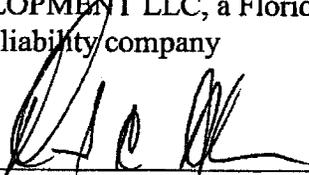
CONVENTION CENTER HOTEL
DEVELOPMENT LLC, a Florida
limited liability company

By: 
Richard C. Ade
Its Manager

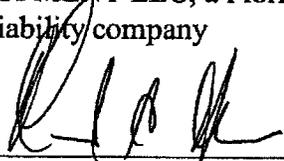
CONVENTION CENTER RESIDENTIAL
DEVELOPMENT LLC, a Florida
limited liability company

By: 
Richard C. Ade
Its Manager

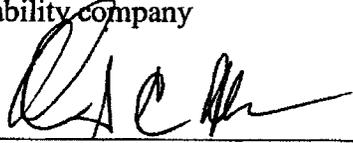
CONVENTION CENTER GARAGE
DEVELOPMENT LLC, a Florida
limited liability company

By: 
Richard C. Ade
Its Manager

CONVENTION CENTER TUNNEL
DEVELOPMENT LLC, a Florida
limited liability company

By: 
Richard C. Ade
Its Manager

WPB WEST, LLC, a Florida
limited liability company

By: 
Richard C. Ade
Its Manager

CONVENTION CENTER RESIDENTIAL
LEASING LLC, a Florida limited
liability company

By: 
Richard C. Ade
Its Manager