

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: April 10, 2018

Consent
 Ordinance

Regular
 Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a month-to-month boat slip lease and service agreement and Addendum to lease and service agreement with Seven Kings Management, Inc., a Florida corporation for and on behalf of the City of Riviera Beach for \$704.00 per month.

Summary: The Parks and Recreation Department is responsible for the operation and maintenance of Peanut Island Park, which is only accessible by County staff via boat. The Parks and Recreation Department has been renting a boat slip at the Riviera Beach Marina since 1999. In 2016, the City of Riviera Beach entered into a management agreement with Seven Kings Management, Inc. to manage the Marina necessitating a revised contract and lease agreement with Seven Kings Management, Inc. Our current rental rate is \$534.34 per month and has not increased since 2003. Under Seven Kings Management Inc., the rent will increase to \$704.00 per month. The agreement term is month-to-month and is revocable by 90 day notice to Seven Kings Management, Inc. The City of Riviera Beach Marina meets requirements with regard to proximity and travel distance from Peanut Island Park, boat slip size, accessibility, parking, utilities, gasoline, security, and price. There are no adequate land based County owned boat slip facilities nearby that provide the essential services available at the City of Riviera Beach Marina. District 1 (AH)

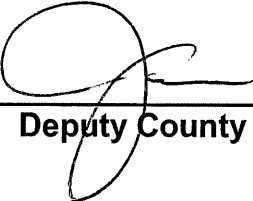
Background and Justification: The Parks and Recreation Department is responsible for the operation and maintenance of Peanut Island Park, which is only accessible by County staff via boat. The Parks and Recreation Department has been renting a boat slip at the Riviera Beach Marina since 1999. In 2016, the City of Riviera Beach entered into a management agreement with Seven Kings Management, Inc. to manage the Marina necessitating a revised contract and lease agreement with Seven Kings Management, Inc. Our current rental rate is \$534.34 per month and has not increased since 2003. Under Seven Kings Management Inc., the rent will increase to \$704.00 per month. The agreement term is month-to-month and is revocable by 90 day notice to Seven Kings Management, Inc. The City of Riviera Beach Marina meets requirements with regard to proximity and travel distance from Peanut Island Park, boat slip size, accessibility, parking, utilities, gasoline, security, and price. There are no adequate land based County owned boat slip facilities nearby that provide the essential services available at the City of Riviera Beach Marina.

Attachments:

- 1. Lease and Service Agreement
- 2. Addendum to Lease and Service Agreement

Recommended by: 
Department Director

3/14/18
Date

Approved by: 
Deputy County Administrator

3/28/18
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>7,769</u>	<u>8,448</u>	<u>8,448</u>	<u>8,448</u>	<u>8,448</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>7,769</u>	<u>8,448</u>	<u>8,448</u>	<u>8,448</u>	<u>8,448</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Is Item Included in Current Budget? Yes X No _____
Does this item include the use of federal funds? Yes _____ No X

Budget Account No.: Fund 0001 Department 580 Unit 5226
Object 4401 Program _____

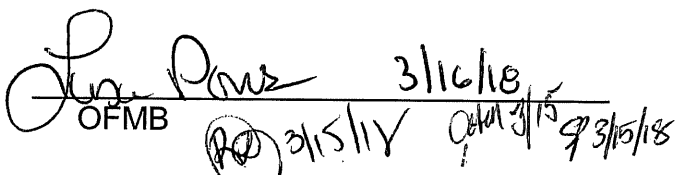
B. Recommended Sources of Funds/Summary of Fiscal Impact:

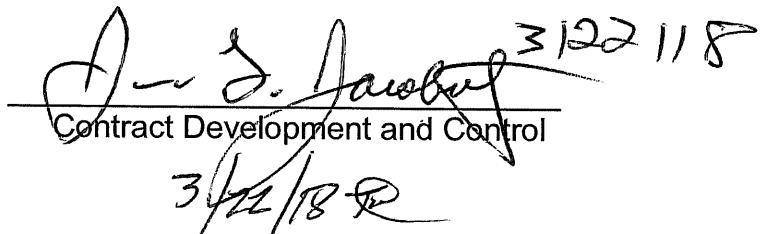
Peanut Island 0001-580-5226-4401 \$7,769

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

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

 3/16/18
OFMB 3/15/18 3/15/18 3/15/18

 3/22/18
Contract Development and Control 3/22/18

B. Legal Sufficiency:

 3-28-18
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment



Riviera Beach City Marina
 200 E. 13th Street
 Riviera Beach, Florida 33404
 Telephone: (561) 842-7806

For Company Use Only:
CUST. # 0004
RACK/SLIP # S01
BOAT # 0004

This Lease and Service Agreement ("Lease") is entered into by and between Seven Kings Management, Inc., a Florida corporation, ("Seven Kings") for and on behalf of the City of Riviera Beach, a municipal corporation existing under the laws of the State of Florida ("City"), as City's authorized agent and solely in its capacity as the management company for the Premises (as defined below) (hereafter collectively Seven Kings and City referred to as "Company"), the vessel listed below *in rem* ("Vessel"), and the Vessel owner, and interested party (if applicable), set forth below (collectively "Owner"). The marina and property subject to this Lease is located at 200 E. 13th Street, Riviera Beach, Florida ("Premises"). The terms and conditions ("Terms and Conditions") of this Lease govern Owner's use of racks, slips and associated marina facilities located on the Premises.

A. OWNER
 Name(s): Board of County Commissioners Melissa McKinley, Mayor Home Phone: (561) 966-6600
 (If Vessel owner is an entity, must also include name of individual as an interested party, to sign below and be bound by the Lease, and included as "Owner" herein)
 Address: 2700 6th Avenue South Business Phone: (561) 845-4445
 City: Lake Worth State: FL Zip: 33461
 Cell Phone: (561) 845-4445 E-Mail: DSalvador@pbcgov.org D.O.B. / /
 Billing Address: 2700 6th Avenue South
 City: Lake Worth State: FL Zip: 33461
 Notify in case of emergency: Name: David Salvador Phone: (561) 845-4445

B. VESSEL
 Name: Munson Make: Model: Year:
 Registration/Documentation No. HIN
 Color: Length Overall: 30 Beam: Draft: Height Overall:
 Gas: Diesel: Inboard: Outboard: Power: Sail: Coast Guard approved Head (required): (yes / no)

C. VESSEL INSURANCE (PROOF REQUIRED; Certificate of insurance must be provided and remain current)
 Carrier: Policy No.
 Agent Name: Phone No. ()

D. RACK/SLIP LEASE RATE PER FOOT [Quoted by the Month, Except for Daily Rate]
 ANNUAL RATE \$ 22.00 SEASONAL RATE \$ MONTHLY RATE \$ DAILY RATE \$
 Rack/Slip Use Commencement Date: 02/01/18 Date Initial Term of Lease Expires: N/A Month to Month

E. ELECTRIC
 30Amp 50Amp Meter N/A Rack/Slip Charges: \$ 704.00
 Utilities Charges: \$ 40.00

F. RENT (per month, week, or day, as applicable)
 (if Metered, Utilities charged separately @ posted rate)
 Applicable Sales Tax: \$ 0.00
 RENT (Cash/MO/Check/Credit Card): \$ 744.00

Rent (including applicable sales tax) is payable monthly, in advance, on the first of the month, and is considered late on and after the second of the month (except for leases less than a month, in which case Rent is due simultaneously with the execution of this Lease, and each renewal thereof, and considered late on the day after). In addition to Rent, there shall be a Utilities Charge invoiced to Owner, at the posted rate as may be amended from time to time, which shall be due and payable simultaneously with Rent. The "Utilities Charge" shall include, but is not necessarily limited to nor are the same necessarily provided at the marina or slip, electric, water, sewer, trash pickup, pump-out service, cable and/or other similar services, as may be offered at the facility and to the slip from time to time. Certain governmental and other agency fees, charges, permits, and assessments affecting the Premises may be invoiced to Owner, which may include, by way of example but not limitation, as applicable, submerged land lease fees, manatee protection fees, and environmental regulatory fees, and shall be included as Rent. A security deposit in the amount of \$ 744.00 is required upon execution of this Lease. The security deposit shall be held until Company has verified that no outstanding debt or damage claim is owed by Owner; if there is no outstanding debt or damage claim the security deposit will be returned to Owner, unless directed otherwise, in writing, by Owner to return the security deposit to another party. If there remains an outstanding debt ten (10) days after the expiration or termination of the Lease, Company may, at its discretion, at any time thereafter apply the security deposit to that outstanding debt, and Owner will remain responsible for any deficiency remaining for any outstanding debt or damage claim. Live-aboards are not permitted.

DO NOT SIGN UNTIL YOU HAVE READ BOTH SIDES AND UNDERSTAND ALL TERMS AND CONDITIONS OF THIS LEASE. BY SIGNING THIS LEASE, OWNER EXPRESSLY AGREES TO ABIDE BY ALL OF ITS TERMS AND CONDITIONS.

AGREED TO AND EFFECTIVE THIS _____ DAY OF _____, 20____.
 Signature(s): (1) _____ (2) _____
 OWNER(S) (or OWNER'S authorized agent) AUTHORIZED REPRESENTATIVE FOR COMPANY

NOTICE TO OWNER

Company hereby informs you that in the event you fail to remove the Vessel from the Premises within 8 hours after the issuance of a tropical storm or hurricane watch for the County or area in which the Premises are located, under Florida Law Company, its employees or agents are authorized, but not obligated, to remove the Vessel from its slip and/or take any and all other reasonable actions deemed appropriate by Company or its employees or agents, in their sole discretion, in order to better secure the Vessel and to protect marina property, private property, other vessels, and the environment. You are further notified that you will be responsible for any resulting damage and may be charged a reasonable fee for any such action.

Your obligations under the terms of this Lease begin on the date this Lease is signed. Please remember that you are responsible for the full term of your Lease. In the event the Lease is terminated prior to the end of your lease term Company, in its sole discretion, may assess liquidated damages in the form of a Termination Fee, as defined in clause 18.1 and 18.2 herein, in addition to any and all other sums due prior to your departure. If further action is required, all costs listed in clause 15 herein shall apply.

ADDITIONAL TERMS AND CONDITIONS

- Under this Lease, Company agrees to provide Owner use of an assigned rack or slip and associated marina facilities in exchange for a fee. It is contractually agreed by Owner that this Lease does not create a bailment relationship between Owner and Company for the Vessel, its equipment, or personal effects on the Vessel, all of which are agreed will at all times remain within the custody and control of Owner and not Company. Vessel keys may be left with Company for the convenience of Owner, and Company may otherwise give miscellaneous assistance to Owner, but it is agreed that this will not constitute the creation of either an agency or a bailment relationship between Owner and Company.
- COMPANY'S RACKS, SLIPS AND ASSOCIATED MARINA FACILITIES AND EQUIPMENT ARE TO BE USED BY OWNER AT OWNER'S SOLE RISK.
- OWNER RELEASES AND WAIVES ANY AND ALL CLAIMS AGAINST COMPANY (INCL. CITY AND SEVEN KINGS), AND ITS MANAGEMENT, OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS FOR ANY LOSS (INCLUDING THEFT), DAMAGE OR DESTRUCTION BY FIRE, WINDSTORM, WATER, OR OTHERWISE TO THE VESSEL, THE VESSEL'S EQUIPMENT, OR PERSONAL EFFECTS ON THE VESSEL, EVEN IF SUCH LOSS, DAMAGE, OR DESTRUCTION IS CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE, OR OTHERWISE, OF COMPANY (INCL. CITY AND SEVEN KINGS), AND ITS MANAGEMENT, OFFICERS, EMPLOYEES OR AGENTS.
- OWNER RELEASES AND WAIVES ANY AND ALL CLAIMS AGAINST COMPANY (INCL. CITY AND SEVEN KINGS), AND ITS MANAGEMENT, OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS FOR BODILY INJURY, PERSONAL INJURY OR OTHER HARM (INCLUDING DEATH) TO OWNER, OWNER'S GUESTS, FAMILY, EMPLOYEES, REPRESENTATIVES, AND AGENTS, WHILE ON THE PREMISES, EVEN IF SUCH BODILY INJURY, PERSONAL INJURY OR OTHER HARM IS CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE, OR OTHERWISE, OF COMPANY (INCL. CITY AND SEVEN KINGS), AND ITS MANAGEMENT, OFFICERS, EMPLOYEES OR AGENTS.
- OWNER SHALL DEFEND, INDEMNIFY AND HOLD COMPANY (INCL. CITY AND SEVEN KINGS), AND ITS MANAGEMENT, OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS HARMLESS AGAINST ANY AND ALL CLAIMS, ACTIONS, LIABILITIES AND DAMAGES FOR INJURY TO PERSONS (INCLUDING DEATH) OR DAMAGE TO PROPERTY ARISING DIRECTLY OR INDIRECTLY OUT OF THE USE OF COMPANY'S RACKS, SLIPS AND ASSOCIATED MARINA FACILITIES AND EQUIPMENT BY OWNER, OWNER'S GUESTS, FAMILY, EMPLOYEES, REPRESENTATIVES, AND AGENTS, EVEN IF SUCH CLAIMS, ACTIONS, LIABILITIES AND DAMAGES ARE FOR LOSS, DAMAGE, INJURY OR HARM CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF COMPANY (INCL. CITY AND SEVEN KINGS), OR ITS MANAGEMENT, OFFICERS, EMPLOYEES OR AGENTS.
- THIS CLAUSE 2 REFLECTS AN AGREED CONTRACTUAL ALLOCATION OF RISKS BETWEEN THE PARTIES WHEREBY OWNER AGREES TO LOOK SOLELY TO OWNER AND OWNER'S OWN INSURER AS TO RISKS ASSOCIATED WITH THE USE OF COMPANY'S RACKS, SLIPS AND ASSOCIATED MARINA FACILITIES AND EQUIPMENT.

ADDITIONAL TERMS AND CONDITIONS (Continued from Page One)

3. Owner agrees that Owner and all of Owner's guests, family, employees, representatives, and agents shall comply with all applicable federal, state, local and, if existing, association, laws, rules and regulations, as well as any restriction imposed by any governmental body or authority. Owner further agrees that Owner and all of Owner's guests, family, employees, representatives, and agents shall comply with Company's "Dockside Procedures," the "Authorized Users Form," and all other policies, rules and regulations in existence and as the same may be changed from time to time by Company, all of which are incorporated herein by reference. Persons listed on the Authorized Users Form are specifically granted permission by Owner to use the Vessel. To delete or add a person on the Authorized Users Form, Owner must deliver to Company a written notice specifying the person who is to be removed or added to the Authorized Users Form for the Vessel. Notwithstanding the above, Owner agrees, acknowledges and understands that Company does not warrant that unauthorized persons will not board the Vessel and Company shall not be responsible for any unauthorized person boarding the Vessel.
4. Owner represents that all information given to Company by Owner and listed in this Lease or otherwise provided to Company, including credit card information, is accurate, and agrees to notify Company within ten (10) days if any information provided by Owner is changed or otherwise inaccurate. Owner further agrees to cause the Vessel to be removed from the Premises immediately upon any change in ownership of the Vessel, unless a new Lease is executed between Company and the new owner. Removal of the Vessel under these circumstances shall not terminate Owner's obligation to fully pay all amounts due through the end of the term of this Lease.
5. Outside contractors doing work on the Vessel and yacht broker salespeople shall not be permitted on the Premises without prior consent of Company. Company may charge, in its discretion, a fee to outside contractors desiring to do work on the Premises. Owner is permitted to perform, or have performed, only routine maintenance and cleaning to the Vessel on the Premises. Owner shall not do any work on the Vessel, or allow any actions whatsoever, which cause a disturbance to the peaceful use of the Premises by other vessel owners, their family and guests.
6. Subleasing of racks or slips by Owner is not permitted. Owner is prohibited from storing or locating any vessel other than the Vessel described herein in the rack or slip leased under this Lease. Company reserves the right to lease all racks or slips when vacant. Owner acknowledges that Company may reassign and move the Vessel to a different rack or slip at any time at Company's discretion. Company shall further have the right to require the removal of the Vessel from the Marina for a period of time not to exceed ten (10) days by providing Owner no less than thirty (30) days prior notice, which notice and temporary removal shall not affect the term of the Lease or terminate same and Rent shall be prorated for such period of time Company requires the Vessel to be removed from the Marina. **Clauses 1 & 2 fully apply any time action is taken by Company in accordance with the authority afforded by this clause.**
7. Owner is responsible for properly securing the Vessel in the manner specified in Company's Dockside Procedures, as the same may be changed from time to time by Company. Owner is further responsible for checking at least once a week for new additions or amendments to the Dockside Procedures. Owner shall maintain the Vessel in a safe condition so that it will not become a hazard to other vessels or the Premises. Owner shall be liable for any damage to other vessels or to any part of the Premises, including but not limited to docks, pilings, plumbing, wiring and other equipment, and machinery, caused by the Vessel, by leaking of fuels, oils or any liquids from the Vessel, or by Owner or Owner's guests, family, employees, representatives, or agents.
8. Owner shall be solely responsible for the proper operating condition of the Vessel, the Vessel's equipment and for the secure docking and safekeeping of the Vessel. Owner assumes full responsibility to ensure that all through-hull fittings and drain plugs are properly closed before the Vessel is placed in the water by Company. Owner shall be solely responsible for removing drain plugs to allow drainage when the Vessel is stored out of the water, and Owner shall remain solely responsible to ensure that the Vessel is properly watertight before it is placed in the water.
9. Company will only haul or launch vessels during its normal operating hours. Company will use reasonable efforts to haul or launch the Vessel when requested, but due to congestion and normal business operations, it may not be possible to haul or launch at the time requested by Owner. Owner specifically waives any claim for damages for being unable to use the Vessel at a requested time.
10. Owner agrees to pay promptly when due all sums due under or by reason of this Lease, including but not limited to Rent, utilities, fees, taxes, charges on account, charges for fuel, ship stores, supplies and materials, any other sums owed in connection with Owner's use of the facilities located on the Premises, and by reason of any damage or other claims by Company against Owner or the Vessel. Owner agrees to pay all such sums incurred whether by Owner, the Vessel or Owner's employees, guests, invitees, agents or authorized representatives.
 - 10.1. Rent and utilities payments must physically be received at Company's address on or before the date due (e.g. for annual, seasonal and monthly terms Rent and utilities are due on the 1st of the month and payment must be received on or before that date). Time is of the essence. Rent payments must be made by a single check, a single money order, by cash, or by credit card, subject to the requirements of clause 10.2. below. Rent and utilities payments made after the date due are considered late payments ("Late Payments"). All Late Payments must be made by cashier's check or money order, except as provided in clause 10.2. below. A \$40.00 late fee shall be added to Late Payments received after the 7th of the month. Any balance over thirty (30) days late shall, in addition, be subject to a 10% fee for each month late based on the outstanding account balance. If a check is dishonored (including without limitation checks returned as "insufficient funds" or "uncollected funds") by Owner's financial institution, Owner must pay Company a service charge of \$75.00 plus any other charges and penalties assessed against Company or authorized by Florida law. If two of Owner's checks are dishonored, Owner must pay future Rent and utilities payments by cashier's check or money order for the duration of the Lease, except as provided in clause 10.2. below. Company is not required to re-deposit a dishonored check. If the initial term of this Lease commences on a day other than the first of the month, a prorated Rent and the next full month's Rent must be paid to Company before Owner brings the Vessel onto the Premises. Owner must pay Company any sales and other taxes, which are due on Owner's Rent, utility payments and all other applicable fees or charges. All payments received from Owner will first be applied to the oldest outstanding balance, if any.
 - 10.2. Owner may pay Rent, utilities and other charges by credit card at the commencement of this Lease, or at any time throughout the term of this Lease, as long as Owner completes and signs the separate "Credit Card Authorization" stating that Company may, automatically, charge Owner's credit card for the full amount of Rent, utilities, any Late Payments, and any other amounts owed to Company by Owner, including but not limited to security deposits, marine stores, fuel, other goods or services provided to Owner by or at the expense of Company, interest, penalties, termination fees, and any other charges provided for or allowed under the Terms and Conditions of this Lease. Company may, automatically, charge Owner's credit card for these items regardless of how many people are parties to the Lease, and Company is not required, in any event, to itemize the cost of any of the charges listed in this sub-clause, including but not limited to Rent, utilities, Late Payments, or security deposit payments.
11. Owner hereby grants to Company a lien on the Vessel, its equipment, and any personal effects for any fees or obligations payable under this Lease which are not paid to Company when due, and Company may pursue all legal, equitable, and admiralty remedies to perfect said lien and foreclose any other liens on the Vessel. The right of enforcement of the lien herein granted to Company shall be cumulative to any and all other rights and remedies to Company hereunder or in connection herewith, including but not limited to enforcement of maritime liens for dockage, salvage, supplies and/or other goods or services provided to the Vessel by Company under the laws of the State of Florida and/or Federal General Maritime law. Owner remains personally liable to the extent enforcement of Company's lien rights do not satisfy all debts owed by Owner and the Vessel under this Lease. Owner agrees that Company may retain the Vessel at the Premises by chains, repossession, or other means until such time as all amounts owed to Company by Owner have been paid in full. **NONPAYMENT OF RENT, UTILITIES CHARGES, OR OTHER CHARGES OWED SHALL AUTHORIZE COMPANY TO SELL THE VESSEL AT A NON-JUDICIAL SALE IN ACCORDANCE WITH SECTION 328.17, FLORIDA STATUTES, AS AMENDED, FOR WHICH OWNER AGREES TO BE NOTIFIED AT OWNER'S ADDRESS PRINTED AT THE TOP OF THE FIRST PAGE OF THIS LEASE AND THAT SAID NOTIFICATION BY U.S. MAIL POSTAGE PREPAID SHALL SUFFICE AS NOTIFICATION FOR THIS PURPOSE.**
12. Owner shall maintain insurance for the Vessel during the term of this Lease, covering hull and machinery, and liability to others, in a form and amount acceptable to Company. Owner shall provide a Certificate of Insurance to Company at the commencement of this Lease and hereby authorizes Company to contact Owner's insurance Company as Company deems appropriate to ensure coverage remains in place and current and that all notices are provided to Company. Owner shall further provide an updated Certificate of Insurance (or copy of new policy) any time Owner's insurance coverage is renewed or changes while this Lease is in effect.
13. Owner shall ensure that the Vessel does not discharge pollutants into the waters in and around the Premises and does not cause any environmental damage whatsoever. If Company observes a cause of pollutant discharge or environmental damage from the Vessel, then Company may, at its sole discretion, undertake efforts to stop the source of the problem by boarding the Vessel and taking actions to move or secure the Vessel to stop or control the problem. Company has the right, but not the obligation, to move or secure the Vessel to stop or control discharge of pollutants or environmental damage. Company shall be entitled to reimbursement for its expenses for any services and materials provided by or on behalf of Company in undertaking such efforts. Whether to exercise the authority afforded by this clause is solely within Company's discretion, and Company does not guarantee Owner that Company will move, secure or take any action. This clause shall not waive or release Owner's obligations for the Vessel. **Clauses 1 & 2 fully apply any time action is taken by Company in accordance with the authority afforded by this clause.**
14. Owner acknowledges and understands that Company may, from time to time, take photographs, videos, and other images of the marina and related facilities, which may include Owner, the Vessel, and Owner's guests, family, employees, agents, and representatives. Owner, on behalf of Owner and Owner's guests, family, employees, agents, and representatives, consents to Company's, and its successors and/or assigns, use and reproduction of any images of Owner, the Vessel, and Owner's guests, family, employees, agents, and representatives, taken while on or about the Premises, without further consideration, compensation, or notice, and hereby authorizes and permits Company to use the same for advertising, promotional and other purposes as Company deems appropriate in its sole and absolute discretion. Owner agrees and understands Company will own all such images, and all rights related to them, all of which shall constitute Company's sole, complete and exclusive property. Company shall continue to have the right to such images as and how it deems appropriate, even after this Lease expires or is otherwise terminated.
15. In the event it becomes necessary for Company to incur expenses or utilize counsel to enforce any obligations owed, under or referred to in this Lease, to enforce any provision of this Lease, including Company's Dockside Procedures, or otherwise take legal action to enforce its rights herein, in any way, Owner agrees to and shall pay Company's reasonable attorney's fees (if in-house counsel: \$225 per hour shall be assessed; if outside counsel: their standard hourly rates shall apply), court costs, and other related expenses (including but not limited to: certified mailings, 3rd party debt reporting or collecting, current address/skip reports, and costs incurred in association with hiring a 3rd party boat repossession Company, pursuant to Company's lien rights under clause 11 herein, if the Vessel departs the marina with any unpaid obligations).
16. **OWNER HEREBY WAIVES OWNER'S RIGHT TO A JURY TRIAL.**
17. The Terms and Conditions of this Lease, including the Rack/Slip Charge, may be unilaterally amended by Company at any time. Company's amendments to the Terms and Conditions take effect (30) thirty days, or such longer time as may be provided by Company, after written notice of the amendments are hand delivered, e-mailed or mailed to Owner at the address printed on the top of the first page of this Lease. Owner can elect to terminate this Lease if Company makes amendments to the Terms and Conditions that materially change the responsibilities and obligations of Owner. To do so, Owner must deliver by U.S. certified or registered mail, return receipt requested, a written notice of termination ("Termination Notice") to Company before the date the amendments to the Terms and Conditions take effect. If Owner timely delivers the Termination Notice to Company pursuant to this clause, the Lease will terminate on the last day of the next calendar month following the month Company receives the Termination Notice. For example, if Owner delivers the Termination Notice on November 15th, the Lease will terminate on December 31st. Amendments to Company's Dockside Procedures are excluded from this clause, and amendments to Dockside Procedures do not entitle Owner to terminate pursuant to this clause.
18. Except as stated in clauses 17 & 19, Owner does not have a right to terminate or cancel this Lease. Company reserves the right to terminate this Lease at any time with thirty (30) days written notice, for any reason, or for no stated reason, or such shorter period of time as permitted in this Lease or the Dockside Procedures. Company may immediately terminate the Lease if Owner violates any Dockside Procedure or jeopardizes, in Company's sole discretion, the health, safety or welfare of Company, the Premises or any other customer, guest or other vessel. To terminate this Lease, Company may hand deliver, mail via U.S. Mail postage prepaid or via overnight mail to Owner at the address printed on the top of the first page of this Lease a written notice of termination ("Company's Termination Notice") of this Lease. If Company terminates this Lease pursuant to this clause, Owner remains responsible for all sums due to Company under this Lease, with Rent prorated based on the termination date or the date the Vessel is removed from the Premises, whichever is later. If Owner has not removed the Vessel on or before the date set forth in the Company's Termination Notice, Company may increase the Rent to the daily transient rate then applicable. Company may, but shall not be required to, cause the Vessel to be moved and to be moored, berthed or stored in the name of Owner at any other place at the sole discretion of Company, and Owner shall pay (or reimburse to Company, as applicable) all fees, costs and charges incurred in connection therewith. **Clauses 1 & 2 fully apply any time action is taken by Company in accordance with the authority afforded by this clause. Owner further agrees clauses 1 & 2 shall continue in effect and inure to the benefit of persons or entities who have removed and stored the Vessel after removal from the Premises.**
- 18.1. **Termination Fee - Annual and Seasonal Leases.** If Owner's account, on an annual or seasonal lease, ever becomes 60-days past due Company may terminate this Lease immediately. If Company terminates the Lease under this provision, or if Owner terminates the Lease early, Company may, in its sole discretion, charge Owner a Termination Fee equal to the lesser of (i) three times Owner's Rent, or (ii) what Owner would owe if the Lease were accelerated.
- 18.2. **Termination Fee - Month-to-Month (or shorter term) Lease.** If Owner's account, on a month-to-month or shorter term lease, ever becomes 30-days past due Company may terminate this Lease immediately. If Company terminates the Lease under this provision, or if Owner terminates the Lease early, Company may, in its sole discretion, charge Owner a Termination Fee equal to term of the Lease (i.e. for month-to-month term the termination fee shall be equal to one month's rent, in addition to the current rent due).
19. **Automatic Renewal:** Upon expiration of the initial term of this Lease, the Lease shall automatically renew and continue on a month-to-month basis at: (a) the then-current posted monthly rent rate or (b) the rate stated on this Lease, whichever amount is higher, unless Owner notifies Company, in writing, at least 30 days prior to the expiration of the initial term of this Lease if an annual or seasonal lease (15 days prior to the expiration of the initial term if a monthly lease; leases in duration of less than one month shall automatically renew on a day-to-day basis at the then daily rate until written notice is provided) that Owner does not want to renew the Lease. If the Lease is automatically renewed as provided herein, Owner may terminate this Lease thereafter by delivering to Company, in writing via hand delivery or U.S. certified or registered mail, return receipt requested, Owner's notice of termination ("Owner's Termination Notice") at least 15 days prior to the end of the then-current term. If Owner's Termination Notice is received after said date, then the termination will be effective on the last day of the next monthly term. For example, if the automatically renewed monthly term ends on November 30th, and Owner delivers Owner's Termination Notice on November 16th, the Lease will terminate on December 31st, the last day of the next monthly term.
20. If more than one party signs this Lease as Owner, all of such parties shall be jointly and severally liable for the performance of all obligations of Owner hereunder and shall be bound by all of the Terms and Conditions hereof. This Lease shall be interpreted in accordance with and governed by the laws of the State of Florida and Federal General Maritime Law, as applicable. Any disputes arising under the Lease shall exclusively be brought in a court sitting in Palm Beach County, Florida. Failure of Company to enforce any provision or violation of the Lease shall not be deemed a waiver of Company's right to enforce subsequent or continuing violations of the same or any other provision.
21. In the event any provision of this Lease is held to be unenforceable, the remainder of this Lease shall be undisturbed and remain in full force and effect.
22. This Lease constitutes the entire understanding between the parties. No other representations, agreements or understandings, whether written or oral, except as herein expressly set forth, have been made or relied on by either party. This Lease cannot be amended or modified except by written agreement, signed by Company, before or during the term of this Lease, which writing specifically states that it is an amendment or modification hereto.
23. Owner may not assign Owner's interest in this Lease; Company may assign its interest in this Lease in its sole discretion.
24. In consideration of the execution of the Lease by Company, Owner accepts this Lease subject to any deeds of conveyance and any deeds of trust, master leases, security interests or mortgages and all renewals, modifications, extensions, consolidations and replacements of the foregoing which might now or hereafter constitute a lien upon the Premises, or improvements therein or thereon, and to zoning ordinances and other building and fire ordinances and governmental regulations relating to the use of the Premises. Although no instruments or acts on the part of Owner shall be necessary to effectuate such subordination, Owner shall, nevertheless, for the purpose of confirmation at any time hereafter, on demand in the form(s) prescribed by Company, execute any instruments, estoppel certificates, releases or other documents that may be requested or required by any purchaser or any holder of any security for the purpose of subjecting and subordinating this Lease to such deed or conveyance or to the lien of any such deed of trust, master lease, security interest, mortgage, or superior interest. Owner hereby appoints Company as its attorney-in-fact to execute and deliver any such instrument or document for Owner should Owner fail or refuse to do so. Owner expressly agrees Owner has no right to revoke its appointment of Company as attorney-in-fact as specified in this clause.
25. If any portion of Owner's security deposit remains unclaimed at the expiration or termination of the Lease, Company may continue to service the account (e.g. run skip trace, mail letters, attempt phone calls, etc.) for a \$30.00 monthly charge which shall be applied against the security deposit. Time is of the essence with each and every provision of this Lease.
26. Owner agrees to take all actions set forth in Company's Dockside Procedures in the securing of the Vessel when hurricanes, tropical storms or other severe weather threatens the area encompassing the Premises. **Clauses 1 & 2 fully apply any time action is taken by Company in accordance with the authority afforded by this clause. Owner further agrees clauses 1 & 2 shall continue in effect and inure to the benefit of persons or entities assisting Company in moving or securing Owner's Vessel.** If Owner is assigned a wet slip in the Premises that is not a hurricane protected marina, as determined by Company, Owner affirms that, prior to signing this Lease Owner has a hurricane plan that includes a secure location, outside the Premises, where Owner will move the Vessel in the case of a hurricane. If, during any hurricane, the Vessel is not removed and the Vessel causes property damage to the Premises or other vessels, Owner shall be held responsible and liable for same.
28. From time to time Owner may be eligible to participate in a reciprocal use program with marinas operating under the trade name of Loggerhead Marina, or a variation thereof, ("Loggerhead"), allowing Owner and Vessel to use a slip at a Loggerhead marina for a limited period of time. In the event Owner participates in the reciprocal use program, Owner agrees that in such event Loggerhead shall be treated as a party to this Lease, with Loggerhead having all rights, privileges and remedies set forth herein against Owner and Vessel relating to the use of the Loggerhead marina. Owner shall be responsible for paying all applicable services relating to Owner's use at the Loggerhead marina, including but in no way limited to, utility services. Owner's failure to depart the Loggerhead marina pursuant to the reciprocal use guidelines shall result in Owner being responsible for rent to Loggerhead, in addition to the Rent due Company under this Lease, at Loggerhead's then current daily transient rate.
29. Nothing in this Lease shall be deemed to waive, nor constitute a waiver of, sovereign immunity and same shall continue to apply to the fullest extent permitted by law.
30. **DISCLOSURE OF ADDITIONAL DOCUMENTS.** Owner acknowledges the following documents have been made available for Owner's review and are available at the Premises: Dockside Procedures, Storm Storage Policy, Consent & Appointment of Authorized Agent, Authorized User Designation Form, Manatee Awareness, and such other forms and documents applicable to the Premises and the marina. All such forms, documents, and disclosures are incorporated herein by reference and are subject to change in Company's sole and absolute discretion.

Owner's(s) Initials Here



31. **SPECIAL CONDITIONS** (Clause not valid without Company's signature below): _____

X

AUTHORIZED REPRESENTATIVE (only applicable to clause 31; clause not valid w/o signature)

ADDENDUM TO LEASE AND SERVICE AGREEMENT

THIS ADDENDUM TO LEASE AND SERVICE AGREEMENT ("Addendum") is entered into this _____ day of _____, 2018, by and between Seven Kings Management, Inc., a Florida corporation ("Seven Kings"), for and on behalf of the City of Riviera Beach, a municipal corporation existing under the laws of the State of Florida ("City"), as City's authorized agent and solely in its capacity as the management company for the Premises (Seven Kings and City collectively referred to as "Company") and the Palm Beach County, Florida, a political subdivision of the State of Florida ("County").

WITNESSETH:

WHEREAS, simultaneously herewith Company and County entered into that certain Lease and Service Agreement ("Lease") relating to County's use of a slip at City's marina, pursuant to the terms and conditions set forth therein;

WHEREAS, the parties desire to amend certain provisions of the Lease but to otherwise continue the Lease in full force and effect.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree to amend the Lease as follows:

1. The foregoing recitations are true and correct and are incorporated herein by this reference.
2. The Lease is hereby amended to delete Sections 2.1 through 2.4, inclusive, of the Lease.
3. In Section 6 of the Lease, the sentence "Clauses 1 & 2 fully apply any time action is taken by Company in accordance with the authority afforded by this clause" is hereby deleted.
4. The Lease is hereby amended to delete Section 11 of the Lease.
5. Section 12 of the Lease is hereby deleted and replaced in its entirety with the following:

"Without waiving the right to sovereign immunity as provided by Florida Statute, Chapter 768.28, the County acknowledges to be self-insured for General Liability and Automobile Liability under Florida's sovereign immunity statute with monetary waiver limits of \$200,000 Per Person and \$300,000 Per Occurrence; or such limits that may change and be set forth by the legislature.

"The County acknowledges to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute, Chapter 440. When requested, the County agrees to provide a Certificate of Insurance evidencing self-insurance and/or sovereign immunity status."
6. The Lease is hereby amended to delete Section 15 of the Lease.
7. Section 17 of the Lease is hereby amended to provide that any amendment to the Lease shall be effective only upon the signed written agreement of both parties.
8. Section 18 of the Lease is hereby amended to provide the following additional language:

"Notwithstanding anything to the contrary herein, County's performance and obligations under this Lease is contingent upon an annual appropriation by the Palm Beach County Board of County Commissioners and the availability of funds to pay for the Rent under this Lease. County shall be the final authority as to what constitutes an annual appropriation and the availability of funds necessary to continue under the terms of the Lease. If such funds are not appropriated or available for this Lease, County may terminate this Lease upon notice to Company no less than sixty (60) days prior to such termination and such action shall not constitute a default by County. Notwithstanding any such termination as set forth above, County shall remain obligated to pay for all Rent and other charges under the Lease through, and including, the date of termination.

“County may terminate this Lease at any time, and for any reason, upon no less than ninety (90) days prior written notice to Company.”

9. Section 18 of the Lease, the sentence, “Clauses 1 & 2 fully apply any time action is taken by Company in accordance with the authority afforded by this clause. Owner further agrees clauses 1 & 2 shall continue in effect and inure to the benefit of persons or entities who have removed and stored the Vessel after removal from the Premises.” is hereby deleted.

10. Section 27 of the Lease, the sentence, “Clauses 1 & 2 fully apply any time action is taken by Company in accordance with the authority afforded by this clause. Owner further agrees clauses 1 & 2 shall continue in effect and inure to the benefit of persons or entities assisting Company in moving or securing Owner’s Vessel.” is hereby deleted.

11. Section 32 is hereby added to the Lease to state:

“This Lease shall be governed by the laws of the State of Florida. Any legal action necessary to enforce this Lease will be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

“No provision of this Lease is intended to, or shall be construed to create any third party beneficiary or to provide any rights to any person or entity not a party to this Lease, including but not limited to any citizen or employees of the County and/or Company.”

12. Section 33 is hereby added to the Lease to state:

“Company warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information.”

13. Section 34 is hereby added to the Lease to state:

“Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 – 2-440, as may be amended. The Inspector General’s authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, account and records, to require the production of records, and to audit, investigate, monitor and inspect the activities of the Company, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.”

14. Section 35 is hereby added to the Lease to state:

“All notices required in this Lease shall be sent by certified mail, return receipt requested, by hand delivery or other delivery service requiring signed acceptance. If sent to the County, notices shall be addressed to:

If sent to the Company, notices shall be addressed to:

City of Riviera Beach
c/o Seven Kings Management
Attn: Raymond E. Graziotto, President
630 Maplewood Drive, Suite 100

Jupiter, Florida 33458

15. Except as set forth herein, all terms, covenants and provisions of the Lease are, and shall remain, in full force and effect, and binding on Company, County and Vessel. Nothing herein shall in any way modify or alter the terms of the Lease, or County's duties and obligations or Company's rights thereunder, except as specifically set forth herein.

IN WITNESS WHEREOF, the parties have executed this Addendum effective the date first above written.

Company

ATTEST:
SHARON R. BOCK
CLERK AND COMPTROLLER

By: _____
Deputy Clerk


APPROVED AS TO
FORM AND LEGAL SUFFICIENCY

By: _____
Assistant County Attorney

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

By: _____
Melissa McKinlay, Mayor

APPROVED AS TO
TERMS AND CONDITIONS

By: 
Department Director