

8678-01  
RFP

**AGREEMENT FOR  
OPERATION, MANAGEMENT AND MAINTENANCE  
OF THE  
JACKSONVILLE BEACH PIER AND RETAIL CONCESSION**

**THIS AGREEMENT** (the "Agreement") is made and entered into this 6 day of Nov, 2015 (the "Effective Date"), by and between the CITY OF JACKSONVILLE, a municipal corporation in Duval County, Florida (the "CITY"), and DANIA PIER MANAGEMENT CORP., a Florida profit corporation with offices at 2157 N.E. 20<sup>th</sup> Avenue, Wilton Manors, Florida 33305 (the "PIER OPERATOR"), for Management and Operation of the Jacksonville Beach Pier Facility (the "Project").

**W I T N E S S E T H:**

**WHEREAS**, the CITY prepared a Request for Proposal (Bid No. ESC-0497-15), attached hereto as **Exhibit A** and incorporated herein by this reference (the "RFP"), for the Project, located at the Jacksonville Beach Pier (the "Pier"), which is described in that certain Interlocal Agreement dated March 11, 2002, between the CITY and the City of Jacksonville Beach, attached hereto as **Exhibit B** and incorporated herein by this reference ("Interlocal Agreement"); and

**WHEREAS**, PIER OPERATOR submitted a proposal to CITY and was selected by the City as the best and most qualified applicant; and

**WHEREAS**, CITY and PIER OPERATOR have negotiated mutually satisfactory terms for the execution of the Project;

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, CITY hereby engages PIER OPERATOR for the Project in accordance with the following:

**ARTICLE I  
ENGAGEMENT OF PIER OPERATOR**

CITY hereby engages PIER OPERATOR and PIER OPERATOR hereby accepts said engagement for the purpose of providing to CITY services for the Project, as described in and in accordance with the provisions of the RFP, the "Scope of Services," attached hereto as **Exhibit C** and incorporated herein by this reference (the "Services"), and the Interlocal Agreement.

**ARTICLE II  
USE OF PREMISES**

2.1 Obligations. Prior to the commencement of the Term under this Agreement, PIER OPERATOR shall provide CITY with evidence of the insurance required by Article X and the

bonding requirements set forth in Article XI. PIER OPERATOR'S rights, obligations, and duties pursuant to this Agreement shall be applicable to any of the PIER OPERATOR'S activities at the Pier as of the Effective Date, except that the PIER OPERATOR'S obligation to pay installments of the Annual Payment commences upon the beginning of the Term as described in Article III hereof.

2.2 Use of the Pier. PIER OPERATOR shall occupy and use the Pier in accordance with the laws of the State of Florida and the ordinances of the CITY, now or hereafter made. It is understood that the Pier shall be used for the purposes contemplated in this Agreement and no other use is permitted without prior written consent of CITY, which consent may be withheld in the absolute discretion of CITY.

2.3 Right of Inspection. CITY at all reasonable times may enter into and upon the Pier for the purpose of viewing the same and for the purpose of making any such repairs as are required to be made under the terms of this Agreement.

2.4 Alterations. PIER OPERATOR shall obtain the written approval of CITY before making any alterations or improvements to the Pier. CITY shall not unreasonably withhold its consent to any such alterations. All alterations and improvements shall comply with all applicable federal, state, and local laws, rules, regulations, and requirements.

### **ARTICLE III COORDINATION AND SERVICES PROVIDED BY CITY**

CITY shall designate for the Services received a Project Manager who will, on behalf of CITY, coordinate with PIER OPERATOR and administer this Agreement according to the terms and conditions contained herein and in the exhibits attached hereto and made a part hereof. It shall be the responsibility of PIER OPERATOR to coordinate all Project-related activities with the designated Project Manager. CITY's Project Manager shall be Tera Meeks, Division Chief, Natural and Marine Resources (Phone: 904.255.7912; Fax: 904.255.7944; Email: tmeeks@coj.net).

### **ARTICLE IV DURATION OF AGREEMENT, TERMINATION AND RENEWAL OPTION**

4.1 Term and Termination. The term of this Agreement shall commence on the Effective Date and shall continue and remain in full force and effect as to all its terms, conditions, and provisions as set forth herein for five (5) years until October 1, 2020 (the "Term") unless sooner terminated by CITY or PIER OPERATOR, with or without cause, by giving of not less than thirty (30) days' prior written notice to the other party to this Agreement. Notwithstanding the foregoing or any other provision of this Agreement to the contrary, CITY may terminate this Agreement at any time for any reason by giving PIER OPERATOR twenty-four (24) hours' oral notice with written confirmation following such notice.

4.2 Effect of Termination. In the event this Agreement is terminated, CITY shall be paid for any unpaid portion of the Annual Payment (as defined below) due and owing up to the date of receiving notice of termination. Upon termination of this Agreement, PIER OPERATOR will

peaceably yield up to CITY the premises of the Pier in good and tenantable repair. It is understood and agreed between the parties that PIER OPERATOR shall have the right to remove from the Pier all personal property of PIER OPERATOR and all machinery, equipment, appurtenances, and appliances placed or installed on the Pier by it, provided PIER OPERATOR restores the Pier to as good a state of repair as it was in prior to PIER OPERATOR's occupancy. PIER OPERATOR shall have no right to remove alterations that are incorporated into the structure of the Pier and are a permanent part thereof.

4.3 Term Renewal. CITY shall have the option to renew the Term of this Agreement for one (1) two (2)-year period (the "Renewal Option") upon giving PIER OPERATOR written notice of CITY's intention to exercise such Renewal Option prior to the expiration of the initial Term.

## **ARTICLE V MEETINGS AND PUBLIC HEARINGS**

PIER OPERATOR will attend all meetings and public hearings relative to the Services being performed by it where its presence is determined to be necessary and requested by CITY and PIER OPERATOR can reasonably schedule its appearance.

## **ARTICLE VI DELAYS**

Neither party shall be considered in default in the performance of its obligations hereunder to the extent that the performance of such obligation is prevented or delayed by any cause beyond the reasonable control of the affected party, and the time for performance of either party hereunder shall in such event be extended for a period equal to any time lost due to such prevention or delay.

## **ARTICLE VII SUSPENSION OF SERVICES**

CITY may suspend the performance of the Services rendered by providing five (5) days' written notice of such suspension to PIER OPERATOR. PIER OPERATOR's obligations hereunder with respect to the performance of the Services may be amended by mutual agreement of the parties if necessary to reflect such suspension. In the event of suspension of Services, PIER OPERATOR shall resume the full performance of the Services when directed in writing to do so by the Project Manager. Unless amended by mutual agreement as provided in this Article VII, a suspension of services shall not affect PIER OPERATOR's payment obligations as set forth in Article VIII below.

## **ARTICLE VIII PAYMENTS FOR SERVICES**

8.1. Annual Payment. PIER OPERATOR shall pay to CITY a fixed annual payment of SIXTY-SIX THOUSAND AND 00/100 DOLLARS (\$66,000.00), payable in twelve (12) equal monthly installments of \$5,500.00 each, to be paid on the first day of each month during the Term of this Agreement. The rent for any fractional part of the first month shall be prorated and shall be payable on the first day of occupancy. There is no maximum indebtedness of CITY.

8.2 Late Fees. For any monthly installment of the Annual Payment received ten (10) days after the respective payment is due, CITY shall have the right, at its option and without any further demand or notice, to require a late payment charge equal to five percent (5%) of the delinquent amount, and PIER OPERATOR shall be obligated to pay the same immediately upon receipt of CITY'S written invoice therefor; *provided, however*, that this Section 8.2 shall not be applicable if or to the extent that the application thereof would affect the validity of this Agreement.

## **ARTICLE IX GENERAL INDEMNITY**

PIER OPERATOR, including its employees, agents, and subcontractors, shall hold harmless, indemnify, and defend the CITY, its directors, officers, officials, employees, representatives, and agents as set forth in Section 3.20 of the RFP.

## **ARTICLE X INSURANCE**

PIER OPERATOR and its subcontractors shall procure and maintain at their sole expense the insurance coverages set forth in Section 3.21 of the RFP.

## **ARTICLE XI BOND REQUIREMENTS**

Prior to its entry onto the Pier premises and prior to commencing performance of the Services, PIER OPERATOR shall provide a performance bond in favor of CITY in the amount of \$42,000.00.

## **ARTICLE XII NONWAIVER**

Failure by either party to insist upon strict performance of any of the provisions hereof, either party's failure or delay in exercising any rights or remedies provided herein, payment by PIER OPERATOR of the Annual Payment or any part or combination thereof, or any purported oral modification or rescission of this Agreement by an employee or agent of either party shall not release either party from its obligations under this Agreement, shall not be deemed a waiver of any rights of either party to insist upon strict performance hereof or of either party's rights or remedies under this Agreement or by law, and shall not operate as a waiver of any of the provisions hereof.

## **ARTICLE XIII COMPLIANCE WITH STATE AND OTHER LAWS**

In the performance of the Services, PIER OPERATOR must comply with any and all applicable federal, state, and local laws, rules, and regulations, as the same exist and may be amended from time to time. Such laws, rules, and regulations include, but are not limited to, Chapter 119, Florida Statutes (the Public Records Act), and Section 286.011, Florida Statutes (the Florida Sunshine Law). If any of the obligations of this Agreement are to be performed by a subcontractor, the provisions of this Article XIII shall be incorporated into and become a part of the subcontract.

**ARTICLE XIV  
NONDISCRIMINATION PROVISIONS:**

In conformity with the requirements of Section 126.404, *Ordinance Code*, PIER OPERATOR represents that it has adopted and will maintain a policy of non discrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age, or handicap in all areas of employment relations throughout the Term of this Agreement. PIER OPERATOR agrees that on written request, it will permit reasonable access to its records of employment, employment advertisement, application forms, and other pertinent data and records by the Executive Director of the Community Relations Commission or successor agency or commission for the purpose of investigation to ascertain compliance with the nondiscrimination provisions of this Agreement; *provided however*, that PIER OPERATOR shall not be required to produce for inspection records covering periods of time more than one (1) year prior to the day and year first above written. PIER OPERATOR agrees that if any of the Services to be provided pursuant to this Agreement are to be performed by a subcontractor, the provisions of this Article XIV shall be incorporated into and become a part of the subcontract.

**ARTICLE XV  
EQUAL EMPLOYMENT OPPORTUNITY**

The Equal Opportunity clause in Title 41, Part 60-1.4 of the Code of Federal Regulations (Paragraphs 1 through 7 of President's Executive Order 11246), the Employment of the Handicapped clause in Title 20, Part 741.3 of the Code of Federal Regulations, the Listing of Employment openings for Veterans clause in Title 41, Part 50-250.2 of the Code of Federal Regulations, and the Disabled Veterans and Veterans of the Vietnam Era clause in Title 41, Part 60-250 of the Code of Federal Regulations are incorporated herein by reference if and to the extent applicable. If PIER OPERATOR is exempt from any of the above-cited terms, written evidence of such exempt status must be provided to CITY.

**ARTICLE XVI  
CONTINGENT FEES PROHIBITED**

In conformity with Section 126.306, *Ordinance Code*, PIER OPERATOR warrants that it has not employed or retained any company or person other than a bona fide employee working solely for PIER OPERATOR to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for PIER OPERATOR any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of these provisions, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

**ARTICLE XVI  
TRUTH IN NEGOTIATION**

In conformity with Section 126.305, *Ordinance Code*, PIER OPERATOR understands and

agrees that execution of this Agreement by PIER OPERATOR shall be deemed to be simultaneous execution of a truth-in-negotiation certificate under this provision to the same extent as if such certificate had been executed apart from this Agreement, such certificate being required by Section 126.305, *Ordinance Code*, for professional services contracts over sixty-five thousand dollars (\$65,000.00). Pursuant to such certificate, PIER OPERATOR hereby states that the wage rates and other factual unit costs supporting the compensation hereunder are accurate, complete, and current at the time of contracting. Further, PIER OPERATOR agrees that the compensation hereunder shall be adjusted to exclude any significant sums where CITY determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs, provided that any and all such adjustments shall be made within one (1) year following the completion date of this Agreement.

#### **ARTICLE XVI INDEPENDENT CONTRACTOR**

In the performance of this Agreement, PIER OPERATOR shall be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture, or associate of CITY. PIER OPERATOR shall be solely responsible for the means, methods, techniques, sequences, and procedures utilized in the full performance of this Agreement.

#### **ARTICLE XVII RETENTION OF RECORDS/AUDIT**

PIER OPERATOR and its subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred in the performance of the Services and shall make such materials available at all reasonable times during the period of this Agreement and for three (3) years from the date of final payment under this Agreement for inspection and/or audit by CITY. All such documents relating to the services performed or money expended under this Agreement shall be open to CITY's inspection and audit during PIER OPERATOR's regular business hours.

#### **ARTICLE XVIII MISCELLANEOUS**

22.1 Governing State Law; Venue. The rights, obligations, and remedies of the parties as specified under this Agreement shall be interpreted and governed in all aspects by the laws of the State of Florida. Should any provision of this Agreement be determined by the courts to be illegal or in conflict with any law of the State of Florida, the validity of the remaining provisions shall not be impaired. Venue for litigation of this Agreement shall be in courts of competent jurisdiction located in Jacksonville, Duval County, Florida.

22.2. Severability. If any term, provision, or remedy of this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each other term, provision, or remedy of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

22.3 Authority. CITY and PIER OPERATOR each represents and warrants to the other that: (i) it has the authority to enter into this Agreement; (ii) it has obtained any required third party consents to this Agreement; (iii) it shall undertake and perform its respective obligations hereunder; (iv) entering into this Agreement will not conflict or result in a breach of any other agreement to which each party is subject; and, (v) the individuals signing on behalf of each party have authorization to do so.

22.4 Article Headings. Article and section headings appearing herein are inserted for convenience or reference only and shall in no way be construed to be interpretations of text.

22.5 Construction. Both parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the party who physically prepared this Agreement.

22.6 Successors and Assigns/Personal Liability. CITY and PIER OPERATOR each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this Agreement, and any assignment or transfer by PIER OPERATOR of its interests in this Agreement without the prior written consent of CITY shall be void, in the sole discretion of CITY. Nothing herein shall be construed as creating any personal liability on the part of any officer, employee, or agent of CITY.

22.7 Notice. All notices under this Agreement shall be delivered by certified mail, return receipt requested, or by other delivery with receipt to the following:

As to CITY:

Tera Meeks, Division Chief  
Natural and Marine Resources  
Department of Parks, Recreation and Community Services  
214 N. Hogan Street, Suite 437  
Jacksonville, Florida 32202

As to PIER OPERATOR:

Donald Streeter  
Dania Pier Management Corp.  
2157 N.E. 20<sup>th</sup> Avenue  
Wilton Manors, Florida 33305  
Ph: (954) 868-9600

22.8 Pier Operator Defined. As used herein, the term "PIER OPERATOR" shall include but not be limited to Dania Pier Management Corp., its officers, employees, agents, subcontractors, and other persons, firms, partnerships, corporations, or entities working for it or on its behalf.

22.9 Conflict of Interest The parties will follow the provisions of Section 126.112, *Ordinance Code* with respect to required disclosures by public officials who have or acquire a financial interest in a bid or contract with the CITY, to the extent the parties are aware of the same.

22.10 Public Entity Crimes Notice: The parties are aware and understand that a person or affiliate who has been placed on the State of Florida Convicted Vendor List following a conviction for a public entity crime may not: submit a bid on a contract to provide any goods or services to a public entity; submit a bid on a contract with a public entity for the construction or repair of a public building or public work; submit bids on leases of real property to a public entity; be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; or, transact business with any public entity in excess of thirty-five thousand dollars (\$35,000.00) for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List.

22.11 Entire Agreement/Amendments. This Agreement constitutes the entire agreement between the parties hereto for the Services to be performed and furnished by the PIER OPERATOR hereunder. No statement, representation, writing, understanding, agreement, course of action, or course of conduct made by either party or any representative of either party which is not expressed herein shall be binding. All changes to, additions to, modifications of, or amendments to this Agreement or any of the terms, provisions, and conditions hereof shall be binding only when in writing and signed by the authorized officer, agent, or representative of each of the parties hereto.

**[Remainder of page left blank intentionally. Signature page follows immediately.]**



IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

**ATTEST:**

By James R. McCain, Jr.  
James R. McCain, Jr.  
Corporation Secretary



**CITY OF JACKSONVILLE**

By Sam E. Mousa  
Lenny Curry  
Mayor  
Sam E. Mousa  
Chief Administrative Officer  
For: Mayor Lenny Curry  
Under Authority of:  
Executive Order No. 2015-05

**WITNESS:**

By Karen Jean Manage  
Name: KAREN JEAN MANAGE  
Title:

**DANIA PIER MANAGEMENT CORP.**

By Thomas Zannucci  
Name: Thomas ZANNUCCI  
Title: Pres

In compliance with the Ordinance Code of the City of Jacksonville, I do certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing Agreement and that provision has been made for the payment of the monies provided therein to be paid.

[Signature]  
Director of Finance

8678-01  
[Signature]

Form Approved:

James R. McCain  
Office of General Counsel

**EXHIBIT A**

**RFP**

[To be attached]

**EXHIBIT B**

**Interlocal Agreement**

[To be attached]

ATTACHMENT "B"

**INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF JACKSONVILLE AND  
THE CITY OF JACKSONVILLE BEACH FOR  
THE JACKSONVILLE BEACH PIER**

This Agreement is made and entered into this 11 day of MARch, 2002, by and between the CITY OF JACKSONVILLE, a municipal corporation existing under the Constitution and the laws of the State of Florida, whose address is Attn.: Office of the Mayor, 117 West Duval Street, Suite 400, Jacksonville, Florida 32202 ("Jacksonville"), and the CITY OF JACKSONVILLE BEACH, a municipal corporation existing under the laws of the State of Florida, whose address is Attn.: Office of the Mayor, Eleven North Third Street, Jacksonville Beach, Florida 32250 ("Jacksonville Beach").

WHEREAS, Jacksonville is a consolidated government in the form of a municipal corporation that is successor to the county government of Duval County;

WHEREAS, for purposes of this Agreement, Jacksonville is exercising its power as a county government pursuant to Section 3.01, City Charter;

WHEREAS, Jacksonville is desirous of building, maintaining and operating a public pier extending easterly from the bulkhead line into the Atlantic Ocean in the general location described in Exhibit A (the "Pier");

WHEREAS, Jacksonville is diligently pursuing the acquisition of all the necessary permits and submerged land leases (for Jacksonville Beach) from the necessary governmental agencies, and Jacksonville Beach agrees to reasonably cooperate with Jacksonville regarding the same (the "Permits");

WHEREAS, Jacksonville has agreed that upon its acquisition of said Permits, Jacksonville will build said Pier of approximately 1,300 feet and thereafter will own and operate

said Pier in its government capacity as a public fishing Pier and accessory uses;

WHEREAS, Jacksonville Beach and Jacksonville desire to enter into this Agreement to provide for Jacksonville's operation of the Pier after its completion;

NOW, THEREFORE, it is hereby agreed by the parties as follows:

1. The recitals above are true and correct and are incorporated herein by reference.
2. Jacksonville shall, at its sole cost (subject to the provisions of paragraph 3 below), build, maintain and cause the operation of a public Pier as set forth in this Agreement.

3. Jacksonville shall immediately and continue to diligently pursue until completion the selection and award to a contractor of a design-build contract for the Pier (the "Award") by September 15, 2002. If said Award is not completed by September 15, 2002, then Jacksonville shall return to Jacksonville Beach the amount of \$25,000 per month (prorated daily for each day the Award is delayed after September 15, 2002) until the entire \$250,000.00 is returned to Jacksonville Beach; it being understood that the return of said sums shall be the liquidated damages for the delay of the Award and shall not exceed \$250,000.00. Within ninety (90) days after the Award and Jacksonville's receiving the Permits, Jacksonville will commence construction of the Pier. The foregoing ninety (90) deadline, however, shall be tolled and suspended on a day for day basis for any delay caused by "Force Majeure" (defined herein as a party's failure to perform as attributable to war, riot, or other disorder, strike or other general work stoppage throughout Duval County, fire, flood, hurricane, tornado, or any other act not within the control of the party whose performance is interfered with, and which, by reasonable diligence, such party is unable to prevent, and including, but not limited to, any delays associated with turtle nesting season). If Jacksonville shall begin construction within the time set forth herein, then Jacksonville Beach agrees that Jacksonville can utilize the \$250,000 (less any

liquidated damages paid by Jacksonville as set forth above) which Jacksonville has heretofore received from Jacksonville Beach toward the construction of said Pier.

4. Jacksonville agrees within a reasonable time thereafter to open the Pier to the public at a reasonable cost and cause the operation of the Pier solely at Jacksonville's expense in a normal and usual manner for the public's fishing and accessory uses. Said Pier shall be owned and operated at all times and be maintained by Jacksonville, in a governmental capacity. Nothing herein precludes Jacksonville from contracting with others to assist in these functions.

5. Jacksonville agrees to keep and maintain the Pier in good repair pursuant to local building codes; subject, however, to Force Majeure.

6. All uses conducted upon the Pier shall pay such licenses as Jacksonville Beach may, by ordinance, require for similar uses otherwise located within the city limits; however, it is understood that Jacksonville Beach may not charge a fee or license for fishing, walking, or sight-seeing on the Pier.

7. Jacksonville shall save Jacksonville Beach harmless in every respect in case of any claims or lawsuits growing out of the maintenance or operation of said Pier or connected in any manner with said Pier, and which shall not be the fault of Jacksonville Beach or its officers or employees. Jacksonville Beach shall save Jacksonville harmless in every respect in case of any claims or lawsuits connected in any manner with said Pier which is the fault of Jacksonville Beach or its officers or employees. This paragraph shall be limited by the provisions of Chapter 768.28, Florida Statutes.

8. Jacksonville Beach shall purchase the land located westerly of the existing Pier presently owned by Jacksonville, the description of which to be verified by title and any survey:

South ½ of Lot 3 and Lot 4, Block 51, Pablo Beach South,  
recorded in Plat Book 3, Page 28, current public records of Duval

County, Florida; together with the lands lying Easterly of said Lot 4 and South ½ of Lot 3, and lying between the Easterly projection of the South line of said Lot 4 and the Easterly projection of the North line of said South ½ of Lot 3, to the erosion control line, as recorded in Plat Book 35, pages 59, 59A and 59B, current public records of Duval County, Florida.

for the sum of \$650,000.00. The cost of recording the special warranty deed for the uplands (and if requested by Jacksonville Beach, any quit claim deed for submerged lands), any title search and owner's title policy, and any updated survey, appraisal, or environmental site assessment shall be borne by Jacksonville Beach (it being understood that both parties are exempt from documentary stamp taxes and ad valorem taxes). Such sale of the above-described property shall be in its "AS-IS" condition, except that Jacksonville agrees that it shall remove the existing Pier located east of the bulkhead line located at 6<sup>th</sup> Avenue South except for the existing restaurant building. Jacksonville Beach shall purchase the above-described property within ninety (90) days after construction Permits for the Pier are approved by all applicable governmental agencies. With respect to the existing restaurant building, in the event Jacksonville Beach determines the existing restaurant building requires demolition prior to the closing of the above-described lands, then Jacksonville agrees to demolish the existing restaurant at its expense pursuant to agreements and schedules to which the parties subsequently agree. In the event that Jacksonville Beach determines that it desires the existing restaurant building, it shall so notify Jacksonville and Jacksonville shall transfer whatever interest it has in the said building, submerged land lease for the building or franchise rights and shall so notify the proper officials. Jacksonville Beach shall be solely responsible to obtain the new lease or whatever is necessary to cause the said restaurant building to remain. If construction of the Pier does not begin expeditiously as set forth in this Agreement, or a Certificate of Occupancy (or its functional equivalent) is not issued (each jurisdictional party agreeing that it shall not unreasonably

withhold, condition, or delay any consents related to, or the issuance of, the Certificate of Occupancy), then in that event the parties shall rescind the transaction and the aforesaid \$650,000.00 shall be returned to Jacksonville Beach and the above-described property deeded back to Jacksonville. In the event this agreement is terminated, the parties shall comply with the Interlocal Agreement dated the 6<sup>th</sup> day of July 2000 (except for any adjustments made to the Jacksonville Beach \$250,000.00 contribution if Jacksonville paid any liquidated damages pursuant to the provisions of paragraph 3 above). If requested by a party, the parties agree to enter into a Purchase and Sale Agreement incorporating these provisions, in a form mutually acceptable to both parties, and the parties agree to deliver at closing such documents as reasonably necessary to accomplish the transaction contemplated herein.

9. Jacksonville Beach shall furnish at no additional cost to Jacksonville, via lease, easement, or other rights in a form mutually acceptable to both parties, public ingress and egress to the Pier across lands owned by Jacksonville Beach lying westerly of the Pier located between 4<sup>th</sup> and 5<sup>th</sup> Avenue North, and parking as set forth in this Agreement. This public ingress and egress, and parking, shall: (a) remain in effect as long as Jacksonville owns and operates the Pier, and (b) survive any transfer by Jacksonville Beach of its upland property.

10. Jacksonville Beach shall furnish at no additional cost to Jacksonville an easement in a form mutually acceptable to both parties, not less than one hundred (100) paved parking spaces for the exclusive use of persons using the Pier. The parking spaces shall be in the location generally depicted on Exhibit A attached hereto and incorporated herein by this reference. These parking spaces shall be located on property owned by, and under the control of Jacksonville Beach, but the parking spaces shall be designated for the exclusive use of persons using the Pier. If Jacksonville Beach builds a parking garage, it may exchange garage parking.



spaces in place of the designated ground parking spaces in Exhibit A on a one-for-one basis. The parking spaces (whether ground parking spaces or garage parking spaces) shall remain so designated for the exclusive use of persons using the Pier as set forth herein for so long as Jacksonville owns and operates the said Pier, and shall survive any transfer by Jacksonville Beach of the property.

11. Jacksonville Beach shall not require a franchise so long as Jacksonville owns and causes the operation of the Pier as set forth in this Agreement. The parties agree that: (a) if Jacksonville sells the Pier, it agrees to advise Jacksonville Beach in advance of such sale; and (b) if Jacksonville transfers the ownership, or for all intent and purposes the control of the Pier, to a non-governmental entity, then this Agreement shall terminate and be of no further force and effect and such transfer shall be subject to the franchise laws of Jacksonville Beach.

12. The existing Interlocal Agreement dated the 6<sup>th</sup> day of July, 2000, a copy of which is attached hereto as Exhibit B, shall terminate and be of no further force and effect when Jacksonville obtains the Certificate of Occupancy (or its functional equivalent) for the new Pier.

13. The parties agree to cooperate and deliver any further documents or perform any additional acts to accomplish the agreements set forth herein.

[Signatures continued on next page]

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first written above.

ATTEST:

CITY OF JACKSONVILLE

By: *James P. Delaney*  
Corporation Secretary

By: *John A. Delaney*  
John A. Delaney, Mayor

Form Approved:

By: *Karen M. Chastain*  
Office of General Counsel



ATTEST:

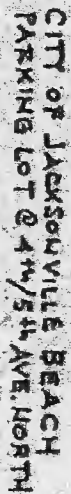
CITY OF JACKSONVILLE BEACH

By: *Kate Reagan*  
City Clerk

By: *Bob D. Marsden*  
Bob D. Marsden, Mayor

By: *George D. Forbes*  
George D. Forbes, City Manager

# ATLANTIC OCEAN



**EXHIBIT B**  
**JULY 6, 2000 INTERLOCAL AGREEMENT**

**INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF JACKSONVILLE  
AND THE CITY OF JACKSONVILLE BEACH  
FOR THE JACKSONVILLE BEACH PIER**

This Agreement is made and entered into this 6<sup>th</sup> of July, 2000, by and between THE CITY OF JACKSONVILLE, a municipal corporation existing under the Constitution and the laws of the State of Florida, whose address is Attn: Office of the Mayor, 117 West Duval Street, Suite 400, Jacksonville, Florida 32202 ("City of Jacksonville"), and THE CITY OF JACKSONVILLE BEACH, a municipal corporation existing under the laws of the State of Florida, whose address is Attn: Office of the Mayor, 11 N. Third Street, Jacksonville Beach, Florida 32250 ("City of Jacksonville Beach").

WHEREAS, the City of Jacksonville is a consolidated government in the form of a municipal corporation that is successor to the county government of Duval County;

WHEREAS, for purposes of this Agreement, the City of Jacksonville is exercising its power as a county government pursuant to Section 3.01, City Charter;

WHEREAS, City of Jacksonville will be acquiring, maintaining, and operating a pier located in Jacksonville Beach, as legally described in Exhibit "A" attached hereto, and those sovereignty submerged lands, as legally described in that certain Sovereignty Submerged Lands Lease Renewal between the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida and Rhonda B. Robinson d/k/a Rhonda Bone Weaver, dated effective on or about July 12, 1999, Lease No. 160002432 (collectively, the "Pier");

WHEREAS, there currently exists a franchise agreement for the operation of the Pier between the City of Jacksonville Beach and the non-governmental owner of the Pier, Rhonda B. Robinson, as successor to Ann S. Bone and d/k/a Rhonda B. Weaver, dated on or about September 19, 1983, and set forth in City of Jacksonville Beach Ordinance No. 7237 (the "Franchise");

WHEREAS, City of Jacksonville Beach has agreed to terminate the Franchise concurrently or after City of Jacksonville's acquisition of the Pier from the current non-governmental owner as set forth in this Agreement;

WHEREAS, the City of Jacksonville has agreed that upon its acquiring the said Pier and adjoining upland lots that it will operate said Pier and upland in its government capacity as a public pier for amusement, recreation, and related business, but not for the docking of boats;

WHEREAS, the City of Jacksonville Beach and City of Jacksonville desire to enter into this Agreement to provide for City of Jacksonville's operation of the Pier after the termination of the Franchise;

NOW, THEREFORE, it is hereby agreed by the parties as follows:



1. The recitals above are true and correct and are incorporated herein by this reference

2. Upon City of Jacksonville's request, after purchase of the Pier, the City of Jacksonville Beach agrees to terminate the Franchise and shall not require another franchise so long as City of Jacksonville owns and causes the operation of the Pier as set forth in this Agreement.

3. City of Jacksonville agrees to repair the Pier at its cost. The City of Jacksonville Beach agrees that within ten (10) days of the execution of this Agreement to make a one time contribution to the City of Jacksonville in the sum of \$250,000 toward said cost. The City of Jacksonville agrees within a reasonable time thereafter to open the Pier to the public at a reasonable cost and cause the operation of the Pier solely at City of Jacksonville's expense in a normal and usual manner for the public's amusement, recreation and fishing, as well as all business purposes associated with such activities. Said Pier shall be owned and operated at all times and be maintained by the City of Jacksonville, in a governmental capacity. Nothing herein precludes the City of Jacksonville from contracting with others to assist in these functions.

4. City of Jacksonville agrees to keep and maintain the Pier in good repair pursuant to local building codes; subject, however, to casualty, acts of God, or other force majeure.

5. No concessions, businesses, amusement or fishing shall be allowed upon said Pier within two hundred (200) feet of the said bulkhead line; provided, however, that a ticket booth may be so located within said area and provided further, however, that seats may be placed along the sides of such portions of the pier as not to interfere with the walkway 12 feet in width which shall be kept clear of obstructions at all times; and provided further that the concessions, businesses, fishing or amusement may be placed on said pier beyond such two hundred (200) foot limit from the said bulkhead line, and further provided that a walkway of not less than 10 feet in width shall be kept clear of all obstructions. All buildings, concessions and other structures upon the pier shall be uniform in construction.

6. All concessions, amusements and businesses conducted upon the pier shall pay such licenses as the City of Jacksonville Beach may, by ordinance, require, for similar concessions, amusements or businesses otherwise located within the city limits.

7. City of Jacksonville shall save the City of Jacksonville Beach harmless in every respect in case of any claims or lawsuits growing out of the maintenance or operation of said Pier or connected in any manner with said Pier, and which shall not be the fault of the City of Jacksonville Beach or its officers or employees. The City of Jacksonville Beach shall save the City of Jacksonville harmless in every respect in case of any claims or lawsuits connected in any manner with said Pier which is the fault of the City of Jacksonville Beach or its officers or employees. This paragraph shall be limited by the provision of Chapter 768.28, Florida Statutes.

8. The parties agree that in the event the City of Jacksonville transfers the ownership of the Pier and the adjoining upland to a non-governmental entity, then this Agreement shall terminate and

be of no further force and effect or if the City of Jacksonville sells the Pier and said land, it agrees to advise the City of Jacksonville Beach in advance of such sale.

9. The parties agree to cooperate and deliver any further documents or perform any additional acts to accomplish the agreements set forth herein.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first written above.

ATTEST:

By:

Linne C. Williams  
Linne C. Williams  
Corporation Secretary



CITY OF JACKSONVILLE

John A. Delaney  
John A. Delaney  
Mayor

Form Approved:

By:

Karen M. Chavlan  
Office of General Counsel

ATTEST:

By:

Bruce Corbitt  
Bruce Corbitt  
City Clerk

CITY OF JACKSONVILLE BEACH

By:

Bob D. Marsden  
Bob D. Marsden  
Mayor

AND

By:

George D. Forbes  
George D. Forbes  
City Manager

## **EXHIBIT C**

### **Scope of Services**

#### **GENERALLY**

Pier Operator will commence operations of a retail shop on the Pier and will provide daily maintenance and janitorial and security services on the entire Pier in accordance with the following:

- Pier Operator shall operate the Pier in such a way as to be an attraction for the public, by providing, at a minimum, a retail concession, including bait and tackle shop, and including any other amenities which could further attract visitors to the Pier.
- Pier Operator shall generate revenues and maximize profits.
- Pier Operator shall operate the Pier in strict accordance with the provisions of the Interlocal Agreement attached is Exhibit A to the Agreement.

#### **SCOPE OF SERVICES TO BE PROVIDED BY PIER OPERATOR**

##### **A. Start-Up and Operation of an On-Pier Retail Concession**

Pier Operator must start-up and operate an on-pier retail concession, and offer fishing license applications therein. Pier Operator may use a cast net from the Pier as necessary in order to catch live bait which will allow Pier Operator to sell live bait and eliminate the unlicensed sale or giveaway of bait by Pier patrons. City expects that the retail concession should be profitable. Pier Operator must fund all start-up and inventory costs for the retail concession, including installation of furniture, fixtures and equipment. Hours of operation, merchandise, and prices must be as proposed by Pier Operator and as approved by City.

In connection with the retail concession, Pier Operator may offer additional food and snack items that do not require a hood or deep fryer, including items such as pre-prepared sandwiches and microwaveable foods.

##### **B. Provision of Maintenance/Janitorial Services on the Entire Pier (East of Seawall other than trash dumpster):**

The Pier must be clean, sanitary, and appealing to the eye at all times. The Pier Operator must be responsible for litter removal, emptying of waste receptacles, debris and spill removal, waste removal, removal of bird droppings, pressure washing and surface disinfection, all in accordance with federal, state and local pollution

prevention regulations. The Pier Operator must also perform all maintenance required on the Pier, excluding regular structural repairs. Any structural issues observed by the Operator must be submitted to the City in writing within 48 hours of discovery.

Any and all repairs required as a result of negligence by the Operator, including failure to adequately secure the facility, will be the responsibility of the Operator (e.g. all forms of vandalism, railings broken by operator's utility carts, etc).

The Pier Operator must submit an annual maintenance plan to the City for approval which shall include a breakdown of daily, weekly, monthly and annual tasks. Any and all improvements or enhancements to the facility must be submitted to the City in writing for the City's review and approval prior to completing the work and shall include details on materials and contractors to be utilized.

Any and all improvements or enhancements which attach to or alter the structure of the facility become the property of the City and shall be retained by the City upon termination of the contract.

The Pier Operator shall maintain an insect/vermin certificate throughout the length of the agreement.

All costs of repair, maintenance and replacement of fixtures, equipment and furnishings shall be done at the sole expense of the Operator and must be accomplished within 48 hours after the need for repairs and/or maintenance becomes apparent. All materials utilized for repairs must be appropriate and of comparable quality to what is being replaced. The City reserves the right to require any unsatisfactory work to be redone as well as unapproved enhancements or improvements to be removed at the sole cost of the Operator.

The City will be responsible for completing full structural assessments and addressing structural repairs as needed.

The Operator must, at all times, keep the Pier free and clear of objects, impediments and trash. The Operator is solely responsible for the cleaning of the concessions building, public restrooms, interior offices, storage room and fish cleaning tables. In addition to such cleaning, the Operator must be responsible for the repair of all interior equipment, cash registers, tanks, pumps and any other equipment used in the operation of the Pier or concessions.

The Operator must develop a maintenance plan, which will include cleaning schedules and frequencies for Pier associated operations.

C. Provision of Security Services on the Entire Pier (East of Seawall):

The entire Pier must be safe and secure at all times. Pier Operator shall be responsible for the safety and



security of Pier visitors during published hours of operations, and for protection of pier property 24 hours per day. The methods to accomplish this shall be as proposed by Pier Operator and as approved by City.

D. Proposition of Starting-Up and Operating Other Profit Generating Amenities, Activities, or Attractions on or Adjacent to the Pier:

The Pier must be an attraction to as many diverse crowds as possible. As such, the Operator should propose additional activities, amenities, and facilities that would attract visitors to the Pier and generate profits. The methods to accomplish this shall be as proposed by the Operator, and as approved by the City. The Operator should be prepared to allow the City of Jacksonville and/or the City of Jacksonville Beach to hold up to six (6) annual events without incurring any event fees.

E. Compliance with Interlocal Agreement:

The Pier must be operated in accordance with the Interlocal Agreement between the Cities of Jacksonville and Jacksonville Beach. Pier Operator must acknowledge this requirement in its response to this Request for Proposals.

F. Provide Monthly Reports to the City

The Pier Operator must submit a typed monthly report to the City summarizing the previous month's operations including revenues, number of visitors, maintenance activities completed, and any other significant or special activities. The Pier Operator must submit an initial inventory of items for sale and subsequently will submit an annual inventory every January.

The operator shall submit an annual maintenance plan for the coming year each January which is broken down by daily, weekly, monthly and annual tasks.

The City shall have the right to conduct annual audits of operators' books and records.

G. Develop Hurricane Preparation Plan:

Within 90 days after contracting with City, Pier Operator must submit a Hurricane Preparation Plan to City for its review. The Hurricane Preparation Plan must address the security of the Pier and protection of property (either City-owned or Pier Operator-owned).

H.     Staffing Requirements:

Pier Operator must, at all times, maintain an adequate number of competently trained staff to provide operational coverage on a full time basis during all operating hours of the pier.

Pier Operator's employees must be uniformed and have photo I.D. badges so that the general public may identify those employees associated with the Pier operation.

I.     Hours of Operation:

The fishing pier facilities' operating hours must be open to negotiation. However, the Mayor or his designee shall order the closing of the Pier as deemed necessary in his sole discretion for safety or other reasons.

J.     Utilities:

Pier Operator must pay for all utilities, including, but not limited to, water, electrical, sewer, telephone, and sanitation services used or consumed in/on the premises of the Pier and concession building/restroom(s). Utilities must be serviced through meters separate from those of City.

K.     Capital Improvements:

All capital improvements must meet all federal, state and local requirements and must be subject to written approval by the Mayor, or his designee, in his sole discretion. Pier Operator is responsible for developing, and funding, the capital improvement plan.

L.     Proposed Pier Rules

In connection with its management of the Pier, Pier Operator will prohibit the following:

1.     Roller Blades
2.     Surf Boards
3.     Bicycles
4.     Throwing Items from the Pier
5.     Sitting on Pier railings
6.     Pets
7.     Sleeping Bags
8.     Jumping or Diving from the Pier
9.     Fly Rods

10. Hand Lines
11. Cast Nets
12. Shark Fishing
13. Running

SUBJECT: Jacksonville Beach Pier Management and Operation

BID #: ESC-0497-15

OPEN DATE: 08/26/2015

COMPETITIVE SEALED PROPOSAL EVALUATION COMMITTEE

**KIND AND BASIS OF CONTRACT:**

SERVICE CONTRACT – Five (5) Year Agreement Commencing at the Execution of Contract with One (1) Two (2) Year Renewal Option.

**AGENCY:** Recreation and Parks / Natural and Marine Resources

**BASIS OF AWARD:** To the Highest Scoring Bidder Based on the Evaluation Criteria

**NUMBER OF BIDS INVITED:** (3) **NUMBER RECEIVED:** (3) **OTHER:** (0)

**SUMMARY OF BIDS AND RECOMMENDED ACTIONS:**

Recommend approval of award to Dania Pier Management Corporation as the highest ranked firm for the Management and Operation of the Jacksonville Beach Pier Facility. Beginning the first day of each month vendor will pay the City of Jacksonville \$5,500.00 or a total of \$66,000.00 per year. Period of service will be five (5) years from date of executed contract through Office of General Counsel with one (1) two (2) year renewal option.

**ATTACHMENTS:** Recommendation Memo; Tabulation; Evaluation Matrix; Scoring Sheet; Scope of Services

ANALYST: 

KATHY NASWORTHY

RESPECTFULLY SUBMITTED 

GREGORY PEASE, CHIEF  
PROCUREMENT DIVISION

**CONCURRENCE BY:** Tera Meeks, Chief, Natural and Marine Resources Division

**(ALL AWARD ACTIONS SUBJECT TO LAWFULLY APPROPRIATED FUNDS)**  
**ACTION OF CSPEC COMMITTEE ON RECOMMENDATIONS ABOVE**

MEMBERS APPROVING 5 MEMBERS DISAPPROVING \_\_\_\_\_ DATE: 9-17-15

OTHER: \_\_\_\_\_

**ACTION OF AWARDING AUTHORITY**

DATE 9/17/15

APPROVED 

DISAPPROVED \_\_\_\_\_

Sam E. Mousa  
Chief Administrative Officer  
For: Mayor Lenny Curry  
Under Authority of:  
Executive Order No. 2015-05

SIGNATURE OF AUTHENTICATION 