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Tax Map Nos. # 075.01-04-05
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PROPERTY ACQUISITION AND EXCHANGE AGREEMENT

THIS PROPERTY ACQUISITION AND EXCHANGE AGREEMENT (this “**Agreement**”), dated as of the ____ day of _____, 2014, is entered into by and between the **OLD DOMINION BOAT CLUB (“ODBC”)** and **THE CITY OF ALEXANDRIA, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia (the “**City**”). ODBC and City are each a “**Party**” and collectively the “**Parties.**”

RECITALS

WHEREAS, ODBC owns and/or now occupies or formerly occupied property, the ownership of portions of which has been in dispute between the Parties (the “**ODBC Property**”) located generally at the foot of King Street in the City of Alexandria, Virginia, which ODBC acquired by deed dated June 9, 1921, recorded in the Clerk’s Office of the Circuit Court of the City of Alexandria, Virginia (the “**Clerk’s Office**”), in Deed Book 72, Page 362, and by deed dated December 4, 1935, recorded in the Clerk’s Office in Deed Book 125, Page 285 (the “**ODBC Vesting Deeds**”). The ODBC Property is more particularly defined and shown in **Exhibit A** attached hereto; and

WHEREAS, the City owns or anticipates acquiring certain properties in the City of Alexandria (the “**City Property**”) more particularly defined and shown in **Exhibit B** attached hereto, portions of which the City will exchange or make available to ODBC in exchange for some or all of the ODBC Property; and

WHEREAS, in accordance with the terms of a Settlement Agreement dated of even date herewith (the “**Settlement Agreement**”) between ODBC and the City (a copy of which is attached hereto as **Exhibit J**), the Parties have agreed, in resolution of the disputes between the Parties regarding portions of the ODBC Property, and to effectuate the resolution of the disputes that are the subject of the Settlement Agreement, that ODBC will relocate from the ODBC Property to portions of the City Property, that ODBC will construct new facilities for its Club and Members on such portions of the City Property, that the City will make a payment of Five Million Dollars (\$5,000,000.00) (the “**Monetary Payment**”) to ODBC, that the City will convey portions of the City Property to ODBC contemporaneously with ODBC conveying portions of the ODBC Property to the City, and that certain subsequent property transfers between the Parties may occur, all under the terms and conditions described in this Agreement; and

WHEREAS, the provisions of this Agreement and the Settlement Agreement are mutually dependent insofar as this Agreement implements various of the provisions of the Settlement Agreement, and therefore both documents are to be read and interpreted in conjunction with one another.

NOW, THEREFORE, for and in consideration of the foregoing and the mutual promises, covenants, and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

ARTICLE I
AGREEMENT; EFFECTIVE DATE;
INCORPORATION OF RECITALS AND EXHIBITS; DEFINITIONS

1.1 Approval by Membership; Effective Date; Agreement. This Agreement shall be effective only if ratified by a vote of the membership of ODBC. It is expected that the membership of ODBC will be given the opportunity to ratify entry into the transactions described in, and approve the execution and delivery of this Agreement during the period July 19 through July 21. Within 24 hours after the last day of the membership voting period, ODBC shall give the City written notice of the outcome of the membership's vote. If the membership does not approve the entry into this Agreement, or if ODBC fails to give the City written notice of the outcome of the membership vote by July 23, this Agreement shall be null and void ab-initio and of no further force or effect. If the membership approves the entry into this Agreement, this Agreement shall be effective on the date of ODBC's written notice to the City (the "**Effective Date**"). On and after the Effective Date, and subject to the terms and conditions contained in this Agreement, ODBC and the City agree to undertake each and every one of the transactions contemplated by this Agreement.

1.2 Incorporation of Recitals and Exhibits. The above Recitals, and all exhibits attached to this Agreement hereto, are incorporated into and made a part of this Agreement.

1.3 Definitions. As used in this Agreement, the following defined terms have the meanings indicated below:

"0 Prince Property" means the property located at 0 Prince Street and all improvements together with any and all riparian rights appertaining thereto, acquired by the City by deed dated February 27, 2006, and recorded in the Clerk's Office as Instrument Number 060005240.

"1 King Property" means the real property located at 1 King Street and all improvements including the ODBC club house, the North Pier and the South Pier, together with any and all riparian rights appertaining thereto.

"10-Year Period" means the period starting on the date of the Expanded Pier Closing and ending ten years thereafter.

"1981 Land Use Agreement" means the Deed dated October 7, 1981, between the City and the United States of America, and recorded in the Clerk's Office in Deed Book 1138, Page 398.

“2 King Property” means (i) the real property located at 2 King Street which is used for a parking lot, boatyard and boat launch into the Potomac River together with any and all riparian rights appertaining thereto, and (ii) the property located west of and contiguous to the Strand Parcel and east of and contiguous to the restaurant currently known as Mai Thai, which is used for parking and is referred to as the “MT Parking Property,” the location of which is generally shown on Exhibit A.

“200 Strand Parking Area” has the meaning given to it in Article IV.

“200 Strand Property” means the property located at 200 Strand Street and all improvements together with any and all riparian rights appertaining thereto, acquired by the City by deed dated February 27, 2006, and recorded in the Clerk’s Office as Instrument Number 060005239.

“204 Strand Closing” means the closing of the conveyances described in Article VI.

“204 Strand Deed 1” means a special warranty deed conveying title to 204 Strand Parcel A and 204 Strand Parcel C to ODBC, subject to Permitted Title Exceptions, and together with any and all riparian rights appertaining thereto.

“204 Strand Deed 2” means a special warranty deed pursuant to which ODBC conveys title to 204 Strand Parcel C back to the City, subject to easements on, through and under the 204 Strand Parcel C for underground utilities, construction and maintenance activities and access to the New Boat Ramp, and reserving unto ODBC all riparian rights associated with 204 Strand Parcel C except those associated with implementation of the flood infrastructure improvements and boardwalk as generally shown on Exhibit E. The Parties acknowledge and agree that in connection with flood mitigation work and/or work performed by the City along the bulkhead line at the 204 Strand Property, the eastern boundary of 204 Strand Parcel C and 204 Strand Parcel D may shift eastward.

“204 Strand Parcel A” has the meaning given to it in the definition of “204 Strand Subdivision.”

“204 Strand Parcel B” has the meaning given to it in the definition of “204 Strand Subdivision.”

“204 Strand Parcel C” has the meaning given to it in the definition of “204 Strand Subdivision.”

“204 Strand Parcel D” has the meaning given to it in the definition of “204 Strand Subdivision.”

“204 Strand Parking Area” has the meaning given to it in Article IV.

“204 Strand Property” means the property currently owned by Anita L. Mann, Trustee, and located at 204 Strand Street, which the City anticipates acquiring.

“**204 Strand Subdivision**” means the subdivision of the 204 Strand Property in substantial conformance with Article VI of this Agreement, into the following parcels, as generally shown on the sketch attached hereto as **Exhibit C**:

- a. A parcel that contains no fewer than 2280 square feet which is contiguous to Prince & Strand Lot 504 (“**204 Strand Parcel A**”);
- b. A parcel which is contiguous to 204 Strand Parcel A (“**204 Strand Parcel B**”);
- c. A Parcel running the width of 204 Strand Parcel A along the Potomac River, which will become part of the Potomac River Walkway (“**204 Strand Parcel C**”); and
- d. A Parcel running the width of 204 Strand Parcel B along the Potomac River, which will become part of the Potomac River Walkway (“**204 Strand Parcel D**”).

“**204 Strand Subdivision Plat**” means the plat of subdivision implementing the 204 Strand Subdivision, with all required approvals.

“**204/208 Strand License**” means a license agreement pursuant to which ODBC grants the City a temporary, exclusive license to use the existing pier and dock located contiguous to the 204 Strand Property and the 208 Strand Property and reserved unto ODBC together with associated riparian rights under the Expanded Pier Area Deed 2. The 204/208 Strand License shall incorporate customary commercial license provisions and shall include the following terms and conditions:

- a. Commencement: the Expanded Pier Area Closing.
- b. Termination: The 204/208 Strand License shall terminate 60 days after ODBC’s delivery of notice stating that commencement of construction activities related to New Piers in the Expanded Pier Area is imminent.
- c. Purpose: The 204/208 Strand Licensed Property may be used solely to permit the existing pier and dock located at the 204/208 Strand Licensed Property to remain in place and to allow the Dandy Owner to continue using such existing pier and dock, pursuant to a written agreement between the City and the Dandy Owner (which may be an amendment of the existing agreement between the City and the Dandy Owner for the area referred to herein as the Prince & Strand Licensed Property to include the 204/208 Licensed Property, and which in any event, shall not include any terms less favorable to the City than the terms of the existing agreement between the City and the Dandy Owner for the area referred to herein as the Prince & Strand Licensed Property).
- d. License Fee: City will charge the Dandy Owner the same amount that the Dandy Owner currently pays the owners of the 204 Strand Property and the 208 Strand Property (which the City understands is \$2,100 per month) and remit all payments made by the Dandy Owner to the City for use of the Expanded Pier Area to ODBC as a license fee payable under the 204/208 Strand License.
- e. Real Estate Taxes: ODBC shall pay all real estate taxes, assessments and similar charges due, *if any*, with respect to the 204/208 Strand Licensed Property.

- f. Dredging: If necessary, and in the City’s sole discretion, the City will be responsible for any required dredging in the area around the 204/208 Strand Licensed Property during the term of the 204/208 Strand License.
- g. Removal of Dandy Pier: The City may remove the existing pier and dock located at the 204/208 Strand Licensed Property only with ODBC’s prior written consent.
- h. No Access. After termination or expiration of the Prince & Strand Lease, neither the City nor the Dandy Owner or customers shall have rights of access through, or other rights with respect to, Prince & Strand Lot 504 or 204 Strand Parcel A under the 204/208 Strand License.

“**204/208 Strand Licensed Property**” means the property that ODBC gives the City a license to use under the 204/208 Strand License.

“**208 Strand Parcel A**” has the meaning given to it in the definition of “208 Strand Subdivision.”

“**208 Strand Parcel B**” has the meaning given to it in the definition of “208 Strand Subdivision.”

“**208 Strand Property**” means the property currently owned by Jane Caster Sweeney, Trustee and located at 208 Strand Street together with any and all riparian rights appertaining thereto, which the City anticipates acquiring.

“**208 Strand Subdivision**” means the subdivision of the 208 Strand Property in accordance with Article VII of this Agreement, into the following parcels, as generally shown on the sketch attached hereto as Exhibit C:

- a. A parcel which is contiguous to 204 Strand Parcel B (“**208 Strand Parcel A**”); and
- b. A Parcel running the width of 208 Strand Parcel A along the Potomac River, which will become part of the Potomac River Walkway (“**208 Strand Parcel B**”).

“**208 Strand Subdivision Plat**” means the plat of subdivision implementing the 208 Strand Subdivision, with all required approvals.

“**A/B Pier**” means the pier in the Potomac River adjoining the property located at 107 N. Union Street the location of which is generally shown on Exhibit B.

“**A/B Pier Area**” means the area within the Potomac River surrounding the A/B Pier as generally shown on Exhibit H.

“**A/B Pier Closing**” means the closing of the conveyances described in Article XI.

“**A/B Pier License**” means a license agreement pursuant to which the City grants ODBC a temporary, exclusive license to use the A/B Pier and the A/B Pier Area. The A/B Pier License shall incorporate customary commercial license provisions and shall include the following terms and conditions:

- a. Commencement: The date that the City gives ODBC notice of removal of the South Pier from the King Street Leased Property in accordance with the terms of the King Street Lease.
- b. Termination: The first to occur of (i) ODBC’s completion of construction of piers within the Expanded Pier Area, or (ii) the date the City conveys title to the A/B Pier Property to ODBC.
- c. License Fee: \$0.
- d. Security Fencing and Gate: ODBC shall be permitted, at its own expense, to erect security fencing and a gate from the Torpedo Factory boardwalk area limiting access to the A/B Pier, in accordance with plans reasonably acceptable to and approved by the City.
- e. Maintenance, Including Dredging and Utilities. ODBC shall be responsible for all maintenance, including dredging, and utilities as to the A/B Pier Property during the term of the A/B Pier License.
- f. Connecting Walkway. ODBC shall have the right, in its sole discretion, to sever the A/B Pier from the Torpedo Factory Boardwalk Area and to construct a walkway above the water and generally parallel to the Torpedo Factory Boardwalk Area to form a private connection between the North Pier and the A/B Pier and the right to install floating slips along such walkway.
- g. Real Estate Taxes. The City shall pay all real estate taxes, assessments and similar charges due, if any, with respect to the A/B Pier Property.
- h. Access Rights. The A/B Pier License shall include access rights to the A/B Pier through the Torpedo Factory Boardwalk Area for ODBC members and for construction and maintenance activities.

“**A/B Pier Property**” means the A/B Pier, together with all of the City’s interest in any submerged lands where the A/B Pier is located, and all riparian rights associated with the portion of the Torpedo Factory Boardwalk Area abutting the A/B Pier Area, as shown on **Exhibit H**.

“**A/B Pier Property Deed 1**” means a deed pursuant to which the City conveys title to the A/B Pier Property and the Torpedo Factory Boardwalk Area to ODBC subject to Permitted Title Exceptions. The A/B Pier Property Deed 1 shall be a special warranty deed unless the City acquired title to the A/B Pier Property by quitclaim or general warranty deed, in which case, the A/B Pier Property Deed 1 shall be a quitclaim deed or a special warranty deed, consistent with the deed to the City.

“**A/B Pier Property Deed 2**” means a deed pursuant to which ODBC conveys title to the Torpedo Factory Boardwalk Area back to the City, subject to a permanent right of unrestricted access to the A/B Pier and the North Pier through the Torpedo Factory Boardwalk Area, and easements on, through and under the Torpedo Factory Boardwalk Area for underground utilities, construction and maintenance activities, and reserving unto ODBC all riparian rights associated with the A/B Pier Area. The A/B Pier Property Deed 2 shall be a special warranty deed unless the A/B Pier Property Deed 1 is a quitclaim or general warranty deed, in which case, the A/B Pier Property Deed 2 shall be a quitclaim deed or a special

warranty deed, consistent with the deed to the City.

“**A/B Pier Trigger Event**” means (a) the City acquires the 204 Strand Property and/or the 208 Strand Property using the power of eminent domain, (b) the City conveys the Expanded Pier Area to ODBC and the New Pier Governmental Approvals are not issued within the 10-Year Period, (c) ODBC delivers written notice to the City stating that ODBC has determined that it does not wish to pursue construction of New Piers within the Expanded Pier Area, or (d) the City does not convey the Expanded Pier Area to ODBC within 15 years after Primary Closing.

“**Agreement**” has the meaning given to it in the introductory paragraph of this agreement.

“**BAR**” means the Board of Architectural Review of the City of Alexandria.

“**Building Permit**” means the building permit issued by the City which authorizes and permits construction of the New ODBC Clubhouse.

“**City**” has the meaning given to it in the introductory paragraph of this Agreement.

“**City Property**” means the properties listed in **Exhibit B**.

“**City Representatives**” means the City and its elected and appointed officials, employees, authorized consultants, authorized agents and authorized contractors and subcontractors.

“**Claims**” means any and all losses, claims, damages, liabilities and expenses, including without limitation, reasonable costs of investigation and attorneys' fees and disbursements.

“**Clerk's Office**” has the meaning given to it in the Recitals to this Agreement.

“**Closing**” means the Primary Closing or a Subsequent Closing, as applicable.

“**Currently Owned City Property**” means each portion of the City Property being conveyed, or an interest in which is being conveyed by the City at a Closing.

“**Dandy**” means the day-cruise restaurant ships known as the Dandy and/or Nina's Dandy moored at the foot of Prince Street in Alexandria, Virginia.

“**Dandy Owner**” means Potomac Party Cruises, doing business as Dandy and Nina's Dandy, its successors and assigns.

“**Discretionary Approval Achievement Date**” means the date that all Discretionary Approvals have been obtained and all applicable appeals periods have expired without the filing of any appeals.

“**Discretionary Approvals**” means the DSUP and the BAR approval necessary to redevelop the 0 Prince Property, the 200 Strand Property as described in this Agreement.

“Disputed Properties” means King Street Park, the Strand Parcel, the Easement in Wales Alley, Wales Alley Extended, and Fayette Alley Extended.

“DSUP” means the Development Special Use Permit for ODBC’s proposed use of Prince & Strand Lot 504 as described in Article IV.

“Easement Interest in Wales Alley” the easement through and across Wales Alley between Strand Street and South Union Street created under the deed dated July 7, 1789 between John Fitzgerald and Valentine Peers, recorded in the Clerk’s Office in Deed Book Y, Page 85.

“Effective Date” has the meaning given to it in Section 1.1.

“Environmental Condition” means the presence of Hazardous Substances at, on, in, over, from or under the applicable property (including the air, soil or groundwater thereof), including any migration of such Hazardous Substances from the applicable property.

“Environmental Laws” means all federal, state and local laws, regulations, rules, ordinances, codes, common law decrees, judgments, directives, or judicial or administrative orders relating to pollution or protection of the environment, natural resources or human health and safety, including laws relating to Releases or threatened Releases of Hazardous Substances (including to air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, arrangement for disposal, Release, transport or handling of Hazardous Substances, laws relating to record keeping, notification, disclosure and reporting requirements respecting Hazardous Substances, and laws relating to the management, use, restoration, or compensation for use of or damage to natural resources.

“Expanded Pier Area” means the area within the Potomac River associated with the riparian rights reserved unto ODBC under the Expanded Pier Area Deed 2 and contiguous to 204 Strand Parcel D and 208 Strand Parcel B, as generally shown on **Exhibit I**.

“Expanded Pier Area Closing” means the closing of the conveyances described in Article VII.

“Expanded Pier Area Deed 1” means a special warranty deed conveying title to 204 Strand Parcel D and 208 Strand Parcel B to ODBC, subject to Permitted Title Exceptions and together with any and all riparian rights appertaining thereto.

“Expanded Pier Area Deed 2” means a special warranty deed pursuant to which ODBC conveys title to 204 Strand Parcel D and 208 Strand Parcel B back to the City, subject to easements on, through and under 204 Strand Parcel D and 208 Strand Parcel B for underground utilities, construction and maintenance activities and access to the New Boat Ramp, and reserving unto ODBC all riparian rights associated with 204 Strand Parcel D and 208 Strand Parcel B except those associated with implementation of the flood infrastructure improvements and boardwalk as generally shown on Exhibit E. The Parties acknowledge

and agree that in connection with flood mitigation work and/or work performed by the City along the bulkhead line at the 208 Strand Property, the eastern boundary of 208 Strand Parcel B may shift eastward.

“Expanded Pier Area Deed of Re-conveyance” means a special warranty deed pursuant to which ODBC conveys back to the City title to the riparian rights retained and the easements reserved by ODBC under the Expanded Pier Area Deed 2.

“Fayette Alley Extended” means the area of the Torpedo Factory Boardwalk Area, together with any and all riparian rights appertaining thereto, that might be considered an extension of the alleyway known as Fayette Alley and that is separated from the Torpedo Factory Boardwalk Area by the brick building known as 101 North Union.

“Financial Encumbrance” means a mortgage, deed of trust, lien or other instrument securing the payment of money to a third party and affecting title to property to be conveyed by a Party under this Agreement.

“Force Majeure Event” means any act, event or condition affecting a Party to the extent that it materially and adversely affects the ability of such Party to perform any obligation under this Agreement (except for payment obligations), if such act, event or condition (a) is not reasonably foreseeable, (b) is beyond the reasonable control of and is not the result of the willful or negligent action or inaction of the Party relying thereon as justification for not performing an obligation or complying with any condition required of such Party hereunder and (c) could not be avoided or overcome by the commercially reasonable actions of such Party. Such acts or events may include, without limitation: (i) war, hostilities, insurrection, riot, vandalism or other public disorder, civil disturbance or terrorism; (ii) acts of God, fire, hurricanes, tornadoes (including tornado watches or warnings declared for the area including the City Property and the ODBC Property issued by the National Weather Service), mudslides, hail, earthquakes, lightning, other extreme weather conditions; (iii) expropriation or confiscation; (iv) strikes, lockouts or other labor disputes (excluding strikes, lockouts or labor disputes isolated to the Party claiming a Force Majeure Event); or (v) accidents or unforeseeable delays in transportation or shipping, including with respect to roadways, harbors, ports and other transportation and shipping infrastructure.

“Hazardous Substances” means (a) any petrochemical or petroleum products, oil or coal ash, radioactive materials, radon gas, asbestos in any form that is or could become friable, urea formaldehyde foam insulation and transformers or other equipment that contain dielectric fluid which may contain levels of polychlorinated biphenyls; (b) any chemicals, materials or substances defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “contaminants” or “pollutants” or words of similar meaning and regulatory effect; or (c) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

“King Street Deed” means a special warranty deed pursuant to which ODBC conveys title to the 1 King Property and the 2 King Property to the City except for the Retained King Street

Property, subject to Permitted Title Exceptions.

“**King Street Lease**” means a lease agreement pursuant to which the City leases to ODBC the 1 King Property and the 2 King Property, including Wales Alley Extended, and the South Pier, but not the MT Parking Property or the Strand. The King Street Lease shall incorporate customary commercial lease provisions and shall include the following terms and conditions:

- a. Commencement of Lease Term: the Primary Closing.
- b. Termination: the first to occur of (i) five years after the Primary Closing, or (ii) sixty days after issuance of a certificate of occupancy for the New ODBC Clubhouse. Before termination of the King Street Lease, the City shall, at its cost and expense, provide separate or sub-metered water and electric connections and meters to the North Pier so that the electric and water service to the North Pier is disconnected from the improvements located at the 1 King Property. In no event shall the term of the King Street Lease extend beyond the date that is sixty days after issuance of a certificate of occupancy for the New ODBC Clubhouse.
- c. Early Termination of Lease of South Pier: City may remove the South Pier from the King Street Leased Property by giving ODBC thirty (30) days’ notice that the City intends to commence demolition and removal of the South Pier. Contemporaneously with delivery of such notice, the City shall execute as licensor and deliver to ODBC a counterpart of the A/B Pier License. Promptly upon receipt of such notice and counterpart of the A/B Pier License, ODBC shall execute as licensee and deliver to the City a counterpart of the A/B Pier License.
- d. Annual Rent: \$0.
- e. Maintenance and Utilities: ODBC shall be responsible for all maintenance and utilities as to the King Street Leased Property.
- f. Real Estate Taxes: The City shall pay all real estate taxes, assessments and similar charges due, if any, with respect to the King Street Leased Property.
- g. City Access: City may enter the King Street Leased Property during normal business hours during term to perform tests and studies that are minimally intrusive and not invasive.
- h. Use of Wales Alley During Term. Except for the improvements approved by the City by Special Use Permit #2010-0010 and the associated BAR Certificate of Appropriateness, and as approved by the City of Alexandria Traffic and Parking Board, during the term of the King Street Lease: (i) Wales Alley shall remain open and available for use at all times for boat trailers and boats to access the parking facility located at the 2 King Property, and (ii) the City shall not construct or allow any licensee or other party to construct permanent improvements in Wales Alley between Union Street and Strand Street.
- i. Flood Mitigation Infrastructure Improvements. The City shall pay for any flood mitigation infrastructure improvements that the City, in its sole discretion, determines should be constructed or installed at the King Street Leased Property.
- j. Delay in Completion of Flood Mitigation Measures in the Area of Prince and Strand Streets. If the City has not completed all of the improvements associated with the flood mitigation measures in the area of Prince Street and Strand Street before a building permit for the New ODBC Clubhouse is issued, the term of the King Street

- Lease shall be extended one day for each day until the City completes such flood mitigation measures.
- k. City Failure to Meet Milestones. If the City fails to meet any milestone set forth in the Land Use Approvals Milestone Schedule and such failure delays the Discretionary Approval Achievement Date set forth in the Land Use Approvals Milestone Schedule and is not the result of ODBC's failure to meet a milestone, the term of the King Street Lease shall be extended one day for each day of delay caused by the City.
 - l. Removal of Certain Fixtures. Before termination of the King Street Lease, ODBC may remove its personal property and fixtures from the King Street Leased Property for its own use or incorporation into the New ODBC Clubhouse, including kitchen and bar equipment and appliances, filing cabinets, cabinetry, grills, laundry appliances, lighting fixtures and similar items.
 - m. Access; Security Fencing and Gate. Before expiration or termination of the King Street Lease, the City shall grant ODBC non-exclusive access rights to the North Pier through the Torpedo Factory Boardwalk Area for ODBC members and for construction and maintenance activities. The City shall grant ODBC the right to erect security fencing and a gate from the Torpedo Factory boardwalk area limiting access to the North Pier, in accordance with plans reasonably acceptable to, and approved by, the City.
 - n. Demolition. If after expiration or termination of the King Street Lease the City intends to demolish the improvements located at the 1 King Property, the City shall give ODBC a period of at least thirty (30) days to remove building components and materials from the such improvements.

“King Street Leased Property” means the 1 King Property and the 2 King Property, including Wales Alley Extended (including that portion of Wales Alley Extended that ODBC is currently using), and the South Pier, but not the MT Parking Property or the Strand, which is the property leased to ODBC under the King Street Lease.

“King Street Park” means the portion of King Street between Strand Street to the Potomac River, together with any and all riparian rights appertaining thereto, which the City has used for a public open space area since approximately 1979.

“Land Use Approvals Milestone Schedule” means the proposed schedule described in Article IV, a copy of which is attached hereto as Exhibit G.

“Monetary Payment” means the \$5,000,000 payment in immediately available funds to be made by the City to ODBC at the Primary Closing.

“MT Parking Property” means the property located west of and contiguous to the Strand Parcel and east of and contiguous to the restaurant currently known as Mai Thai, which is used for parking as generally shown on the sketch attached hereto as Exhibit A.

“New Boat Ramp” means the new boat ramp to be constructed by ODBC contiguous to at Prince & Strand Lot 505 for use by ODBC in connection with the New ODBC Clubhouse

and more particularly described in Article IV.

“**New ODBC Clubhouse**” means the new clubhouse facility to be constructed by ODBC at Prince & Strand Lot 504 and more particularly described in Article IV.

“**New Pier**” means the pier or piers that may be built by ODBC, subject to obtaining all applicable governmental approvals, in the Potomac River area contiguous to Prince & Strand Lot 505, in the Potomac River area contiguous to 204 Strand Parcel C, and/or in the Expanded Pier Area.

“**New Pier Government Approvals**” means the governmental approvals necessary for the construction and maintenance of piers within the Expanded Pier Area, which may include, among others, approvals and/or permits from the Commonwealth of Virginia, the U.S. Army Corps of Engineers, other federal governmental agencies and the District of Columbia.

“**North Pier**” means the pier owned by ODBC, located in the Potomac River contiguous to the 1 King Property.

“**North Pier Closing**” means the closing of the conveyances described in Article X.

“**North Pier Deed**” means a special warranty deed pursuant to which ODBC conveys title to the Retained King Street Property to the City subject to all easements, encumbrances, agreements, covenants, conditions and restrictions of record that lawfully affect the Retained King Property, except for Financial Encumbrances.

“**ODBC**” has the meaning given to it in the introductory paragraph of this Agreement.

“**ODBC Representatives**” means ODBC and its officers, members, consultants, agents, contractors and subcontractors.

“**ODBC Property**” means the properties described in the ODBC Vesting Deeds and/or now or formerly occupied or used by ODBC, including properties whose ownership is in whole or in part disputed by the City, and as more particularly defined and shown in Exhibit A attached hereto.

“**Owner's Title Policy**” means an owner's title insurance policy in form and substance acceptable to the Party requesting such policy, insuring such Party's fee simple title to the portions of the City Property or the ODBC Property, as applicable, being conveyed at a Closing, and as otherwise provided in this Agreement.

“**ODBC Vesting Deeds**” has the meaning given to it in the Recitals to this Agreement.

“**Party**” has the meaning given to it in the introductory paragraph of this Agreement.

“**Permitted Title Exceptions**” means only those exceptions, encumbrances, restrictions, conditions and agreements affecting title to the portion of the City Property or the ODBC

Property, as applicable, being conveyed at a Closing that are acceptable to the Party that is the grantee of such portion of the City Property or the ODBC Property, or waived by such Party, as provided in this Agreement.

“**Potomac River Walkway**” means an open space public area and walkway approximately 20 - 25 feet wide that is intended to run along the Potomac River in Old Town Alexandria from Duke Street to King Street.

“**Primary Closing**” means the initial closing of the conveyances under this Agreement as described in Article V, necessary to effectuate the exchange of properties between the City and ODBC as described in this Agreement.

“**Prince & Strand Deed 1**” means a special warranty deed pursuant to which the City conveys title to Prince & Strand Lot 504 and Prince & Strand Lot 505 to ODBC subject to Permitted Title Exceptions, and together with any and all riparian rights appertaining thereto.

“**Prince & Strand Deed 2**” means a special warranty deed pursuant to which ODBC conveys title to Prince & Strand Lot 505 back to the City, subject to easements on, through and under Prince & Strand Lot 505 for underground utilities, construction and maintenance activities and access to the New Boat Ramp as generally shown on the Exhibit E, an easement to use any submerged portion of Lot 505, and reserving unto ODBC all riparian rights associated with Prince & Strand Lot 505 except those associated with implementation of the flood infrastructure improvements and boardwalk as generally shown on Exhibit E. The Parties acknowledge and agree that in connection with flood mitigation work and/or work performed by the City along the bulkhead line at the 0 Prince Property and the 200 Strand Property, the eastern boundary of Lot 505 may shift eastward.

“**Prince & Strand Lease**” means a lease agreement pursuant to which ODBC leases Prince & Strand Lot 504 to the City. The Prince & Strand Lease shall incorporate customary commercial license provisions and shall include the following terms and conditions:

- a. Commencement: the Primary Closing.
- b. Termination: The Prince & Strand Lease shall terminate on July 1, 2015, but may be extended by the mutual agreement of ODBC and the City.
- c. Annual Rent: \$0.
- d. Maintenance and Utilities: The City shall be responsible for all maintenance and utilities as to the Prince & Strand Leased Property.
- e. Sublease: The City may sublease or license the Prince & Strand Leased Property at its sole discretion to a private entity or entities for any permitted uses, provided (i) the City remains responsible to ODBC for maintenance and insurance, (ii) both the City and the sublessee or licensee hold ODBC harmless, and (iii) the sublease or license terminates upon termination of the Prince & Strand Lease.
- f. Removal of Dandy Facilities located at 0 Prince Street. Before termination of the Prince & Strand Lease, the offices and storage shed located on 0 Prince Property and used by the Dandy Owner shall be removed from the Prince & Strand Leased Property at the City’s expense (which may be reimbursed by the Dandy Owner) and

- any rights that the Dandy Owner has in the 0 Prince Property shall be terminated.
- g. Real Estate Taxes: ODBC shall pay all real estate taxes, assessments and similar charges due, if any, with respect to Prince & Strand Lot 504.
 - h. ODBC Access: ODBC may enter the 0 Prince Property and the 200 Strand Property during normal business hours during term to perform tests and studies that are minimally intrusive and not invasive.

“Prince & Strand Leased Property” means the property leased to the City under the Prince & Strand Lease.

“Prince & Strand License” means a license agreement pursuant to which ODBC grants the City a temporary, exclusive license to use the existing pier and dock located contiguous to Prince & Strand Lot 505 and reserved unto ODBC together with associated riparian rights under the Prince & Strand Deed 2. The Prince & Strand License shall incorporate customary commercial license provisions and shall include the following terms and conditions:

- a. Commencement: the Primary Closing.
- b. Termination: The Prince & Strand License shall terminate on the earlier to occur of (i) issuance of a certificate of occupancy for the New ODBC Clubhouse, or (ii) 60 days after ODBC’s delivery of notice stating that commencement of construction activities related to New Piers in the Prince & Strand License Property is imminent.
- c. Purpose: The Prince & Strand Licensed Property may be used solely to permit the existing pier and dock located at the Prince & Strand Licensed Property to remain in place and to allow the Dandy Owner to continue using such existing pier and dock pursuant to a written agreement between the City and the Dandy Owner a copy of which the City provided to ODBC on or before the execution of the Agreement.
- d. Sublicense: If necessary, the City shall amend the existing agreement with the Dandy Owner to provide that such agreement is a sublicense for the above permitted purpose and the Dandy Owner is in privity of contract with the City and not ODBC.
- e. License Fee: City will charge the Dandy Owner at least \$2,252 per month and remit all payments by the Dandy Owner to the City for use of the Prince & Strand Licensed Property to ODBC as a license fee payable under the Prince & Strand License.
- f. Real Estate Taxes: ODBC shall pay all real estate taxes, assessments and similar charges due, *if any*, with respect to the Prince & Strand Licensed Property
- g. Dredging: If necessary, and in the City’s sole discretion, the City will be responsible for any required dredging in the area around the Prince & Strand Licensed Property during the term of the Prince & Strand License.
- h. Removal of Dandy Pier: The City may remove the Dandy pier only with ODBC’s prior written consent.
- i. No Access. After termination or expiration of the Prince & Strand Lease, neither the City nor the Dandy Owner or customers shall have rights of access through, or other rights with respect to, Prince & Strand Lot 504 or 204 Strand Parcel A under the Prince & Strand License.

“Prince & Strand Licensed Property” means the property that ODBC gives the City a license to use under the Prince & Strand License.

“**Prince & Strand Lot 504**” has the meaning given to it in the definition of “Prince & Strand Subdivision.”

“**Prince & Strand Lot 505**” has the meaning given to it in the definition of “Prince & Strand Subdivision.”

“**Prince & Strand Subdivision**” means the consolidation and re-subdivision of the 0 Prince Property and the 200 Strand Property in accordance with Article IV of this Agreement, into the following parcels, as generally shown on the sketch attached hereto as **Exhibit C** and on the draft subdivision plat submitted to the City of Alexandria Department of Planning and Zoning, a copy of which is attached hereto as **Exhibit D**:

- a. A parcel that contains no fewer than 15,970 square feet (“**Prince & Strand Lot 504**”);
- b. A Parcel running the width of Parcel & Strand Lot 504 along the Potomac River which shall become part of the Potomac River Walkway (“**Prince & Strand Lot 505**”);

“**Prince & Strand Subdivision Plat**” means the plat of subdivision implementing the Prince & Strand Subdivision, substantially in accordance with the draft subdivision plat submitted to the City of Alexandria Department of Planning and Zoning, a copy of which is attached hereto as **Exhibit D**, with all required approvals.

“**Quitclaim Deed**” means a quitclaim deed pursuant to which ODBC quitclaims to the City all of ODBC’s right, title and interests, whatever they may be, in and to the Strand Parcel, Wales Alley Extended, King Street Park, and the Easement Interest in Wales Alley.

“**Release**” means any release, spill, emission, migration, leaking, pumping, injection, deposit, disposal or discharge of any Hazardous Substances into the environment.

“**Retained King Street Property**” means the property rights to be retained by ODBC under the King Street Deed, which are: (a) all riparian rights associated with the 1 King Property and (b) the North Pier.

“**Settlement Agreement**” has the meaning given to it in the Recitals to this Agreement.

“**South Pier**” means the pier owned by ODBC, located in the Potomac River contiguous to the 2 King Property.

“**Strand Parcel**” means the portion of Strand Street located west between the parking lot at the 2 King Property and the MT Parking Property, as generally shown on the sketch attached hereto as **Exhibit A**.

“**Subsequent Closing**” means any Closing under this Agreement after the Primary Closing.

“**Survey**” means a current ALTA survey of the Currently Owned City Property or the ODBC Property to be conveyed at a Closing, delineating the boundary lines of the land, the location of any improvements, all rights of way and easements thereon, the Permitted Title Exceptions and any other title exceptions to be included in the applicable Owner’s Title Policy, and otherwise acceptable to the Party acquiring the Currently Owned City Property or the ODBC Property to be conveyed at a Closing, as applicable, and the Title Company.

“**Title Company**” means a title insurance company acceptable to ODBC.

“**Title Insurance Commitment**” means a preliminary title report or commitment for title insurance issued by the Title Company whereby the Title Company agrees to insure title to the real estate described therein.

“**Torpedo Factory Boardwalk Area**” means the public space open area west and north of the 1 King Property, as generally shown on the sketch attached hereto as **Exhibit H**.

“**Wales Alley Extended**” means a strip of land approximately 30 feet wide on the south side of the 2 King Property, together with any and all riparian rights appertaining thereto, which the City believes is a continuation of Wales Alley, and some or all of which ODBC has been in possession of for more than 30 years.

“**Waterfront Park Subdivision**” means the subdivision of Waterfront Park in accordance with **Article VIII** of this Agreement, such that the WP Parking Space Property is a separate legal parcel, as generally shown on the sketch attached hereto as **Exhibit K**.

“**Waterfront Park Subdivision Plat**” means the plat of subdivision implementing the Waterfront Park Subdivision, with all required approvals.

“**WP Parking Space License**” means a license agreement pursuant to which the City grants ODBC an exclusive license to use fourteen (14) of the parking spaces at WP Parking Space Property. The WP Parking Space License shall incorporate customary commercial license provisions and shall include the following terms and conditions:

- a. **Commencement of License**: Effective date of the expiration or termination of the King Street Lease;
- b. **Termination**: 90 days after the City conveys fee title to the 204 Strand Parcel A to ODBC and all permits and approvals for ODBC’s proposed use of the 204 Strand Parking Area have been obtained;
- c. **License Fee**: \$0.
- d. **Real Estate Taxes**: The City shall pay all real estate taxes, assessments and similar charges due, if any, with respect to the WP Parking Space Property.
- e. **Conveyance of Licensed Property to ODBC**: If the City has not acquired 204 Strand Property and conveyed 204 Strand Parcel A to ODBC by the date that is 5 years following the commencement of this license, then, as described in **Article VIII**, the City shall convey title to the WP Parking Space Property to ODBC in fee simple,

subject to obtaining approval of an amendment to the 1981 Land Use Agreement from the United States.

f. City Covenants and Duties:

- i. The City shall covenant that it shall diligently and in good faith seek the necessary approval for such conveyance from the United States.
- ii. The City shall be responsible for the subdivision of the parcel of property that the WP Parking Space Property is a part of before the WP Parking Spaces Closing.
- iii. During the term of the WP Parking Space License and thereafter in the event that the WP Parking Space Property is conveyed to ODBC or that the WP Parking Space License becomes perpetual, the City shall provide signage indicating ODBC's exclusive use of the WP Parking Space Property, and shall grant ODBC sufficient written authorization, within its municipal powers, to enable ODBC to enforce its rights through a towing contractor.

“WP Parking Space Property” means a portion of the property located at 1A Prince Street, acquired by the City by deed recorded in the Clerk’s Office as Instrument Number 13021432.

“WP Parking Space Property Closing” means the closing of the conveyances described in Article VIII.

“WP Parking Space Property Deed” means a deed pursuant to which the City conveys title to WP Parking Space Property to ODBC subject to Permitted Title Exceptions. The WP Parking Space Property Deed shall be a special warranty deed unless the City acquired title to the WP Parking Space Property by quitclaim or general warranty deed, in which case, the WP Parking Space Property Deed shall be a quitclaim deed or a special warranty deed, consistent with the deed to the City.

“WP Parking Space Transfer Trigger Date” means the date that is 5 years after the commencement of the WP Parking Space License.

ARTICLE II

CITY'S REPRESENTATIONS, WARRANTIES AND COVENANTS

The City hereby makes the following representations, warranties and covenants with respect to this Agreement and the City Property, each of which is effective as of Effective Date:

2.1 Organization, Power, Authorization and Execution. The City is a municipal corporation of the Commonwealth of Virginia, duly formed, validly existing, and in good standing under the laws of the Commonwealth of Virginia, with all requisite powers and authorizations to carry on its business and to enter into and perform its obligations hereunder. This Agreement has been duly authorized, executed and delivered by all necessary action on the part of the City, constitutes the valid and binding agreement of the City and is enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting enforcement of creditors’ rights and remedies generally and to general principles of equity.

2.2 Noncontravention. The execution, delivery and performance by the City of its obligations under this Agreement does not contravene any document, agreement, order or other instrument binding upon the City.

2.3 Maintenance of Property. The City covenants, that between the Effective Date and the date of the Primary Closing, it will (a) maintain the Currently Owned City Property in the usual, regular and ordinary manner, consistent with the prior practice, and (b) not take or fail to take any action the result of which would have a material adverse effect on the Currently Owned City Property or ODBC's ability to use such Currently Owned City Property, or which would cause any of the representations and warranties contained in this Article II to be untrue as of the Primary Closing or any Subsequent Closing.

2.4 Environmental Matters. To the knowledge of the City, no Environmental Condition exists, and no Release of Hazardous Substances has occurred at, on, in, over, from, or under the Currently Owned City Property, that has given rise or could reasonably be expected to give rise to a material environmental claim or remediation obligation. As used herein, "to the knowledge of the City" or any similar phrase means the actual, not constructive or imputed, knowledge of the officers, members, directors, employees, agents, affiliates or consultants of the City, without any obligation on any of their parts to make any independent investigation of the matters being represented and warranted, or to make any inquiry of any other persons, or to search or examine any files, records, books, correspondence or other documents or instruments.

2.5 AS-IS Condition of the Property. The City Property is being conveyed to ODBC pursuant to this Agreement on an "AS IS, WHERE IS" basis, and except for the representations and warranties included in this Agreement, the City makes no representations or warranties as to the City Property, express or implied.

2.6 USA Patriot Act. None of the funds to be used for the Monetary Payment will be subject to 18 U.S.C. §§ 1956-1957 (Laundering of Money Instruments), 18 U.S.C. §§ 981-986 (Federal Asset Forfeiture), 18 U.S.C. §§ 881 (Drug Property Seizure), Executive Order Number 13224 on Terrorism Financing, effective September 24, 2001, or the United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, H.R. 3162, Public Law 107-56.

ARTICLE III

ODBC'S REPRESENTATIONS, WARRANTIES AND COVENANTS

ODBC hereby makes the following representations, warranties and covenants with respect to this Agreement and the ODBC Property, each of which is effective as of Effective Date:

3.1 Organization, Power, Authorization and Execution. ODBC is a Virginia [not-for-profit] corporation, duly formed, validly existing, and in good standing under the laws of the Commonwealth of Virginia, with all requisite powers and all governmental authorizations to carry on its business and to enter into and perform its obligations hereunder. This Agreement (a)

has been duly authorized, executed and delivered by all necessary action on the part of ODBC, including the vote taken by the ODBC membership, which approved the execution and delivery of this Agreement on behalf of ODBC, (b) constitutes the valid and binding agreement of ODBC and (c) is enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting enforcement of creditors' rights and remedies generally and to general principles of equity.

3.2 Noncontravention. The execution, delivery and performance by ODBC of its obligations under this Agreement does not contravene any document, agreement, order or other instrument binding upon ODBC.

3.3 Maintenance of Property. ODBC covenants, that between the Effective Date and the date of the Primary Closing, it will (a) maintain the ODBC Property in the usual, regular and ordinary manner, consistent with the prior practice, and (b) not take or fail to take any action the result of which would have a material adverse effect on the ODBC Property or the City's ability to use the ODBC Property, or which would cause any of the representations and warranties contained in this Article III to be untrue as of the Primary Closing.

3.4 Environmental Matters. To the knowledge of ODBC, no Environmental Condition exists, and no Release of Hazardous Substances has occurred at, on, in, over, from, or under the ODBC Property, that has given rise or could reasonably be expected to give rise to a material environmental claim or remediation obligation. As used herein, "to the knowledge of ODBC" or any similar phrase means the actual, not constructive or imputed, knowledge of the officers, members, directors, employees, agents, affiliates or consultants of ODBC, without any obligation on any of their parts to make any independent investigation of the matters being represented and warranted, or to make any inquiry of any other persons, or to search or examine any files, records, books, correspondence or other documents or instruments.

3.5 AS-IS Condition of the Property. The ODBC Property is being conveyed to the City pursuant to this Agreement on an "AS IS, WHERE IS" basis, and except for the representations and warranties included in this Agreement, ODBC makes no representations or warranties as to the ODBC Property, express or implied.

ARTICLE IV

CLOSING CONDITIONS AND ADDITIONAL COVENANTS; UNDERSTANDINGS REGARDING ODBC'S PROPOSED USE

The Parties' obligations as to each Closing, unless otherwise provided below, are subject to the satisfaction of the following conditions precedent:

4.1 Representations, Warranties and Covenants; Obligations of City; Certificate. Each Party's representations and warranties made in this Agreement shall be materially true and correct as of the date of the Primary Closing and each Subsequent Closing (except for representations made as to property of a Party that was conveyed at an earlier Closing) as if then made, each Party shall have performed all of its covenants and other

obligations under this Agreement and each Party shall have executed and delivered to the other Party at the Primary Closing and at each Subsequent Closing a certificate to the foregoing effect.

4.2 Title to the Currently Owned City Property. (a) Fee simple title to the Currently Owned City Property shall be insurable as such by the Title Company, at or below the Title Company's regularly scheduled rates, and ODBC shall be in a position to obtain an Owner's Title Policy at the applicable Closing insuring ODBC's fee simple title to the Currently Owned City Property, subject only to Permitted Title Exceptions. As soon as reasonably practical in connection with each Closing, ODBC shall order a Title Insurance Commitment as to the Currently Owned City Property to be conveyed at such Closing, and shall promptly deliver a copy of such Title Insurance Commitment and all documents referenced therein to the City, along with written notice of any title defects, matters or exceptions to title included in such Title Insurance Commitment that are not Permitted Title Exceptions. Promptly after it receives such notice, the City shall remove or otherwise resolve to ODBC's satisfaction such title defects, matters or exceptions. If the City is unable or elects not to attempt to remove or otherwise resolve to ODBC's satisfaction such title defects, matters or exceptions, ODBC shall have the right to terminate this Agreement in accordance with Article XII. From the Effective Date to the Primary Closing and each Subsequent Closing, the City shall not incur, create or permit any lien or encumbrance against the Currently Owned City Property or any part thereof, except with the prior written consent of ODBC. The City shall execute a standard Owner's Certification as reasonably required by the Title Company as a condition of the issuance of any Owner's Title Policy.

(b) Title to the ODBC Property. Fee simple title to the ODBC Property shall be insurable as such by a title insurance company acceptable to the City, at or below such title company's regularly scheduled rates, and the City shall be in a position to obtain an Owner's Title Policy at the Primary Closing insuring the City's fee simple title to the property to be conveyed under the King Street Deed, subject only to Permitted Title Exceptions. As soon as reasonably practical in connection with the Primary Closing, the City shall order a Title Insurance Commitment as to the property to be conveyed under the King Street Deed, and shall promptly deliver a copy of such Title Insurance Commitment and all documents referenced therein to ODBC, along with written notice of any title defects, matters or exceptions to title included in such Title Insurance Commitment that are not Permitted Title Exceptions. Promptly after it receives such notice, ODBC shall remove or otherwise resolve to the City's satisfaction such title defects, matters or exceptions. If ODBC is unable or elects not to attempt to remove or otherwise resolve to the City's satisfaction such title defects, matters or exceptions, the City shall have the right to terminate this Agreement in accordance with Article XII. From the Effective Date to the Primary Closing, ODBC shall not incur, create or permit any lien or encumbrance against the ODBC Property or any part thereof, except with the prior written consent of the City. ODBC shall execute a standard Owner's Certification as reasonably required by the City's title insurance company as a condition of the issuance of any Owner's Title Policy.

4.3 Survey. If the City obtains a Survey of any portion of the City Property before the Primary Closing or any Subsequent Closing (in connection with subdividing such portion of the City Property or for any other reason), the City shall promptly (and in any event, before the Primary Closing or Subsequent Closing, as applicable) deliver a copy of such Survey

to ODBC, at no charge to ODBC. In addition, either Party may obtain at its sole cost and expense, and deliver to the other Party, a Survey of the Currently Owned City Property and/or the ODBC Property, as applicable. The Party that is the grantee of any property conveyed at the Primary Closing or any Subsequent Closing, as applicable, shall waive any right to object to matters of survey (and such matters shall become Permitted Title Exceptions) if such Party does not obtain a Survey of the applicable property and notify the other Party of any survey issues when it gives notice of any title defects, matters or exceptions to title that are not Permitted Title Exceptions.

4.4 Subdivision. Prior to the Effective Date, the City has undertaken the activities necessary to obtain approval of the Prince & Strand Subdivision, and after the Effective Date the City shall diligently pursue completion of the Prince & Strand Subdivision. A plat of the proposed Prince & Strand Subdivision as initially submitted to the City of Alexandria Department of Planning and Zoning is attached hereto as Exhibit D. Throughout the process, the City shall work cooperatively and in good faith with ODBC, keeping ODBC fully informed of its concepts, drafts and application materials. In connection with the Prince & Strand Subdivision, the City shall not create any covenants, conditions or restrictions applicable to Prince & Strand Lot 504 without the prior written consent of ODBC. Prior to submitting any consolidation or subdivision plat for approval, the City shall give ODBC at least fifteen (15) days to comment on such consolidation or subdivision plat, and shall diligently and in good faith modify the proposed plat to accommodate ODBC's reasonable comments. Promptly after receiving all necessary approvals for the Prince & Strand Subdivision, the City shall cause the Prince & Strand Subdivision Plat to be recorded in the Clerk's Office and shall deliver an as-recorded copy to ODBC. The City may consolidate the Prince & Strand Subdivision, the 204 Strand Subdivision and the 208 Strand Subdivision if it can do so without creating a delay in any milestone set forth in the Land Use Approvals Milestone Schedule.

4.5 DSUP and Building Permits. Promptly after the Effective Date, ODBC, in its capacity as contract purchaser, and at its own cost, shall undertake all activities necessary to obtain the approvals necessary for its proposed use of Prince & Strand Lot 504 substantially as described in this Article IV and substantially in conformance with Exhibit E, including the Discretionary Approvals and the Building Permit. ODBC shall work cooperatively and in good faith with the City, keeping the City informed of its concepts, drafts and application materials. As the owner of the 0 Prince Property and the 200 Strand Property, the City shall work cooperatively and in good faith with ODBC in connection with all activities necessary to obtain approval of ODBC's proposed use and shall execute any application materials requiring signature of the landowner promptly on ODBC's request. The City shall diligently and in good faith take all measures it is authorized to take in order to expedite the review and approval process for the Building Permit.

4.6 Proposed Use of City Property to be Conveyed to ODBC. The City understands and acknowledges that ODBC currently proposes to construct, maintain, use and enjoy the portions of the City Property conveyed to ODBC under this Agreement:

- (a) after the Primary Closing, at Prince & Strand Lot 504, a new clubhouse facility that is approximately thirty (30) feet tall and with a net floor area of

approximately 7500 square feet (as height and floor area are defined under the City's Zoning Ordinance) using all or portions of the general footprint of the existing building located on the 0 Prince Property and known as the "Beachcomber Building" but expanding on such footprint on the western side and that includes an outdoor rooftop area and balconies and which is more particularly depicted on **Exhibit E** attached hereto (the "New ODBC Clubhouse"), and a surface parking area sufficient for parking at least thirty (30) parking spaces including two spaces designated as handicapped spaces (the "200 Strand Parking Area");

(b) after the Primary Closing or the 204 Strand Closing, at ODBC's option, a New Pier within the extended northernmost boundary line of Prince & Strand Lot 504 and the extended southernmost boundary line of the property then owned by ODBC (Prince & Strand Lot 504 or 204 Strand Parcel A, as applicable), with security gates, electric service and a covered portico;

(c) after the 204 Strand Closing, at the 204 Strand Parcel A a surface parking area sufficient for parking at least 15 vehicles (the "204 Strand Parking Area") which will be integrated into the 200 Strand Parking Area;

(d) after the Expanded Pier Area Closing, a New Pier in the Potomac River, with no fewer than 56 slips, with security gates, and electric service;

(e) At any time after the completion of the New ODBC Clubhouse, ODBC may apply for a special use permit to operate a valet parking stand for ODBC members on the Strand Street;

(f) Notwithstanding the foregoing, ODBC shall be entitled to use Prince & Strand Lot 504 and 204 Strand Parcel A for other uses consistent with applicable law and is not obligated to use Prince & Strand Lot 504 and/or 204 Strand Parcel A solely for the purposes described in this Agreement.

4.7 City Acknowledgment and Support. The City confirms that the proposed uses of the City Property conveyed to ODBC are generally consistent with the City's Zoning Ordinance. City will work diligently and in good faith with ODBC to have Prince & Strand Lot 504 and 204 Strand Parcel A rezoned to the appropriate zone that allows a private marina and building of the size and dimensions, and having the other characteristics (including height, floor area, width and length) of the New ODBC Clubhouse and the 200 Strand Parking Area as described in this Agreement. The City will affirmatively support ODBC in its efforts to obtain the applicable governmental and land use approvals for the permitting, design, construction and use of the New ODBC Clubhouse, the 200 Strand Parking Area, the 204 Strand Parking Area, and any New Piers, and will endeavor in good faith not to cause any delay in any such efforts, if the application consists of a project substantially in conformance with **Exhibit E**. In addition, the City will use all reasonable means within its jurisdiction and power to expedite the City's review of all applications and submissions made by ODBC in connection with the Discretionary Approvals and the Building Permit. The City shall use its best efforts to obtain and expedite any and all approvals from the United States that may be required for the City to perform its

obligations in connection with any Closing under this Agreement. The City understands and acknowledges that in entering into the transactions described in this Agreement, ODBC is relying on the letter of the City's Director of Planning and Zoning attached to this Agreement as **Exhibit F**.

4.8 **Activities Related to New ODBC Clubhouse**. ODBC shall diligently plan and design at its own cost the New ODBC Clubhouse and the 200 Strand Parking Area, diligently pursue all applicable governmental consents and approvals required in connection with the design and construction of the project substantially in conformance with **Exhibit E**, and diligently construct the New ODBC Clubhouse and the 200 Strand Parking Area upon receipt of the applicable governmental consents and approvals. The City and ODBC have developed the Land Use Approvals Milestone Schedule attached hereto as **Exhibit G** to assist the Parties in their efforts to manage the design, permitting and construction process so that a certificates of occupancy for the New ODBC Clubhouse and the 200 Strand Parking Area will have been issued on or before expiration of the term of the King Street Lease. ODBC's failure to meet any target date or milestone set forth in the Land Use Approvals Milestone Schedule shall not constitute a default under this Agreement or the King Street Lease, but may result in the New ODBC Clubhouse being unavailable for use and occupancy as of the expiration of the term of the King Street Lease and ODBC being temporarily without a clubhouse facility. If the City fails to meet any target date or milestone set forth in the Land Use Approvals Milestone Schedule and such failure delays the Discretionary Approval Achievement Date beyond the date set forth in the Land Use Approvals Milestone Schedule and is not the result of ODBC's failure to meet a milestone, such failure shall not constitute a default under this Agreement, but the term of the King Street Lease shall be extended one day for each day of delay caused by the City.

4.9 **Activities Related to New Boat Ramp and New Piers**. Promptly after the Effective Date, ODBC shall commence designing the New Boat Ramp to ensure the New Boat Ramp is integrated into the City's proposed flood mitigation measures. Throughout the design process, each Party shall work cooperatively and in good faith with the other Party, keeping the other Party fully informed of concepts, drafts and any application materials, and seeking the other Party's input when appropriate. Each Party shall diligently and in good faith modify its proposed plans and specifications, in cooperation with the other Party to accommodate such other Party's comments and suggestions, to the degree necessary, to create a functional boat ramp. The New Boat Ramp shall be designed so as to permit unrestricted use of the Potomac River Walkway at all times except when the New Boat Ramp is being used to put a boat into the water or used to remove a boat from the water. ODBC shall pay for the design and construction of the New Boat Ramp in accordance with the final, agreed-upon plans and specifications and any required governmental approvals. ODBC will not apply for any New Pier Governmental Approvals unless the New Piers that are the subject of such approvals are located within the area of the Potomac River that is within the extended northernmost boundary line of property owned by ODBC and the extended southernmost boundary line of property owned by ODBC. Upon completion of construction of the New Boat Ramp, the City may occasionally use the New ODBC Boat Ramp for official governmental business and for first-responders to address emergency situations. Except in the case of emergencies, the City shall provide ODBC with reasonable advance notice of any request to use the New ODBC Boat Ramp.

4.10 Flood Mitigation Measures at Prince and Strand Streets. The City shall proceed diligently and in good faith with the construction of flood mitigation measures in the area of Prince Street and Strand Street, at its cost and expense, and shall use diligent, good faith efforts to complete such flood mitigation measures before the Building Permit is issued. The Parties acknowledge and agree that ODBC may not be able to construct the New ODBC Clubhouse and shall not be able to construct the New Boat Ramp until the City has completed construction of flood mitigation measures in the area of Prince Street and Strand Street. If ODBC determines that it may be possible to commence construction of the New ODBC Clubhouse before the City has completed the flood mitigation measures, ODBC may elect to commence construction of the New ODBC Clubhouse before the City's flood mitigation work is completed, but shall not have a duty or obligation to do so. Regardless of whether ODBC elects to commence construction of the New ODBC Clubhouse before the flood mitigation infrastructure improvements are complete, the term of the King Street Lease shall be extended one day for each day of delay caused by the City if the flood mitigation infrastructure improvements are not completed before the Building Permit is issued. The City shall not damage or remove the existing pier used by the Dandy without ODBC's written consent. After the Primary Closing:

(a) ODBC shall grant the City reasonable temporary construction easements so that the City may construct the flood mitigation infrastructure improvements and a permanent tie-back easement, in each case, encumbering a portion of Prince & Strand Lot 504 approximately 20 feet wide along the eastern boundary of Prince & Strand Lot 504 and as generally shown on the Exhibit E; and

(b) If any permit application or related filing associated with obtaining necessary approvals for the City's proposed flood mitigation infrastructure improvements so requires, ODBC, as owner of riparian rights appertaining to Prince & Strand Lot 504, shall execute such applications or filings promptly on the City's request.

4.11 Subsequent Closings: The City shall use its best efforts to acquire the 204 Strand Property and the 208 Strand Property without using its power of eminent domain.

4.12 ODBC Access and Inspection. The City hereby grants to ODBC Representatives permission to enter upon the Currently Owned City Property before the applicable Closing for the purposes of investigating the condition or status of the Currently Owned City Property so that ODBC may undertake such tests and inspections as ODBC desires. Such investigations may include physical inspections of the Currently Owned City Property, appraisals of the Currently Owned City Property's value, examinations of the Currently Owned City Property for hazardous materials, any environmental assessments of the Currently Owned City Property, reviews of records and materials relating to the Currently Owned City Property, reviews of the current land use classification of the Currently Owned City Property, and such other due diligence and underwriting as ODBC deems appropriate in its sole and absolute discretion. ODBC shall permit only those of its contractors and subcontractors that carry appropriate insurance to enter upon the Currently Owned City Property pursuant to the permission granted in this Section.

4.13 City Access and Inspections. ODBC hereby grants to the City Representatives permission to enter upon the ODBC Property before the Primary Closing for the purposes of investigating the condition or status of the ODBC Property so that the City may undertake such tests and inspections as the City desires. Such investigations may include physical inspections of the ODBC Property, appraisals of the ODBC Property's value, examinations of the ODBC Property for hazardous materials, any environmental assessments of the ODBC Property, reviews of records and materials relating to the ODBC Property, and such other due diligence and underwriting as the City deems appropriate in its sole and absolute discretion. The City shall permit only those of its contractors and subcontractors that carry appropriate insurance to enter upon the ODBC Property pursuant to the permission granted in this Section.

4.14 City's Reconstruction of North Pier. If the City determines that it wishes to replace or substantially rebuild the North Pier at the City's sole cost and expense in connection with any flood mitigation infrastructure improvements that the City elects to undertake in the area of the North Pier, it shall give ODBC notice at least 30 days before the proposed commencement of work at the North Pier, which notice shall advise ODBC of the proposed commencement date of the work and the anticipated completion date when the North Pier will be available for ODBC's use and possession. If ODBC has constructed a walkway connecting the North Pier and the A/B Pier (as permitted under the A/B Pier License) before the City begins the work associated with reconstructing the North Pier, the City shall restore or replace such walkway and associated facilities to the same condition (or better) as exists upon commencement of the City's work. Throughout the process of replacing or rebuilding the North Pier, the City shall use its best efforts to mitigate the impact to ODBC during the construction work, and shall work cooperatively and in good faith with ODBC, keeping ODBC fully informed of its concepts, application materials, drawings and specifications and construction progress. In connection with any applications or filings associated with such work, the City shall not create any covenants, conditions or restrictions applicable to the North Pier without the prior written consent of ODBC, which consent shall not be unreasonably withheld. Prior to submitting any application or filing for approval of any such work, the City shall give ODBC at least thirty (30) days to comment on such application or filing, and shall diligently and in good faith modify the proposed application or filing to accommodate ODBC's reasonable comments. If any permit application or related filing associated with obtaining necessary approvals to replace or substantially rebuild the North Pier so requires, ODBC, as owner of the Retained King Street Property, shall execute such applications or filings promptly on the City's request. Upon completion of any City work related to replacing or rebuilding the North Pier, all right, title and interest in the North Pier shall remain in ODBC and the City shall deliver to ODBC a bill of sale or other evidence confirming ODBC's title notwithstanding the City's payment for the costs and expenses associated with replacing or rebuilding it, and shall assign to ODBC all warranties for work performed or materials used in connection with replacing or rebuilding the North Pier. This Section 4.14 shall not apply if, and after, the North Pier Closing occurs.

ARTICLE V

PRIMARY CLOSING

5.1 General Description of Exchanges to Occur at the Primary Closing. Upon the terms and subject to the conditions set forth in this Agreement, at the Primary Closing and as more particularly described in this Article V, (a) the City will transfer, convey, assign and deliver

to ODBC, and ODBC will acquire and assume from the City, all of the City's right, title and interest in and to portions of the City Property; (b) ODBC will transfer, convey, assign and deliver to the City, and the City will acquire and assume from ODBC, all of ODBC's right, title and interest in and to portions of ODBC Property; (c) the City will lease-back to ODBC portions of the ODBC Property conveyed to the City at the Primary Closing and grant ODBC licenses to use portions of the ODBC Property conveyed to the City at the Primary Closing, so that ODBC may continue to occupy the ODBC Property during construction of the New ODBC Clubhouse; and (d) ODBC will lease back to the City portions of the City Property conveyed to ODBC at the Primary Closing and grant the City licenses to use portions of the City Property conveyed to ODBC at the Primary Closing, until ODBC commences construction of the New ODBC Clubhouse.

5.2 Time and Place of Closing. The Primary Closing shall be held at a time mutually acceptable to the Parties at the office of Hart, Calley, Gibbs & Karp, P.C., (a) within fifteen (15) days following the Discretionary Approval Achievement Date, or on December 31, 2014, whichever occurs earlier.

5.3 City's Deliveries. At the Primary Closing, the City shall deliver to ODBC all of the following instruments, each of which shall have been duly executed and, where applicable, acknowledged on behalf of the City and shall be dated as of the date of Primary Closing:

- (a) the Prince & Strand Deed 1, executed by the City as grantor;
- (b) a counterpart of the King Street Lease, executed by the City as landlord;
- (c) a counterpart of the Prince & Strand Lease, executed by the City as tenant;
- (d) a counterpart of the Prince & Strand License, executed by the City as licensee;
- (e) the Monetary Payment, which shall be the only monetary transaction made between the Parties;
- (f) such agreements, affidavits or other documents as may be required by the Title Company to issue the Owner's Title Policy; and
- (g) an affidavit, in form and substance satisfactory to the Title Company, stating that the City is not a foreign entity under the Foreign Investment in Real Property Tax Act.

5.4 ODBC's Deliveries. At the Primary Closing, ODBC shall deliver to the City all of the following instruments, each of which shall have been duly executed and, where applicable, acknowledged on behalf of ODBC and shall be dated as of the date of Primary Closing:

- (a) the King Street Deed, executed by ODBC as grantor;
- (b) the Quitclaim Deed, executed by ODBC as grantor;
- (c) the Prince & Strand Deed 2, executed by ODBC as grantor;
- (d) a counterpart of the King Street Lease, executed by ODBC as tenant;
- (e) a counterpart of the Prince & Strand Lease, executed by ODBC as landlord; and
- (f) a counterpart of the Prince & Strand License, executed by ODBC as licensor.

5.5 Allocation of Real Estate Taxes; Pro-rations; Closing Costs. General real estate taxes, special assessments and other proratable items will be prorated as of the date of the Primary Closing. If real estate tax payments due for the year in which the Primary Closing occurs are not available, such taxes will be prorated based on the prior years' tax assessment. Matters of income and expense, if any, and other items customarily prorated in a commercial transaction, will be prorated as of the date of the Primary Closing. In connection with each conveyance described in this Agreement, the applicable grantee shall be responsible for all grantee's taxes required to record the applicable conveyance or transfer instrument, and the applicable grantor shall be responsible for all grantor's taxes required to record the applicable conveyance or transfer instrument. All other recording charges shall be borne 50% by ODBC and 50% by the City. The City shall pay all costs associated with the release and record satisfaction of any Financial Encumbrance against the Currently Owned City Property or any portion thereof. ODBC shall pay all costs associated with the release and record satisfaction of any Financial Encumbrance against the ODBC Property or any portion thereof. All of the foregoing adjustments shall be shown on the settlement statements (with such supporting documentation as the parties hereto may reasonably require) and shall increase or decrease (as the case may be) the Monetary Payment to ODBC. Each Party shall be responsible for its own attorneys' fees and for such other costs and fees as set forth elsewhere in this Agreement.

ARTICLE VI

204 STRAND CLOSING

6.1 Subdivision. If the City acquires the 204 Strand Property before or within fifteen (15) years after the Primary Closing and without using the power of eminent domain, the City shall commence activities necessary to obtain approval of the 204 Strand Subdivision within thirty (30) days after acquiring the 204 Strand Property and shall diligently pursue completion of the 204 Strand Subdivision. Throughout the process, the City shall work cooperatively and in good faith with ODBC, keeping ODBC fully informed of its concepts, drafts and application materials. In connection with the 204 Strand Subdivision the City shall not create any covenants, conditions or restrictions applicable to 204 Strand Parcel A, without the prior written consent of ODBC. Prior to submitting any subdivision plat for approval, the City shall give ODBC at least thirty (30) days to comment on such subdivision plat, and shall diligently and in

good faith modify the proposed plat to accommodate ODBC's comments. Promptly after receiving all necessary approvals for the 204 Strand Subdivision, the City shall cause the 204 Strand Subdivision Plat to be recorded in the Clerk's Office and shall deliver an as-recorded copy to ODBC.

6.2 Conveyance to Occur at the 204 Strand Closing. Upon the terms and subject to the conditions set forth in this Agreement, at the 204 Strand Closing, the City shall convey to ODBC title to 204 Strand Parcel A, together with all riparian rights appertaining to 204 Strand Parcel C.

6.3 Time and Place of Closing. The 204 Strand Closing shall be held at a time and place mutually agreeable to the Parties within fifteen (15) days following the recordation of the 204 Strand Subdivision Plat. If the City has acquired the 204 Strand Property without using the power of eminent domain and completed the 204 Strand Subdivision before the Primary Closing, the 204 Strand Closing shall occur contemporaneously with the Primary Closing.

6.4 City's Deliveries. At the 204 Strand Closing, the City shall deliver to ODBC all of the following instruments, each of which shall have been duly executed and, where applicable, acknowledged on behalf of the City and shall be dated as of the date of 204 Strand Closing:

- (a) the 204 Strand Deed 1;
- (b) such agreements, affidavits or other documents as may be required by the Title Company to issue the Owner's Title Policy; and
- (c) an affidavit, in form and substance satisfactory to the Title Company, stating that the City is not a foreign entity under the Foreign Investment in Real Property Tax Act.

6.5 ODBC Deliveries. At the 204 Strand Closing, ODBC shall deliver to the City the 204 Strand Deed 2, which shall have been duly executed and, where applicable, acknowledged on behalf of ODBC and shall be dated as of the date of 204 Strand Closing.

ARTICLE VII

EXPANDED PIER AREA CLOSING

7.1 Condition Precedent to Expanded Pier Area Closing. If the City does not acquire both the 204 Strand Property and the 208 Strand Property without using the power of eminent domain, the City shall not have a duty to convey to ODBC title to the riparian rights appertaining to 204 Strand Parcel D and 208 Strand Parcel B, and the Parties shall not have any duties or obligations under this Article VII.

7.2 Subdivision. If the City acquires the 208 Strand Property before or within fifteen (15) years after the Primary Closing and without using the power of eminent domain, the City shall commence activities necessary to obtain approval of the 208 Strand Subdivision within

thirty (30) days after acquiring the 208 Strand Property and shall diligently pursue completion of the 208 Strand Subdivision. Promptly after receiving all necessary approvals for the 208 Strand Subdivision, the City shall cause the 208 Strand Subdivision Plat to be recorded in the Clerk's Office and shall deliver an as-recorded copy to ODBC.

7.3 Conveyance to Occur at the Expanded Pier Area Closing. Upon the terms and subject to the conditions set forth in this Agreement, at the Expanded Pier Area Closing, the City shall convey to ODBC title to all riparian rights appertaining to 204 Strand Parcel D and 208 Strand Parcel B.

7.4 Time and Place of Closing. The Expanded Pier Area Closing shall be held at a time and place mutually acceptable to the Parties, within fifteen (15) days following the recordation of the 208 Strand Subdivision Plat. If the City has acquired the 208 Strand Property without using the power of eminent domain and completed the 208 Strand Subdivision before the 204 Strand Closing, the Expanded Pier Closing shall occur contemporaneously with the 204 Strand Closing.

7.5 City's Deliveries. At the Expanded Pier Area Closing, the City shall deliver to ODBC all of the following instruments, each of which shall have been duly executed and, where applicable, acknowledged on behalf of the City and shall be dated as of the date of Expanded Pier Area Closing:

- (a) the Expanded Pier Area Deed 1;
- (b) a counterpart of the 204/208 Strand License, executed by the City as licensee;
- (c) such agreements, affidavits or other documents as may be required by the Title Company to issue the Owner's Title Policy; and
- (d) an affidavit, in form and substance satisfactory to the Title Company, stating that the City is not a foreign entity under the Foreign Investment in Real Property Tax Act.

7.6 ODBC Deliveries. At the Expanded Pier Area Closing, ODBC shall deliver to the City, all of the following instruments, each of which shall have been duly executed and, where applicable, acknowledged on behalf of ODBC and shall be dated as of the date of Expanded Pier Area Closing:

- (a) the Expanded Pier Area Deed 2; and
- (b) a counterpart of the 204/208 Strand License, executed by ODBC as licensor.

7.7 Duty to Re-convey. ODBC shall have a contractual duty to convey the riparian rights retained and the easements reserved by ODBC under the Expanded Pier Area Deed 2 back to the City, as described in Article XI.

ARTICLE VIII
WP PARKING SPACE LICENSE; WP PARKING SPACE PROPERTY CLOSING

8.1 WP Parking Space License. If the 204 Strand Closing has not occurred on or before the effective date of the expiration or termination of the King Street Lease, (a) the City shall execute as licensor and deliver to ODBC a counterpart of the WP Parking Space License on the effective date of the expiration or termination of the King Street Lease, and (b) ODBC shall execute as licensee and deliver to the City a counterpart of the WP Parking Space License on the effective date of the expiration or termination of the King Street Lease.

8.2 Subdivision. If the City has not conveyed 204 Strand Parcel A to ODBC by the WP Parking Space Transfer Trigger Date, then the City shall commence activities necessary to obtain approval of the Waterfront Park Subdivision within thirty (30) days after the WP Parking Space Transfer Trigger Date and shall diligently pursue completion of the Waterfront Park Subdivision. Throughout the process, the City shall work cooperatively and in good faith with ODBC, keeping ODBC fully informed of its concepts, drafts and application materials. In connection with the WP Parking Space Subdivision, the City shall not create any covenants, conditions or restrictions applicable to WP Parking Space Property without the prior written consent of ODBC. Prior to submitting any subdivision plat for approval, the City shall give ODBC at least thirty (30) days to comment on such subdivision plat, and shall diligently and in good faith modify the proposed plat to accommodate ODBC's comments. Promptly after receiving all necessary approvals for the Waterfront Park Subdivision, the City shall cause the Waterfront Park Subdivision Plat to be recorded in the Clerk's Office and shall deliver an as-recorded copy to ODBC.

8.3 Approval of the United States. The City's duty to convey title to the WP Parking Space Property to ODBC is subject to obtaining approval of an amendment to the 1981 Land Use Agreement from the United States. The City shall diligently and in good faith seek the necessary approval for such conveyance from the United States.

8.4 Conveyance to Occur at the WP Parking Space Property Closing. Upon the terms and subject to the conditions set forth in this Agreement, at the WP Parking Space Property Closing, the City shall convey to ODBC title to the WP Parking Space Property.

8.5 Time and Place of Closing. The WP Parking Space Property Closing shall be held at a time and place mutually acceptable to the Parties, within fifteen (15) days following the recordation of the Waterfront Park Subdivision Plat.

8.6 City's Deliveries. At the WP Parking Space Property Closing, the City shall deliver to ODBC all of the following instruments, each of which shall have been duly executed and, where applicable, acknowledged on behalf of the City and shall be dated as of the date of WP Parking Space Property Closing:

- (a) the WP Parking Space Property Deed;
- (b) such agreements, affidavits or other documents as may be required by the Title Company to issue the Owner's Title Policy; and
- (c) an affidavit, in form and substance satisfactory to the Title Company, stating that the City is not a foreign entity under the Foreign Investment in Real Property Tax Act.

8.7 Signage and Enforcement Rights. After conveyance of the WP Parking Space Property to ODBC, the arrangements made in accordance with the WP Parking Space License regarding signs indicating ODBC's exclusive right to use the parking spaces located in the WP Parking Space Property and ODBC's authority to enforce such rights through towing violators shall continue in full force and effect, and the City shall take such actions as are necessary to ensure continuance of such signage and enforcement rights.

8.8 Failure to Obtain United States' Approval. If the City is required to convey the WP Parking Space Property to ODBC under this Agreement but is unable to get approval of an amendment to the 1981 Land Use Agreement from the United States within three (3) years after the WP Parking Space Transfer Trigger Date, then the City shall promptly take the necessary action to ensure ODBC the exclusive use of at least 14 parking spaces at the WP Parking Space Property pursuant to an agreement with the longest term permissible under applicable law and with such renewal options as may be required to ensure ODBC's exclusive use of the WP Parking Space Property for the foreseeable future.

ARTICLE IX

ACTIVITIES REGARDING EXPANDED PIER AREA DURING 10 YEAR PERIOD

9.1 Permits and Approvals. If the City conveys the Expanded Pier Area to ODBC, during the 10-Year Period ODBC shall, at its own cost, diligently seek to obtain all New Pier Government Approvals for the construction of New Piers within the Expanded Pier Area.

9.2 City Support. The City will support ODBC in its efforts to obtain the New Pier Governmental Approvals for the construction of New Piers within the Expanded Pier Area. Such support may include written and telephonic communications made by senior City officials to applicable federal governmental agencies and requests for expedited review. If any permit application or related filing associated with obtaining the New Pier Governmental Approvals so requires, the City, as owner of 204 Strand Parcel D and/or 208 Strand Parcel B, shall execute such applications or filings promptly on ODBC's request.

ARTICLE X
NORTH PIER CLOSING

10.1 Conveyance to Occur at the North Pier Closing. If and when ODBC has completed construction of New Piers within the Expanded Pier Area, ODBC will convey to the City ODBC's right, title and interest in the Retained King Street Property.

10.2 Time and Place of Closing. The North Pier Closing shall be held at the offices of ODBC's counsel, within fifteen (15) days following completion of construction of New Piers within the Expanded Pier Area, as evidenced by the issuance of a statement of completion or other confirmation from applicable governmental authorities that ODBC may use the New Piers.

10.3 ODBC's Deliveries. At the North Pier Closing, ODBC shall deliver to the North Pier Deed to the City, which shall have been duly executed and, where applicable, acknowledged on behalf of ODBC and shall be dated as of the date of North Pier Closing.

ARTICLE XI
A/B PIER CLOSING

11.1 Conveyance to Occur at the A/B Pier Closing. If an A/B Pier Trigger Event occurs, then subject to the conditions set forth in this Agreement, the A/B Pier Closing shall occur. At the A/B Pier Property Closing, (a) the City shall convey to ODBC title to the A/B Pier Property, and the City will quitclaim to ODBC all of the City's right, title and interest in the Fayette Alley Extended, and (b) ODBC shall convey back to the City the riparian rights retained and the easements reserved by ODBC under the Expanded Pier Area Deed 2.

11.2 Time and Place of Closing. The A/B Pier Property Closing shall be held at the offices of ODBC's counsel, within thirty (30) days following the occurrence of an A/B Pier Trigger Event.

11.3 City's Deliveries. At the A/B Pier Property Closing, the City shall deliver to ODBC all of the following instruments, each of which shall have been duly executed and, where applicable, acknowledged on behalf of the City and shall be dated as of the date of A/B Pier Property Closing:

- (a) the A/B Pier Property Deed 1;
- (b) a quitclaim instrument as to Fayette Alley Extended in form and substance acceptable to Parties;
- (c) such agreements, affidavits or other documents as may be required by the Title Company to issue the Owner's Title Policy; and

- (d) an affidavit, in form and substance satisfactory to the Title Company, stating that the City is not a foreign entity under the Foreign Investment in Real Property Tax Act.

11.4 ODBC Deliveries. At the A/B Pier Property Closing, ODBC shall deliver to the City the A/B Pier Property Deed 2 and the Expanded Pier Area Deed of Re-conveyance, each of which shall have been duly executed and, where applicable, acknowledged on behalf of ODBC and shall be dated as of the date of A/B Pier Property Closing.

11.5 Security and Connecting Walkway. After conveyance of the A/B Pier Property to ODBC, the provisions of the A/B Pier License and/or the King Street Lease and any arrangements made under either regarding (a) ODBC's right to maintain or erect security fencing and gates to ensure exclusive use of and access to the A/B Pier, and (b) ODBC's rights to sever the A/B Pier from the Torpedo Factory Boardwalk Area, to construct a walkway above the water connecting the North Pier and the A/B Pier and to install floating slips along such walkway, shall continue in full force and effect, and the City shall take such actions as are necessary to ensure continuance of such rights and privileges.

ARTICLE XII
RISK OF LOSS; CONDEMNATION;
TERMINATION RIGHTS AND OTHER REMEDIES

12.1 Risk of Loss. The risk of any loss or damage to the Currently Owned City Property prior to the Primary Closing shall remain with the City. The risk of any loss or damage to the ODBC Property prior to the Primary Closing shall remain with ODBC. If any such loss or damage occurs prior to the Primary Closing, neither Party shall have the right to terminate this Agreement as a result of such loss or damage unless the other Party is unable to perform its obligations hereunder at the Primary Closing.

12.2 Condemnation of City Property. If all or any part of the City Property to be conveyed to ODBC at the Primary Closing is taken, or threatened to be taken, by power of condemnation or sale in lieu thereof, the City shall give ODBC prompt written notice after the City learns of such event, and ODBC shall have the right to terminate this Agreement. If ODBC elects not to terminate this Agreement, all payments arising out of such condemnation or sale shall be paid to ODBC at the Primary Closing.

12.3 Condemnation of ODBC Property. If all or any part of the ODBC Property to be conveyed to the City at the Primary Closing is taken, or threatened to be taken, by power of condemnation or sale in lieu thereof, ODBC shall give the City prompt written notice after ODBC learns of such event, and the City shall have the right to terminate this Agreement. If the City elects not to terminate this Agreement, all payments arising out of such condemnation or sale shall be paid to the City at the Primary Closing

12.4 Termination and Remedies for Breach.

(a) Mutual Agreement. The City and ODBC may terminate this Agreement at any time before the Primary Closing, by written agreement between the Parties, in which event all rights and obligations of the City and ODBC hereunder shall terminate immediately.

(b) ODBC Rights in the Event of City Breach Before the Primary Closing. If (i) there has been a material breach by the City of any representation, warranty, covenant or agreement contained in this Agreement or if any representation or warranty of the City shall have become untrue, and (ii) such breach is not curable, or, if curable, is not cured within ten (10) days after written notice of such breach is given to the City (or, if curable, but not within ten (10) days, such cure is commenced within such ten (10) day period), ODBC may, at its option (provided that ODBC is not in material breach of any of its representations, warranties, covenants or other agreements contained herein), (X) terminate this Agreement at any time before the Primary Closing, by delivering a written termination notice to the City, in which event ODBC shall retain all remedies accruing as a result thereof, including the right to obtain reimbursement from the City for any damages sustained by ODBC as a result of such breach; (Y) waive such breach and proceed to the Primary Closing as provided in Article V, or (Z) pursue any and all remedies at law or in equity accruing as a result thereof including the right to specific performance of this Agreement, and the right to obtain reimbursement from City for any damages sustained by ODBC as a result of such breach.

(c) City Termination for ODBC Breach. If (i) there has been a material breach by ODBC of any representation, warranty, covenant or agreement contained in this Agreement or if any representation or warranty of ODBC shall have become untrue, and (ii) such breach is not curable, or, if curable, is not cured within ten (10) days after written notice of such breach is given to ODBC (or, if curable, but not within ten (10) days, such cure is commenced within such ten (10) day period), the City may, at its option (provided that the City is not in material breach of any of its representations, warranties, covenants or other agreements contained herein), (X) terminate this Agreement at any time before the Primary Closing, by delivering a written termination notice to ODBC, in which event the City shall retain all remedies accruing as a result thereof, including the right to obtain reimbursement from ODBC for any damages sustained by the City as a result of such breach; (Y) waive such breach and proceed to the Primary Closing as provided in Article V, or (Z) pursue any and all remedies at law or in equity accruing as a result thereof including the right to specific performance of this Agreement, and the right to obtain reimbursement from ODBC for any damages sustained by the City as a result of such breach.

12.5 Waiver. If any condition set forth herein will not be satisfied prior to the Primary Closing or any Subsequent Closing, or there occurs any other event that would entitle a Party to terminate this Agreement, such Party, at its option, may elect to waive its right to terminate and, instead, to proceed to the Primary Closing.

ARTICLE XIII
MISCELLANEOUS PROVISIONS

13.1 Completeness; Modification; Conflict Among Documents. This Agreement, the Settlement Agreement and all exhibits and attachments to each of them, constitutes the entire agreement between the parties hereto with respect to the transactions contemplated hereby and supersedes all prior understandings and negotiations, written or oral. This Agreement may be modified only by a written instrument duly executed by the parties hereto. In the event of a conflict between the provisions of this Agreement and the Settlement Agreement, the provisions of this Agreement shall govern.

13.2 Assignment. Neither Party ODBC may assign its rights hereunder without the prior written consent of the other Party. This Agreement shall bind and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

13.3 Governing Law and Venue. This Agreement and all documents referred to herein shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Virginia, exclusive of its conflicts of law rules. Venue for any disputes under this Agreement shall be in Alexandria, Virginia or in the US District Court located in Alexandria, Virginia.

13.4 Notices. All communications hereunder shall be in writing and shall be delivered by hand, sent by Federal Express (or a comparable overnight delivery service) or by United States certified mail, postage prepaid, return receipt requested, at the addresses designated below.

For the City:	City of Alexandria, Virginia 301 King Street, Suite 3500 Alexandria, VA 22314 ATTN: City Manager
with a copy to:	City of Alexandria, Virginia 301 King Street, Suite 130 Alexandria, VA 22314 ATTN: City Attorney
For ODBC	Old Dominion Boat Club PO Box 1245 Alexandria VA 22313-1245 ATTN: Richard Banchoff
With a copy to:	Harry P. Hart, Esq. Hart, Calley, Gibbs & Karp 307 North Washington Street Alexandria, Virginia 22314 Tel: 703-836-5757 Fax: 703-548-5443

Should any Party have a change in address, such Party shall provide notice of the new address to the other Parties in the manner set forth above.

13.5 Survival. All of the representations, warranties, covenants and agreements of the City and ODBC under this Agreement shall survive for a period of twenty (20) years following the Primary Closing.

13.6 Force Majeure. If a Party is rendered wholly or partially unable to perform its obligations (other than payment obligations) under this Agreement due to the occurrence of a Force Majeure Event, such Party will be excused from the affected performance obligation, provided that:

(a) the affected Party gives the other Party notice describing the particulars of the occurrence, including an estimate of its expected duration and probable impact on the affected Party's obligations hereunder, which notice shall be given by the affected Party promptly after becoming aware of the occurrence of the Force Majeure Event, and, in no event more than fourteen (14) days after the affected Party becomes aware or should reasonably have been aware of such occurrence; provided further that if the affected Party fails to initially notify the other Party within such fourteen (14) day period, such occurrence shall not be deemed an occurrence of a Force Majeure Event, and the affected Party shall not be excused from the affected performance obligation until such time as the affected Party notifies the other Party in writing of such occurrence, and then only for obligations required to be performed after the other Party's receipt of such notice from the affected Party;

(b) the affected Party shall diligently exercise all commercially reasonable efforts to mitigate the effect of such Force Majeure Event, remedy its inability to perform, and limit damages to the other Party and shall promptly resume its performance when the Force Majeure Event no longer prevents it from performing, and shall give the other Party prompt notice of its intent to resume such performance;

(c) the suspension of a Party's performance affected by the Force Majeure Event shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event; and

(d) no Force Majeure Event shall relieve any Party from performing those of its obligations that are not materially affected by the Force Majeure Event.

13.7 Partial Invalidity. If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law, provided that the remaining provisions of this Agreement taken as a whole carry out the general purpose of the Agreement, and that no Party is

unfairly burdened or prejudiced or materially deprived of the benefits intended to be conferred by this Agreement.

13.8 Further Assurances; Estoppel Certificates. Each of the Parties agrees to perform all such acts (including but not limited to, executing and delivering instruments and documents) as may be reasonably necessary to fully effectuate the purposes and intent of this Agreement. If from time to time a Party wishes to make any permit application or related filing associated with obtaining necessary approval for work or improvements at any portion of the ODBC Property that such Party then has an interest in or at any portion of the City Property that such Party then has an interest in, and the other Party is required to execute such application or filing because it also has an interest in the property that is the subject of the application or filing, the other Party shall within thirty (30) days of a written request, execute such application or filing in its capacity as a party with an interest in the applicable property. Each Party further agrees that it shall, from time to time within thirty (30) days of a written request by the other Party, execute, acknowledge and deliver to the requesting Party a statement in writing certifying that this Agreement is unmodified and in full force and effect (or modified and stating the modifications), and that there are no defaults existing or that defaults exist and the nature of such defaults.

13.9 Headings; Terms; Counterparts. The section headings contained in this Agreement are for purposes of reference and convenience only and shall not limit or otherwise affect in any way the meaning of this Agreement. Unless otherwise required by the context in which any term appears: (a) the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and neuter, and vice versa; (b) references to “Articles”, “Sections” or “Exhibits” shall be to articles, sections or exhibits of or to this Agreement (except that references to “Sections” in an Exhibit shall be to sections of that Exhibit), and references to “paragraphs” or “clauses” shall be to separate paragraphs or clauses of the section or subsection in which the reference occurs; (c) the words “herein,” “hereof” and “hereunder” shall refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; and (d) the words “include,” “includes” or “including” shall mean “including, without limitation.” This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which taken together will constitute one agreement.

[The Remainder of this Page is Intentionally Blank]

WITNESS the following signatures:

OLD DOMINION BOAT CLUB,
a Virginia corporation

By: _____
Print Name: _____
Title: _____

CITY OF ALEXANDRIA,
a municipal corporation of Virginia

By: _____
Print Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA:

CITY OF ALEXANDRIA, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2014, by _____, as _____ of Old Dominion Boat Club.

NOTARY PUBLIC

My Commission expires: _____

Virginia Notary Registration #: _____

COMMONWEALTH OF VIRGINIA:

CITY OF ALEXANDRIA, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Rashad Young, City Manager of the City of Alexandria, a Virginia municipal corporation, on behalf of said municipal corporation.

NOTARY PUBLIC

My Commission Expires: _____

Virginia Notary Registration #: _____

EXHIBITS

- Exhibit A: ODBC Property and Sketch
- Exhibit B: City Property and Sketch
- Exhibit C: Sketch of Prince & Strand Subdivision, 204 Strand Subdivision, 208 Strand Subdivision and Expanded Pier Area
- Exhibit D: Prince & Strand draft Subdivision Plat submitted to the City of Alexandria Department of Planning and Zoning
- Exhibit E: General Depiction of New ODBC Clubhouse
- Exhibit F: Zoning Letter
- Exhibit G: Land Use Approvals Milestone Schedule
- Exhibit H: Sketch of A/B Pier Area and Torpedo Factory Boardwalk Area
- Exhibit I: Sketch of Waterfront Park Subdivision
- Exhibit J: Settlement Agreement

EXHIBITS

- Exhibit A: ODBC Property and Sketch**
- Exhibit B: City Property and Sketch**
- Exhibit C: Sketch of Prince & Strand Subdivision, 204 Strand Subdivision, 208 Strand Subdivision and Expanded Pier Area**
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- Exhibit F: Zoning Letter**
- Exhibit G: Land Use Approvals Milestone Schedule**
- Exhibit H: Sketch of A/B Pier Area and Torpedo Factory Boardwalk Area**
- Exhibit I: Sketch of Waterfront Park Subdivision**
- Exhibit J: Settlement Agreement**

EXHIBIT A

"ODBC Property" means collectively the properties described in the ODBC Vesting Deeds and/or now or formerly occupied or used by ODBC, and includes the parcels and property interests described in clauses A through H below (but such term does not mean or imply that the City accepts, agrees to, or acquiesces in any claims made or positions taken by ODBC in any dispute as to any property interest):

- A. The 1 King Property;
- B. The 2 King Property;
- C. The MT Parking Property;
- D. Wales Alley Extended;
- E. King Street Park;
- F. The Strand Parcel;
- G. The Easement Interest in Wales Alley;
- H. Fayette Alley Extended;
- I. The North Pier; and
- J. The South Pier.

Wales Alley Extended, King Street Park, the Strand Parcel, the Easement Interest in Wales Alley, and Fayette Alley Extended are Disputed Properties.

SCALE: NTS

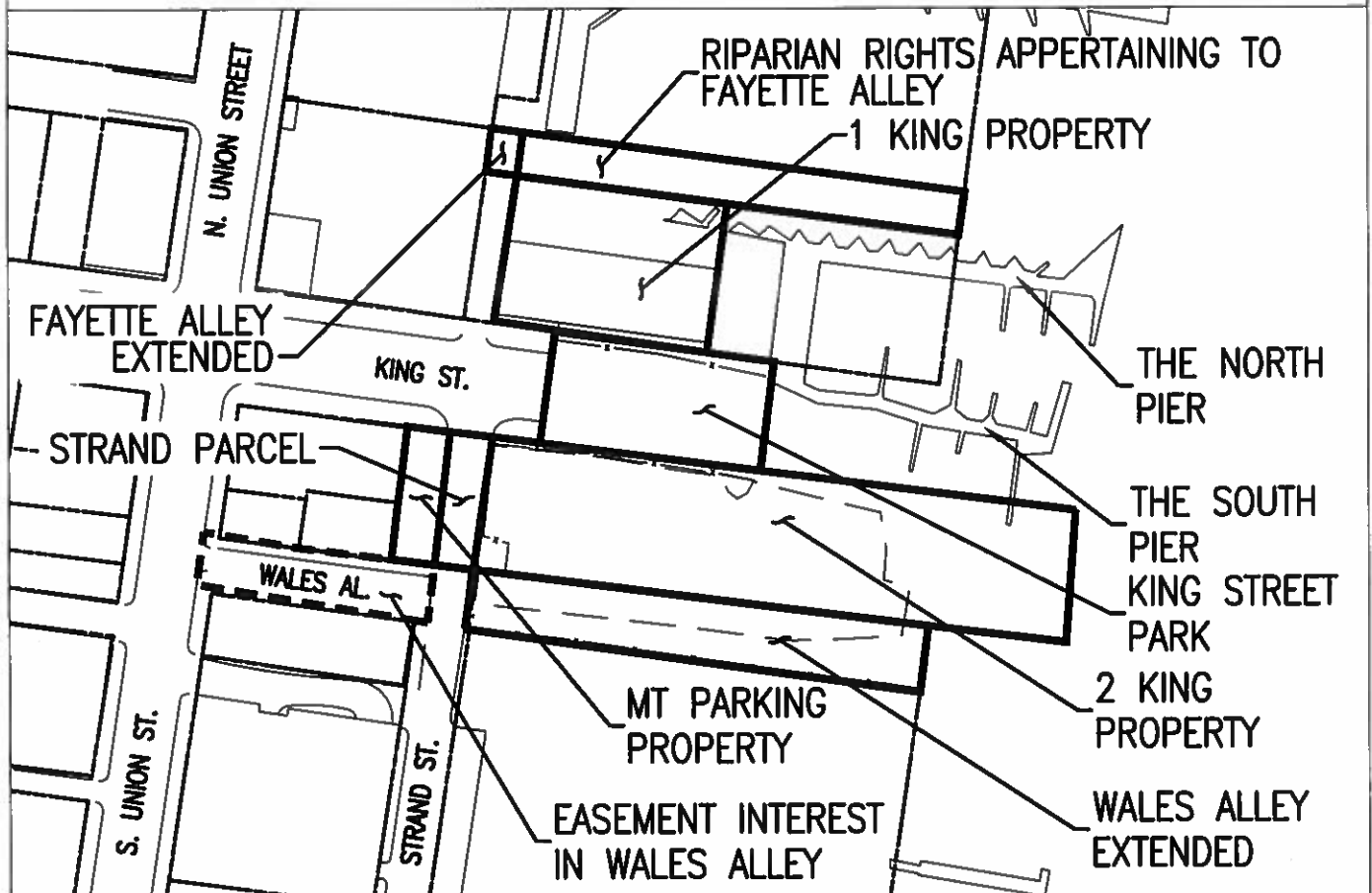


EXHIBIT B

"CITY Property" means collectively:

- A. The 0 Prince Property;
- B. The 200 Strand Property;
- C. The WP Parking Space Property;
- D. The A/B Pier;
- E. The 204 Strand Property (Future); and
- F. The 208 Strand Property (Future).

SCALE: NTS

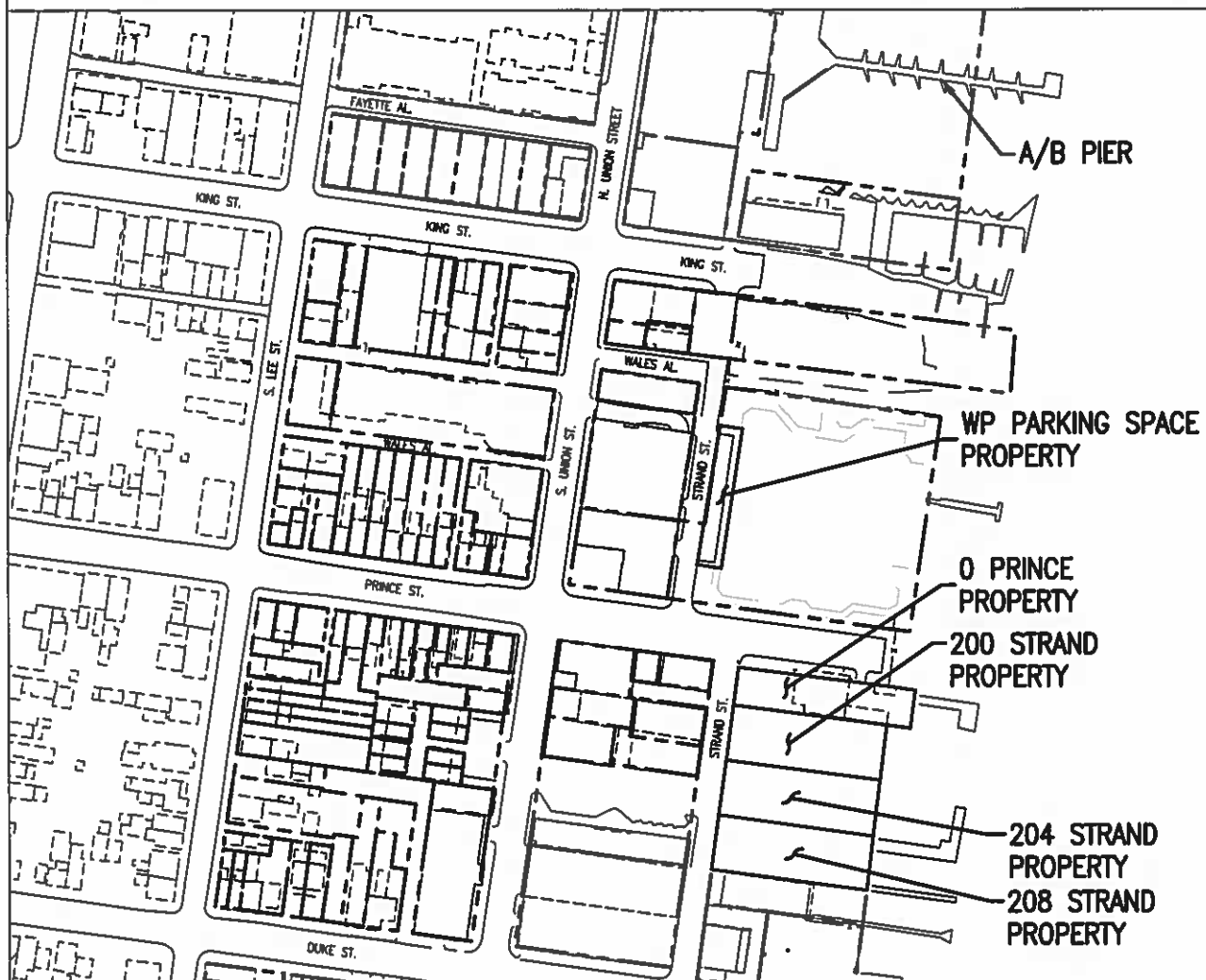


EXHIBIT C

SKETCH OF 204 STRAND SUBDIVISION AND 208 STRAND SUBDIVISION
AND EXPANDED PIER AREA

SCALE: NTS

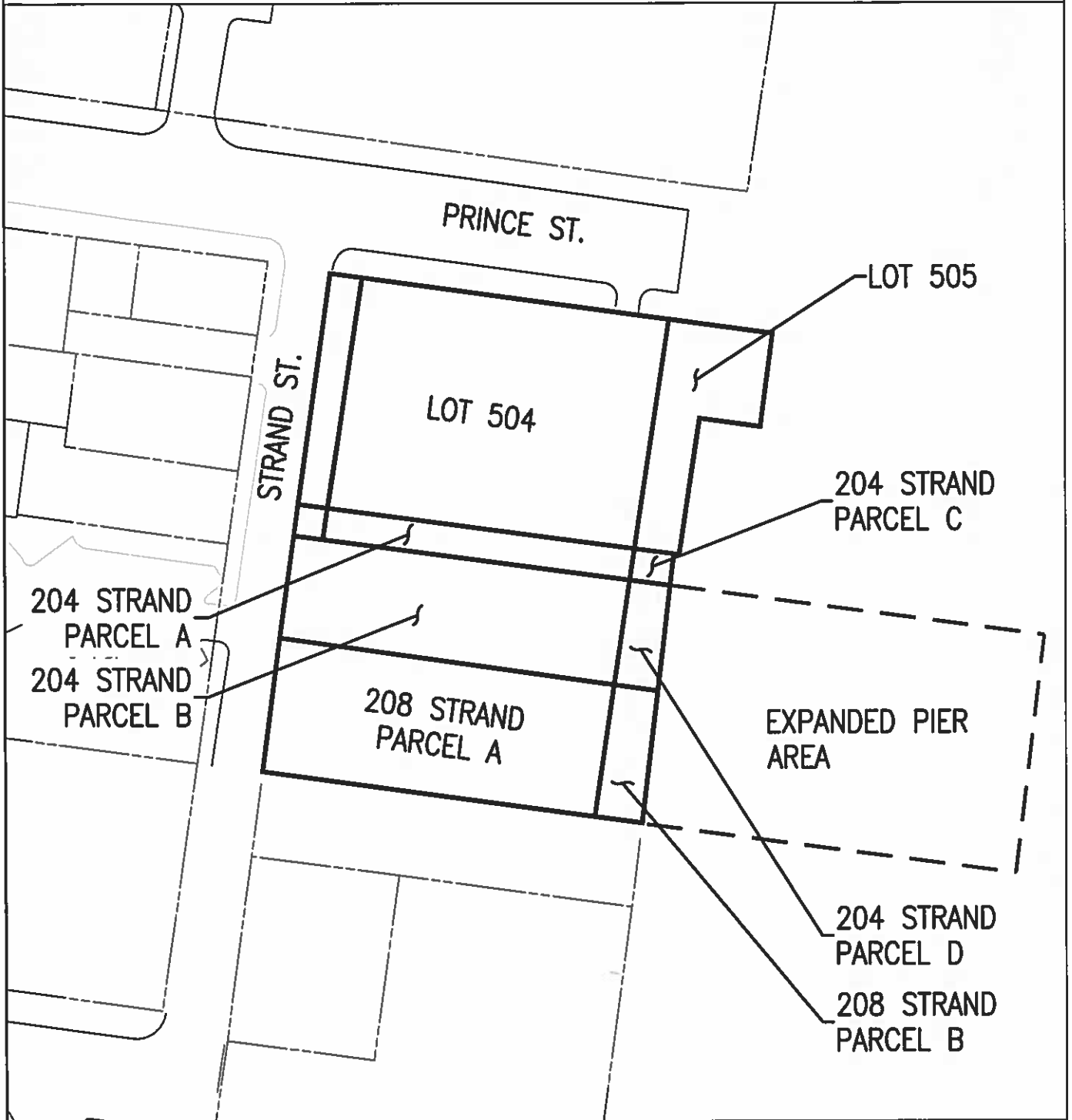


EXHIBIT D

PRINCE & STRAND SUBDIVISION PLAT

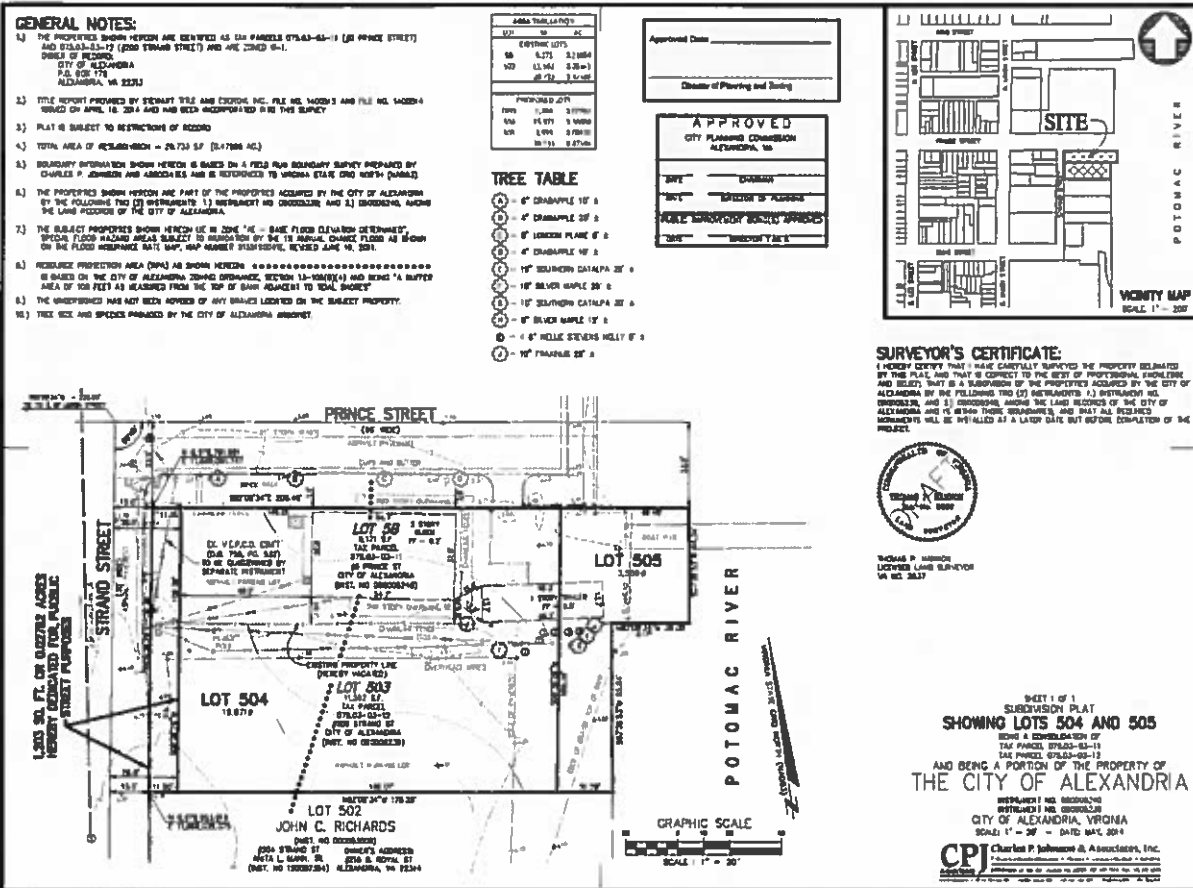


EXHIBIT E

**GENERAL DEPICTION OF SIZE, CONFIGURATION AND OTHER ELEMENTS OF NEW
ODBC CLUBHOUSE AND 200 STRAND PARKING AREA**

See attached 2 sheets

EXHIBIT F

LETTER OF THE CITY'S DIRECTOR OF PLANNING AND ZONING

See attached letter with 2-page exhibit



DEPARTMENT OF PLANNING AND ZONING

Sent via E-mail

June 09, 2014

Richard Banchoff, President
Old Dominion Boat Club,
1 King Street,
Alexandria, Virginia 22314

RE: Old Dominion Boat Club
Evaluation of concept design for the proposed new clubhouse

Dear Mr. Banchoff:

This letter is written in follow up to a series of meetings held in April and May 2014 between representatives from the Old Dominion Boat Club (ODBC) and City staff to discuss the design of the ODBC clubhouse and related facilities being relocated to 0 Prince Street and 200 Strand Street and potentially a portion of 204 Strand Street. This letter will be attached to the Property Acquisition and Exchange Agreement between the City and the Old Dominion Boat Club (ODBC) and is to confirm certain zoning and development information for the proposal. At these meetings, an outline design for the clubhouse building and site was developed, a copy of which is attached to this letter as Exhibits A & B, (and will be attached to the Property Acquisition and Exchange Agreement as Exhibit E).

We have reviewed the concept design for this project for its conformance with the Waterfront Plan, conformance with the Move Option as agreed to between the ODBC and the City, conformance with the standards of the Old and Historic District, and conformance with the regulations in the Zoning Ordinance.

First, the proposed development conforms to the Waterfront Plan in a number of important ways. Importantly, the Waterfront Plan includes a goal to relocate the ODBC parking lot from the foot of King Street which is a main purpose of this relocation. Additionally, the Waterfront Plan calls for the Beachcomber building to be adaptively reused as an active use which will be accomplished with this move. Lastly, the proposal includes the City's walkway along the waterfront and sidewalk along the Strand so pedestrian access to and along the waterfront will not be impeded.

Second, the proposed development meets all of the stipulations in the Move Option at this time.

Call: 703.746.4666

Connect www.alexandriava.gov

Come by: 301 King Street, Room 2100
Alexandria, VA 22314

**Zoning Evaluation
ODBC Clubhouse Relocation**

Third, the schematic building and site design are in general conformance with the BAR's *Design Guidelines* and the zoning ordinance standards for approval of a Certificate of Appropriateness. At the April 4, 2012 meeting, the OHAD BAR found the existing Beachcombers building to be historic but emphasized that it was the general architectural character of the building that conveyed its cultural significance as an early public recreational use on the Alexandria waterfront and not the specific materials or design of the structure. The conceptual drawings for the new Boat Club building recall the utilitarian waterfront character of the historic Beachcombers Restaurant building sitting on piers in the Potomac River with projecting second floor balconies and a rooftop terrace. The proposed addition is compatible with the Beachcombers while referencing elements of the two previous Old Dominion Boat Club structures. Overall, the proposed scale and mass are compatible with nearby buildings of historic merit on the Alexandria waterfront.

Lastly, the properties are currently located in the W-1 (Waterfront mixed use) zone. They are currently owned by the City of Alexandria. It is intended that the properties be consolidated and re-subdivided prior to the application for redevelopment. The development request will include a rezoning of the properties to WPR (Waterfront park and recreation) zone in order to allow the use as a boat club and to be consistent with the Waterfront Plan.

The applicant's design as presented to City staff is generally consistent with the zoning regulations for the WPR zone. The following applications and modifications will be required:

- Development Site Plan and Special Use Permit (6-203 (C));
- Board of Architectural Review approval;
- Parking reduction for the number of spaces being provided;
- Modifications to the minimum setbacks for front building lines (6-204 (A));
- Modification to the open and usable space to be provided (6-206);
- Modification to the minimum crown coverage required to be provided (11-410 (CC) (2));
- Modification to the landscape installation for and screening of the parking on-site (11-410 (CC) (6) (a) & (b));
- Modification for vision clearance;
- Encroachment for structures in the public right-of-way;

Additionally it is noted that:

- The maximum building height for the zone when measured from average finished grade (AFG) is 30 feet. The average finished grade at this site will depend on the ultimate grade of Prince Street Park. The City believes Prince Street Park will be at approximately elevation +7.5 feet. If Prince Street Park is at the expected elevation, the thirty foot maximum height requirement can be achieved.
- The maximum projection of the balconies shall be eight feet from the building face, as agreed between ODBC and City staff;

Zoning Evaluation
ODBC Clubhouse Relocation

- Pursuant to 6-403 (B) (2) C), a penthouse must be limited in size to the minimum space required to house necessary mechanical equipment. The rooftop penthouse and mechanical equipment area shown on Exhibit A & B are considered by staff to be meet that standard; and
- In many large scale development projects the City requests that the developer underground the utilities on the frontage of their site as a public benefit to enhance the streetscape. The City acknowledges that this project is in a different position because of the public benefit the ODBC is providing by moving to a new location. Therefore, the ODBC would only be required to comply with the City Code (Title 5, Chapter 3 (Underground Utilities)) and Zoning Ordinance (Section 6-208) requirements for undergrounding new utilities which will include placing all utilities that service the site underground but will not include undergrounding of existing utility poles on the public right of way.

Based on the information provided in the meetings and a review of the outline design attached as Exhibits A & B, staff can confirm that if a land use application package including a request for a rezoning and a request for a Development Special Use Permit with modifications is submitted for a proposal that is in substantial conformance with Exhibits A & B, then the proposal will meet the zoning and development requirements for this site as described further herein, and as such, staff will recommend approval to the Planning Commission and City Council.

Please note, a full review of the proposal will be completed by City Staff upon a formal Rezoning and DSUP submission by the applicant. The submission will be processed in conformance with the City's procedures for processing land use applications including community outreach and reviews and resubmissions in order to finalize the details of the proposal.

If you have any questions, please do not hesitate to contact me at 703.746.3801 or faroll.hamer@alexandriava.gov.

Sincerely,



Faroll Hamer
Planning Director

cc: Jim Roberts, Urban Planner
Emily Baker, Director, Department of Project Implementation
Robert Kerns, Division Chief, Planning and Zoning
Gary Wagner, Principal Planner, Planning and Zoning
Joanna Anderson, Assistant City Attorney

Attachment: Exhibits A&B



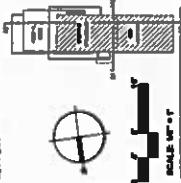
WINSTANLEY	
DRAWN BY: [Name]	
CHECKED BY: [Name]	
DATE: [Date]	

REVISIONS

DESCRIPTION

ID	DATE	ISSUE DESCRIPTION

PROJECT NO. [Number]
DRAWN BY: [Name]
CHECKED BY: [Name]



SCALE: 1/4" = 1'-0"
SECTION TITLE: [Title]

EXHIBIT B
SECTIONS

SHEET NUMBER

A-300

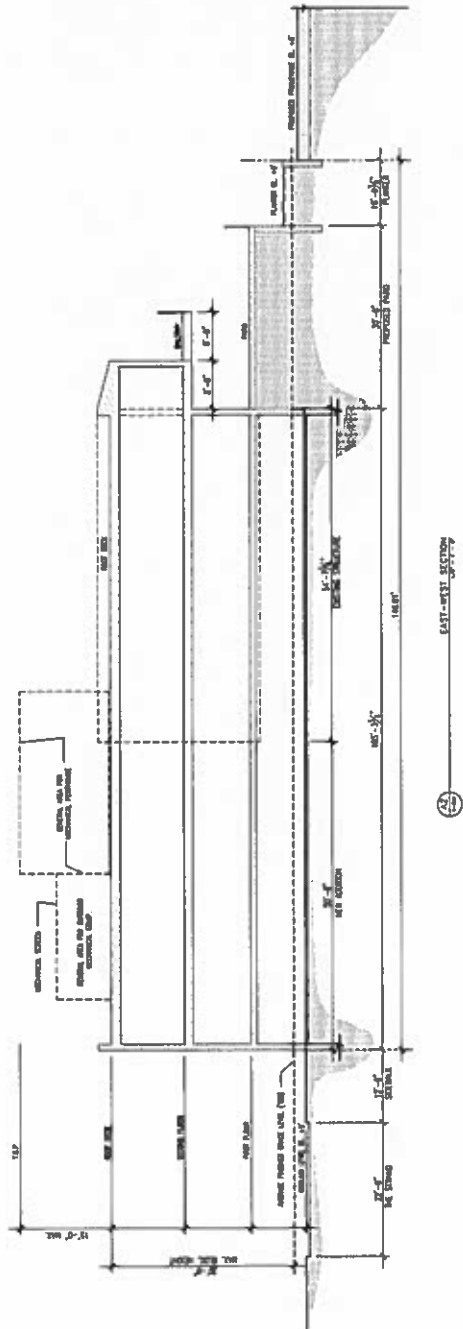
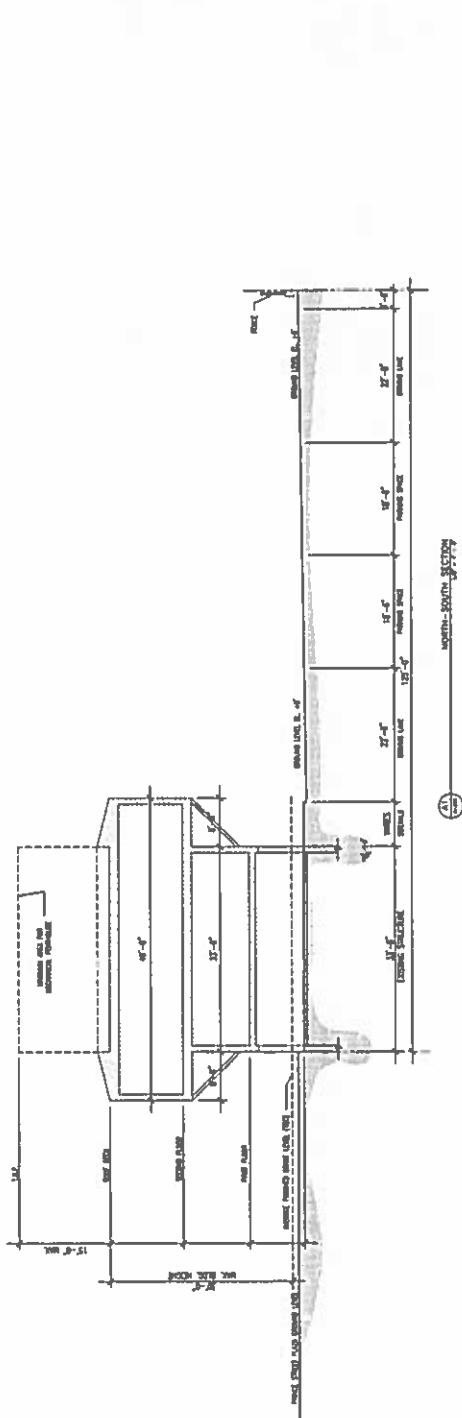


EXHIBIT G

LAND USE APPROVALS MILESTONE SCHEDULE

See attached

Development Division DSUP and BAR Schedule Requirements
 Department of Planning Zoning
 City of Alexandria 6/3/2014

ID	Project Name	Date Submitted	Project Name	Date Submitted
1.0	ODBC DSUP SCHEDULE	DSUP	ODBC BAR SCHEDULE	BAR
1.1	Concept Plan Submission - Phase I	8/1/2014	Concept Submission I	9/2/2014
1.1.4	Concept I Comments to Applicant	8/21/2014	BAR Worksession (Concept I)	10/1/2014
1.2	Concept Plan Submission - Phase II	9/12/2014	Concept Submission - Phase II	10/20/2014
1.2.4	Concept II Comments to Applicant	10/2/2014	BAR Worksession (Concept II)	11/19/2014
1.3	Preliminary/Completeness Application Submission	11/11/2014		
1.3.3	Completeness Comments to Applicant	12/4/2014		
	Prelim Submission	12/11/2014		
1.3.6	Applicant Notified of Completeness	12/23/2014		
1.4	Preliminary Staff Report			
1.4.7	Final Staff Report Published	2/20/2015		
1.5	Public Hearings			
1.5.1	Planning Commission Hearing	3/3/2015**		
1.5.2	City Council Hearing	3/14/2015**		
1.6	Final Site Plan 1	March 2015 TBD	Public Hearings	
1.7	Final Site Plan 2	June 2015 TBD	BAR Hearing	April 2015 TBD
1.8	Final Site Plan 3 (if required)	July 2015 TBD		

*This schedule does not include any permit reviews, State or Federal review or approvals. Additional FSP reviews may be required.

** PC and CC dates still to be confirmed with the respective bodies.

EXHIBIT H

SKETCH OF A/B PIER AREA AND TORPEDO FACTORY BOARDWALK AREA

SCALE: NTS

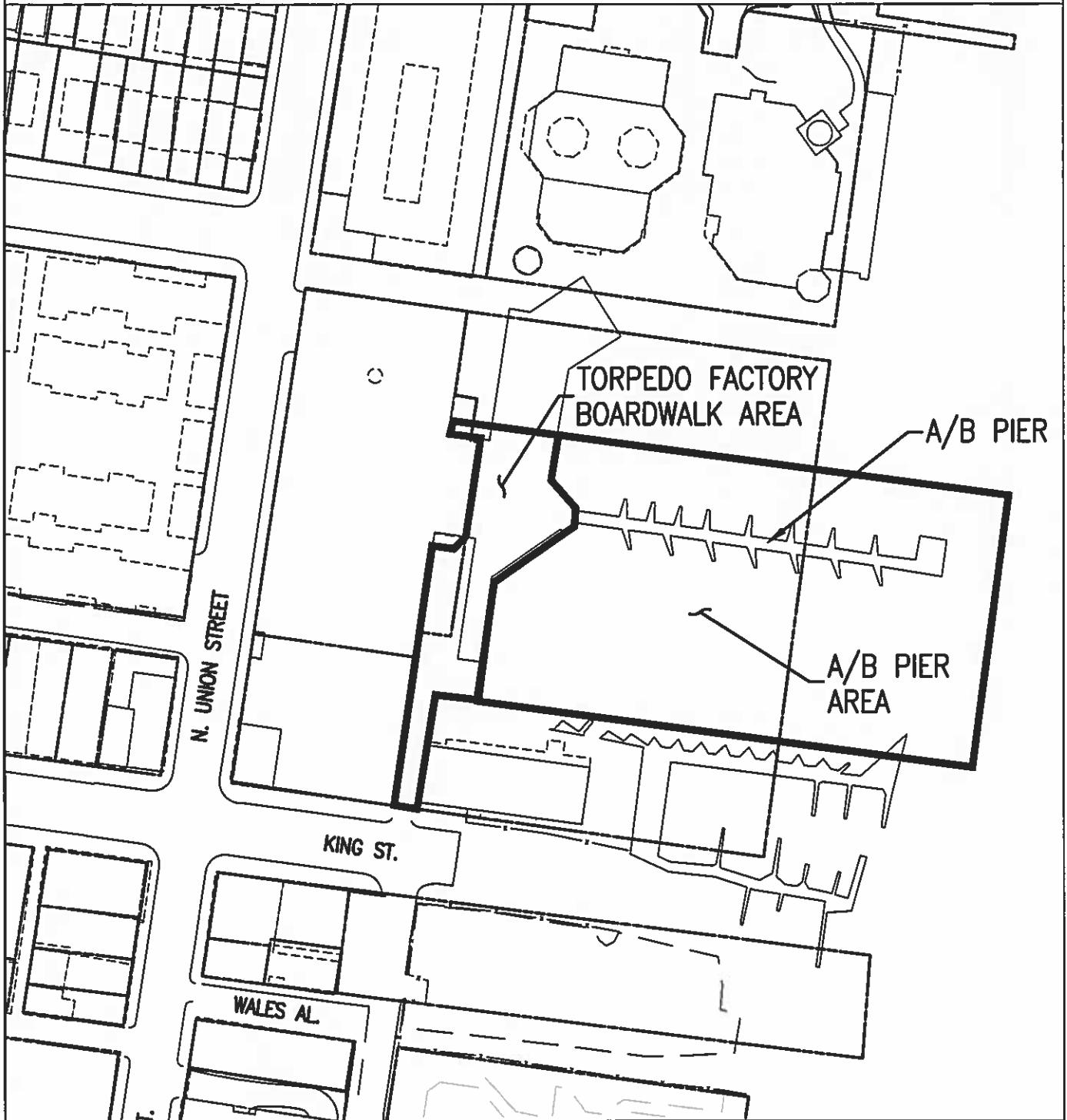


EXHIBIT I

SKETCH OF WATERFRONT PARK SUBDIVISION

SCALE: NTS

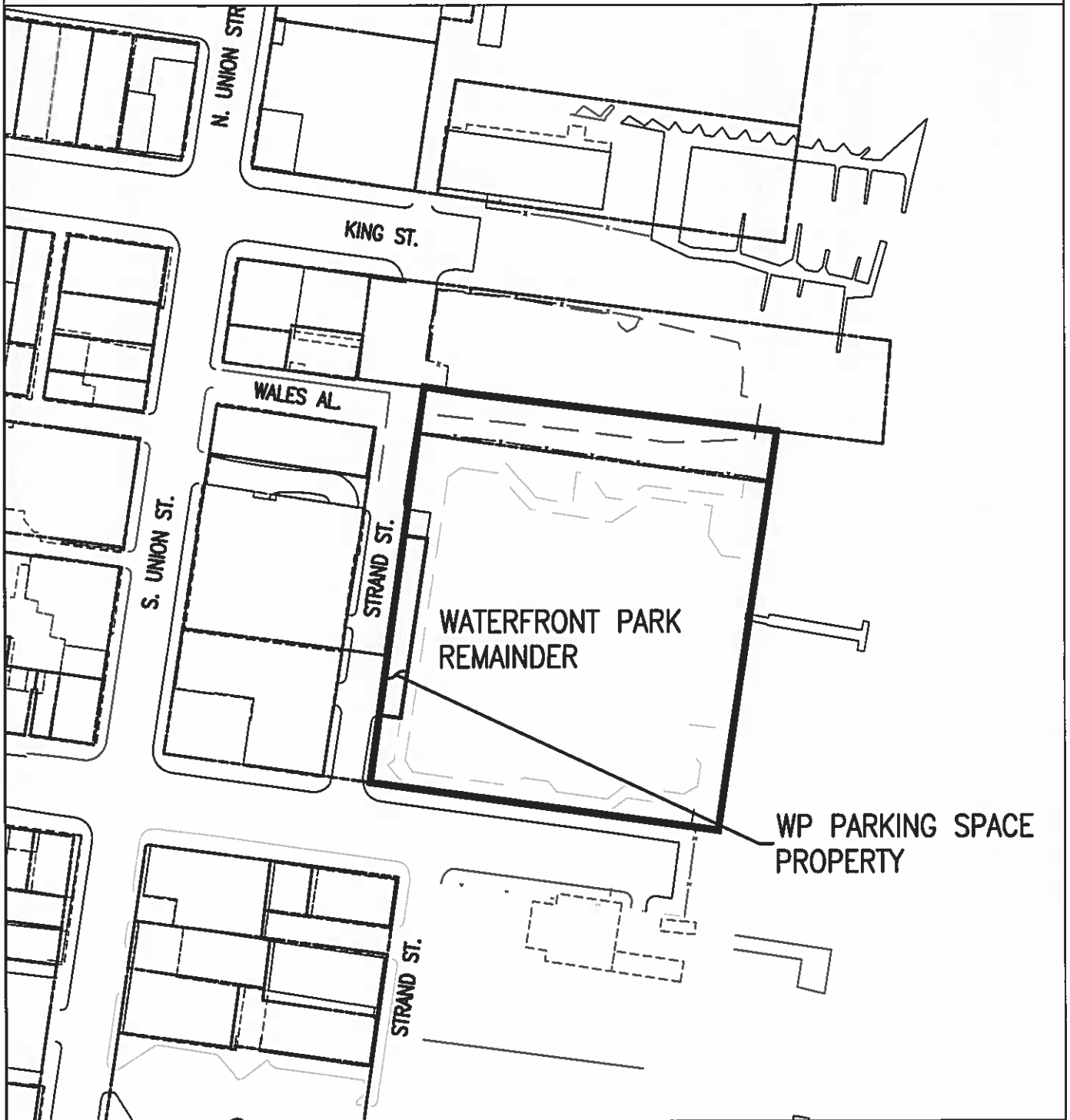


EXHIBIT J

SETTLEMENT AGREEMENT

See attached Agreement with 1-page exhibit

Prepared by and Return to:
Constance Pierce, Esq.
Hart, Calley, Gibbs & Karp, P.C.
307 N. Washington Street
Alexandria, VA 22314

Tax Map Nos. # 075.01-04-05
075.01-05-04
075.03-03-11
075.03-03-12

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (this "Agreement"), dated as of the _____ day of _____, 2014 (the "Effective Date"), is entered into by and between the **OLD DOMINION BOAT CLUB ("ODBC")** and **THE CITY OF ALEXANDRIA, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia (the "City"). ODBC and City are each a "Party" and collectively may be referred to as the "Parties."

RECITALS

WHEREAS, ODBC acquired certain real property, together with improvements thereon, located generally at the foot of King Street in the City of Alexandria, Virginia, by deed dated June 9, 1921, recorded in the Clerk's Office of the Circuit Court of the City of Alexandria, Virginia (the "Clerk's Office"), in Deed Book 72, Page 362, and by deed dated December 4, 1935, recorded in the Clerk's Office in Deed Book 125, Page 285 (the "ODBC Vesting Deeds"); and

WHEREAS, the City and ODBC have had ongoing disputes about the ownership of portions of the properties described in the ODBC Vesting Deeds and/or now or formerly occupied or used by ODBC (the "ODBC Property"); and

WHEREAS, the City and ODBC and have had periodic discussions regarding their disputes about the ODBC Property; and

WHEREAS, the City adopted the Waterfront Small Area Plan in 2012 which highlights the area around the foot of King Street as the center of the City's Waterfront and an important component of the implementation of the Waterfront Small Area Plan; and

WHEREAS, on November 19, 2013 the Alexandria City Council approved a motion directing the City Staff to conduct an additional negotiation period with ODBC to attempt to resolve the disputes about the ODBC Property, and limited that period to no more than ninety (90) days. The City Council also directed City Staff to continue the process of eminent domain as to portions of the ODBC Property in case such negotiations did not resolve the disputes; and

WHEREAS, the Parties started the above-referenced additional negotiations on December 18, 2013, met in six (6) additional meetings, including two (2) meetings with a mediator, and concluded the meetings on March 5, 2014; and

WHEREAS, the City owns or anticipates acquiring certain properties in the City of Alexandria (the "City Property") more particularly defined and shown on Exhibit A attached hereto, that the City will convey or otherwise make available to ODBC in exchange for some or all of the ODBC Property being conveyed to the City; and

WHEREAS, on March 22-24, 2014 the ODBC membership voted to approve the transaction described in the document entitled "ODBC CITY 90-DAY NEGOTIATIONS REVISED BEACHCOMBERS/MOVE OPTION PROPOSAL Final Proposal, March 13, 2014" (the "**Move Option Proposal Summary**") a copy of which the City posted on its website; and

WHEREAS, the terms, conditions and details of the property exchange transaction described in the Move Option Proposal Summary are set forth in the Property Acquisition and Exchange Agreement dated of even date herewith between the City and ODBC (the "**Property Exchange Agreement**"), to be executed by the Parties contemporaneously with the execution and delivery of this Agreement; and

WHEREAS, this Agreement and the Property Exchange Agreement represent a full resolution of the disputes between the Parties regarding portions of the ODBC Property, as more particularly described herein; and

WHEREAS, the provisions of this Agreement and the Property Exchange Agreement are mutually dependent insofar as the Property Exchange Agreement implements various of the provisions of this Agreement, and therefore both documents are to be read and interpreted in conjunction with one another.

NOW, THEREFORE, for and in consideration of the foregoing and the mutual promises, covenants, and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

ARTICLE I
CITY'S REPRESENTATIONS, WARRANTIES AND COVENANTS

The City hereby makes the following representations, warranties and covenants:

(1) **Organization, Power, Authorization and Execution.** The City is a municipal corporation of the Commonwealth of Virginia, duly formed, validly existing, and in good standing under the laws of the Commonwealth of Virginia, with all requisite powers and authorizations to carry on its business and to enter into and perform its obligations hereunder. This Agreement has been duly authorized, executed and delivered by all necessary action on the part of the City, constitutes the valid and binding agreement of the City and is enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting enforcement of creditors' rights and remedies generally and to general principles of equity.

(2) **Noncontravention.** The execution, delivery and performance by the City of its obligations under this Agreement does not contravene any document, agreement, order or other instrument binding upon the City.

ARTICLE II
ODBC'S REPRESENTATIONS, WARRANTIES AND COVENANTS

ODBC hereby makes the following representations, warranties and covenants:

(1) **Organization, Power, Authorization and Execution.** ODBC is a Virginia [not-for-profit] corporation, duly formed, validly existing, and in good standing under the laws of the Commonwealth of Virginia, with all requisite powers and all governmental authorizations to carry on its business and to enter into and perform its obligations hereunder. This Agreement (a) has been duly authorized, executed and delivered by all necessary action on the part of ODBC, including the vote taken by the ODBC membership on _____, 2014, which approved the execution and delivery of this Agreement and the Property Exchange Agreement on behalf of ODBC, (b) constitutes the valid and binding agreement of ODBC and (c) is enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting enforcement of creditors' rights and remedies generally and to general principles of equity.

(2) **Noncontravention.** The execution, delivery and performance by ODBC of its obligations under this Agreement does not contravene any document, agreement, order or other instrument binding upon ODBC.

ARTICLE III
SETTLEMENT OF PENDING LITIGATION & FULL RELEASE OF PROPERTY CLAIMS

(1) **Wales Alley Litigation.** ODBC filed a civil action against the City, and other parties, in the Circuit Court of the City of Alexandria, entitled ODBC v. City of Alexandria, *et al.*, Case Number CL 10003017 (the "**Wales Alley Case**"). Subject to the terms and conditions of this Agreement, the Parties desire to resolve their differences and reach an end, compromise, and settlement for and to all disputes existing and potentially existing between them arising out of the Wales Alley Case.

(2) **King Street Park Litigation.** ODBC filed a civil action against the City in the Circuit Court of the City of Alexandria, entitled ODBC v. City of Alexandria, Chancery No. 10643 (the "**King Street Park Case**"). Subject to the terms and conditions of this Agreement, the Parties desire to resolve their differences and reach an end, compromise, and settlement for and to all disputes existing and potentially existing between them arising out of the King Street Park Case.

(3) **Settlement and Release.** In consideration of the execution of this Agreement and the representations, warranties, covenants, agreements, releases and promises made in this Agreement by the Parties, the Parties agree as follows:

(a) After the Primary Closing, as defined in the Property Exchange Agreement, and the expiration or termination of the King Street Lease as more

particularly described in the Property Exchange Agreement, ODBC shall dismiss its claims against the parties to the matter in the Wales Alley Case and the King Street Park Case, as necessary.

(b) Each Party shall forever release and waive any and all property claims and/or causes of action against the other Party relating to the matters that are the subject of this Agreement and the Property Exchange Agreement, including, but not limited to the Wales Alley Case, the King Street Park Case, Fayette Alley, Wales Alley and the Strand, except as they may relate to the enforcement of either this Settlement Agreement and the Property Exchange Agreement; and

(c) ODBC shall submit an Order of Settlement to the Circuit Court of the City of Alexandria, fully endorsed by Counsel for all parties, after circulation thereto within fifteen (15) calendar days following the Primary Closing, for entry of the Dismissal of both the Wales Alley Case and the King Street Park Case, as necessary.

ARTICLE IV **MISCELLANEOUS PROVISIONS**

(1) Completeness; Modification. This Agreement, the Property Exchange Agreement and all exhibits and attachments to each of them, constitute the entire agreement between the parties hereto with respect to the transactions contemplated hereby and supersedes all prior understandings and negotiations, written or oral. This Agreement may be modified only by a written instrument duly executed by the parties hereto.

(2) Governing Law and Venue. This Agreement and all documents referred to herein shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Virginia, exclusive of its conflicts of law rules. Venue for any disputes under this Agreement shall be in Alexandria, Virginia or in the US District Court located in Alexandria, Virginia.

(3) Survival. All of the representations, warranties, covenants and agreements of the City and ODBC under this Agreement shall survive for a period of twenty (20) years following the Primary Closing.

(4) Partial Invalidity. If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law, provided that the remaining provisions of this Agreement taken as a whole carry out the general purpose of the Agreement, and that no Party is unfairly burdened or prejudiced or materially deprived of the benefits intended to be conferred by this Agreement.

(5) Headings; Terms; Counterparts. The section headings contained in this

Agreement are for purposes of reference and convenience only and shall not limit or otherwise affect in any way the meaning of this Agreement. Unless otherwise required by the context in which any term appears: (a) the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and neuter, and vice versa; (b) references to "Articles", "Sections" or "Exhibits" shall be to articles, sections or exhibits of or to this Agreement (except that references to "Sections" in an Exhibit shall be to sections of that Exhibit), and references to "paragraphs" or "clauses" shall be to separate paragraphs or clauses of the section or subsection in which the reference occurs; (c) the words "herein," "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; and (d) the words "include," "includes" or "including" shall mean "including, without limitation." All exhibits attached to this Agreement are made a part hereof. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which taken together will constitute one agreement.

[The Remainder of this Page is Intentionally Blank]

WITNESS the following signatures:

OLD DOMINION BOAT CLUB,
a Virginia corporation

By: _____
Print Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA:
CITY OF ALEXANDRIA, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____,
2014, by _____, as _____ of Old Dominion Boat
Club.

NOTARY PUBLIC

My Commission expires: _____
Virginia Notary Registration #: _____

CITY OF ALEXANDRIA,
a municipal corporation of Virginia

By: _____
Print Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA:

CITY OF ALEXANDRIA, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Rashad Young, City Manager of the City of Alexandria, a Virginia municipal corporation, on behalf of said municipal corporation.

NOTARY PUBLIC

My Commission Expires: _____

Virginia Notary Registration #: _____

EXHIBIT A
CITY PROPERTY

“CITY Property” means collectively:

- A. The 0 Prince Property;
- B. The 200 Strand Property;
- C. The WP Parking Space Property;
- D. The A/B Pier;
- E. The 204 Strand Property; and
- F. The 208 Strand Property.

