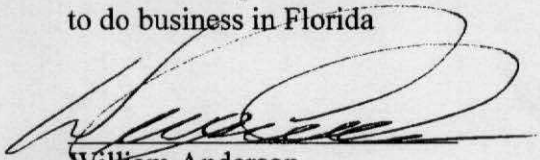


**CONTRACTOR:**

**WESTREC MARINA  
MANAGEMENT, INC.,** a  
California corporation, authorized  
to do business in Florida



William Anderson  
President

**WITNESSES:**

*Mary Pastore*

Signature

**MARY PASTORE**

PRINT Name

*Jeffrey K. Ellis*

Signature

**JEFFREY K. ELLIS**

PRINT Name

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

The foregoing instrument was acknowledged before me on \_\_\_\_\_ 2010, by William Anderson, as President of Westrec Marina Management, Inc., a California corporation, authorized to do business in Florida, on behalf of the corporation. He/she is personally known to me or produced \_\_\_\_\_ as identification and did (did not) take an oath.

*See attached loose  
Acknowledgment certificate*

\_\_\_\_\_  
NOTARY PUBLIC  
State of California

My commission expires:

## MARINA MANAGEMENT AGREEMENT

THIS MARINA MANAGEMENT AGREEMENT (the "Agreement") dated \_\_\_\_\_, 2010 is between Westrec Marina Management, Inc., a California corporation, authorized to do business in Florida [REDACTED] 16633 Ventura Boulevard, 6<sup>th</sup> Floor, Encino, CA 91436, and City of Dania Beach, Florida, a municipal corporation, ("City", together with Westrec, the "Parties"), 100 W. Dania Beach Blvd., Dania Beach, FL 33004.

### RECITALS

- A. City owns the Marina located at 101 North Beach Road, Dania Beach, Florida 33004, known as Dania Marina (the "Marina");
- B. It is the intention of City that the wet slips at the Marina be rented to third parties for use as temporary boat storage facilities, and that the Marina facilities are put to their intended use;
- C. Westrec is in the business of managing marinas and currently manages similar facilities;
- D. City has engaged Westrec to manage the Marina and Westrec shall manage, operate, provide maintenance and security for the Marina in accordance with the terms and conditions of this Agreement as hereinafter set forth in the location described as the Marina Operating Area ("MOA") described in Exhibit "A", which is attached and incorporated into this Agreement by this reference;
- E. City's intent in retaining Westrec is to have a vital, financially successful and self-supporting marina by engaging Westrec to improve the Marina infrastructure, minimize costs, and maximize net revenue to the City; and
- F. The City finds that this Agreement serves both a public purpose and a municipal purpose.

### AGREEMENT

NOW, THEREFORE, in consideration for the mutual covenants herein contained, Westrec and City agree as follows:

#### 1. Documents Comprising Contract.

The contract shall include this Agreement, as well as the following documents, which are made a part of the Agreement and incorporated into it by their reference:

- (a) The City of Dania Beach Request for Proposal, RFP #2009-016 ("RFP"), its Exhibits and Attachments issued on October 30, 2009, and all of its addenda is attached to this Agreement as Exhibit "B".



upon the expiration or termination of this Agreement, City shall (a) return to Westrec all materials bearing any of the Trademarks and all Proprietary Material without retaining any copies thereof, and (b) cease all use of the Trademarks and Proprietary Material by all means required, including without limitation changing all telephone listings using any of the Trademarks, removing all signs bearing any of the Trademarks, and using its best efforts to have existing tenants at the Marina sign new leases to replace their existing lease forms. Nothing contained in this Agreement shall give City any right, title or interest in or to any of the Trademarks or Proprietary Material, except the mere privilege and license during the term of this Agreement to have Westrec, for the benefit of City, use the Trademarks and Proprietary Material in connection with the management and operation of the Marina. City acknowledges and agrees that the Trademarks and Proprietary Material are the exclusive property of Westrec and that City now asserts and will hereafter assert no claim to any goodwill, reputation or ownership of any of the Trademarks or Proprietary Material. City shall not do or permit any act or thing to be done in derogation of any of Westrec's rights in any of the Trademarks or Proprietary Material, either during the term of this Agreement or thereafter. City shall not, during or after the term of this Agreement, in any way dispute or impugn the validity of the Trademarks or Proprietary Material, the rights of Westrec therein, or the rights of Westrec or other licensees of Westrec to use the same, both during the term of this Agreement and thereafter. The provisions of this section shall survive the expiration or termination of this Agreement.

IN WITNESS OF THE FOREGOING, the Parties have executed this Marina Management Agreement as of the date first-above written.



ATTEST:

Louise Stilson  
Louise Stilson, CMC  
City Clerk

CITY:

**CITY OF DANIA BEACH,  
FLORIDA, a Florida municipal  
corporation**

Robert Baldwin  
Robert Baldwin  
City Manager

Approved as to form and correctness:

Thomas J. Ansbro  
Thomas J. Ansbro,  
City Attorney

Westrec is responsible only for the payment of that portion of any cleanup cost for compliance with hazardous materials laws that arise during the term of this Agreement as a result of a discharge of hazardous materials directly attributable to the negligence of a Westrec employee. The City is responsible for all other cleanup costs, including all costs associated with environmental compliance at the Marina, and the City is responsible for insuring that any other responsible party participates in the clean up to the extent of its responsibility for relief.

Westrec shall indemnify, defend, and hold harmless the City from and against all claims, liabilities, losses, damages, and costs, foreseen or unforeseen including without limitation counsel, engineering, or any other professional or expert fees, that the City may incur by reason of the negligence of Westrec employees during the term of this Agreement as set forth herein. This section survives the expiration or earlier termination of this Agreement.

**29. Alternative Dispute Resolution.**

Westrec and the City agree that any controversy or claim arising out of or relating to this Agreement, or breach thereof, shall be first subject to mediation by a mutually agreed upon mediator before any suit is filed.

**30. Reservations.**

Reservations for Marina slips are currently accepted up to four (4) months in advance. Westrec has provided an operations plan relating to reservations policy, including reservations, software, prepaying requirements and cancellation policies.

Any changes to the reservations policy must be approved by the City Manager.

**31. Facilities.**

Westrec will maintain the premises in good order and in sanitary and safe condition.

Westrec shall provide one boat slip, as needed, for use by the City for a police boat at all times during the term of this Agreement.

**32. Collection of Delinquent Accounts.**

City shall be responsible to pursue collection of delinquent accounts exceeding 60 days.

**33. Use of Trademarks, Service Marks and Related Items**

In providing its services under this Agreement, Westrec will use the name, trademark and service mark "WESTREC" and such other trademarks, service marks, logos, commercial symbols, insignia and designs as Westrec shall deem appropriate (collectively, the "Trademarks") and certain operations manuals and software (including operations, emergency procedures, personnel, risk management and accounting software and manuals), formats (including financial reporting and budgeting formats) and forms (including bookkeeping, accounting and lease forms) and software (collectively, the "Proprietary Material"). Westrec grants City the nonexclusive, nontransferable right to have Westrec, for the benefit of City, use the Trademarks and Proprietary Material in connection with the management and operation of the Marina all subject to Westrec's complete control. It is understood and agreed that Westrec shall have the right to use and license others to use the Trademarks and Proprietary Material elsewhere for any purposes whatsoever, including without limitation in the management and operation of other marinas. Immediately



26. **Condemnation.**

(a) **Total Condemnation.**

If during the term of this Agreement or any extension or renewal of this Agreement, all of the MOA is taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or are sold to the condemning authority under threat of condemnation, this Agreement will terminate, and the payments will be abated during the unexpired portion of this Agreement effective as of the date the condemning authority takes the Area.

(b) **Partial Condemnation.**

If less than all, but more than ten percent (10%) of the MOA is taken for any public or quasi-public use under any governmental law, ordinance, or regulation or by the right of eminent domain, or is sold to the condemning authority under threat of condemnation, either party may terminate the Agreement by giving written notice to the other party within sixty (60) days. If the area is partly condemned and neither party elects to terminate this Agreement or if less than ten percent (10%) of the area is condemned, this Agreement will not terminate, but the payments to be made will be adjusted equitably during the unexpired portion of this Agreement.

(c) **Condemnation Award.**

The City will receive the entire award from any condemnation, and Westrec will have no claim to that award or for the value of any unexpired term of this Agreement.

27. **Mechanic's Liens.**

Westrec will not Contract for any products or services on behalf of the City that might allow any mechanic's lien or lien of any kind to be placed on the MOA.

28. **Indemnity.**

(a) **Westrec's General Indemnity.**

City agrees to indemnify Westrec for claims brought against Westrec only to the extent that they are found to result from the sole negligence of the City, its governing body, or its employees. This indemnification shall not be construed to be an indemnification for the acts, or omissions of third parties, independent contractors, or third party agents of the City. This indemnification shall not be construed as a waiver of the City's sovereign immunity, and shall be interpreted as limited to only such traditional liabilities for which the City could be liable under the common law interpreting the limited waiver of sovereign immunity. Any claims against the City must comply with the procedures found in §768.28, Florida Statutes. In order to comply with the requirements of §129.06, Florida Statutes, and Article VII, Section 10 of the Florida Constitution, the value of this indemnification is limited to the lesser of the amount payable by either party under the substantive provisions of this Agreement, or the limitations of §768.28, Florida Statutes. In addition, this indemnification shall be construed to limit recovery by the indemnified party against the City to only those damages caused by City's sole negligence, and specifically not include any attorneys' fees or costs associated therewith.

(b) **Indemnity.**

participating in or be denied the benefits of or be otherwise subjected to discrimination in the use of the Marina except for bona fide cause allowed by law.

(b) As to the construction of any improvements on or over the marina, such land or in the furnishing no services, no person on the grounds of race, color, religion, national origin, sexual orientation, age, residency within or without the City or disability shall be excluded from participation in, be denied the benefits of or otherwise be subjected to discrimination, except for bona fide causes allowed by law.

(c) That Westrec shall use the premises in compliance with all other requirements imposed by or pursuant to Title 45, Code of Federal Regulations, Article 80, non discrimination under programs receiving federal assistance through the City of health, education and welfare-effectuation of Title VI of the Civil Rights Act of 1964 and as such regulations may be amended that in the event a breach of any of the above non-discrimination covenants, the City shall have the right to terminate the Agreement and this Agreement shall be null and void. Westrec shall not discriminate against City employees or applicants for employment in the performance of the contract with respect to hiring tenure terms, conditions or privileges of employment because of age, sex, or physical disability (except where based on a bona fide occupational qualification); or because of marital status, color, religion, national original or ancestry.

**17. Hurricane Preparedness.**

Westrec shall follow the City's emergency evacuation and hurricane plan as may be supplemented by Westrec, subject to the City's approval.

**18. Termination of Agreement.**

Following the termination of this Agreement by either party within fifteen (15) calendar days, or earlier if determined by the City, Westrec shall forthwith remove all of its personal property not acquired under the terms of the Agreement. Any personal property of Westrec not removed in accordance with this paragraph may be removed by the City for storage at the cost of Westrec or shall constitute a gratuitous transfer of title thereof to the City for whatever disposition is deemed to be in the best interests of the City. The City shall not be liable to Westrec for safekeeping for Westrec's personal property during or after termination of this Agreement.

**19. Approvals.**

Except as otherwise provided, whenever approvals are required herein by either party, such approval shall not be unreasonably withheld.

**20. Rights Reserved to the City.**

All rights not specifically granted to Westrec by this Agreement are reserved to the City, and the designation of any particular remedy for the City without prejudice to any other relief available in law or equity and all such relief is reserved to the City.

**21. Lien.**

The City shall have a lien upon all personal property of Westrec engaged in executing the requirements under this Agreement, to secure the payment to the City of any unpaid money accruing to the City under the terms of this Agreement.



agrees to rent, sell, lease all goods and services to the City or governmental entities on a "first priority" basis.

**10. Sales Tax.**

Westrec shall pay the prevailing State of Florida sales and use tax for any amounts payable under this Agreement.

**11. City's Ownership of Improvements.**

Upon the expiration of this Agreement, for any reason, all existing and any future installed fixtures, equipment, improvements and appurtenances attached to or built into the Marina in such a manner as to become part of the freehold estate whether or not by the expense of Westrec, shall become and remain a part of and be surrendered with the Marina property. Any furniture, furnishings, equipment or other articles of moveable personal property owned by Westrec and located on the Marina property shall be and remain the property of Westrec and may be removed by it at any time during the term of this Agreement so long as Westrec is not in default of any obligations under this Agreement and the same has not become part of the freehold estate and so long as such do not materially affect Westrec's ability to use such premises and conduct its business as provided herein.

**12. Permits.**

Pursuant to Section 218.80, Florida Statutes, the City will pay for all City permits and fees, including license fees, permit fees, impact fees or inspection fees applicable to the Work through an internal budget transfer(s). Contractor is not responsible for paying for permits issued by City, but is responsible for acquiring all permits. City may require Contractor to deliver internal budget transfer documents to applicable City agencies when Contractor is acquiring permits. City is not responsible for any penalty fees for improper work or fees related to inspections for improper work.

**13. Hours of Operation.**

The Marina property will be required to operate seven (7) days a week, including holidays, during those hours approved by the City. Sufficient staff will be available to provide outstanding service. The City may require change in hours of operation if in the reasonable discretion of the City such a change is desirable for providing the best service to the public.

**14. Termination of this Agreement**

(a) The Agreement may be terminated by the City upon the following terms and conditions:

(i) in the event of a default in the performance of this Agreement by Westrec, which default shall remain uncured for thirty (30) days after Westrec receives the written notice of default from the City which specifies the nature of such default, the City may terminate this Agreement as of date set forth in such notice; or

(ii) the City shall have the right to terminate this Agreement with or without cause at any time by giving written notice to Westrec at least

(9) Customer Service Issues (Westrec shall respond to customers within five days).

(10) Parking Permit Roster

**(t) Business Continuity Plan.**

Westrec shall provide the City with a copy of its business continuity plan covering the Marina as well as the company head office. Westrec will provide the City with the results of any testing of its business continuity plan.

**5. Duties of City.**

City shall cooperate with Westrec in the performance of its duties under this Agreement and to that end, upon the request of Westrec, City agrees to provide reasonable office space for Westrec employees on the premises of the Marina, to give Westrec access to all files, books and records of City relevant to the Marina, and to execute all documents and instruments as Westrec, in its reasonable judgment, deems necessary or advisable to enable it to carry out its management of the Marina.

**6. Compensation of Westrec.**

Westrec agrees to operate and maintain the Marina and associated property on a negotiated fixed fee basis. The City shall pay Westrec One Hundred Thirteen Thousand Three Hundred Dollars (\$113,300.00) annually as compensation for the performance of services under this Agreement ("Compensation"). Such payment shall be paid in twelve monthly installments on the 15<sup>th</sup> of each month commencing \_\_\_\_\_ 15, 2010. The Compensation shall increase annually, in an amount equal to the increase in the United States Department of Labor Consumer Price Index-South Urban from the previous year, however the annual fee increase shall not exceed five percent (5%), or as agreed to by the Parties. In the event this Agreement is terminated by either party, the Compensation shall be paid on a pro-rata basis.

**7. Fiscal Non-funding.**

In the event that sufficient budgeted funds are not available for any new fiscal period, the City shall notify Westrec of such occurrence and this Agreement shall terminate on the last day of the then current fiscal period without expense or penalty to the City.

**8. Audit.**

Westrec shall retain all records relating to this contract for a period of at least five (5) years after final payment is made. All financial records noted under Section 4(k) of this Agreement shall be subject to an annual audit by the City's auditing firm. Westrec shall create and maintain its financial records in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes. In addition, City reserves the right to audit such records pursuant to City policy.

**9. Public Emergencies.**

It is expressly made part of this contract that before, during and after a public emergency, disaster, hurricane, tornado, flood or other acts of God, that City shall require a "first priority" for goods and services. It is vital and imperative that the majority of citizens are protected from any emergency situation that threatens public health and safety as determined by the City. Westrec



- (1) Changes from the original approved plans, activities signage and graphics;
- (2) Equipment Westrec plans to install requiring any building or facility modifications;
- (3) Any use of the City's name;
- (4) Any improvements to be constructed on the Marina property;
- (5) Hours of daily operation;
- (6) Uniforms to be used by the employees;
- (7) The décor of the Marina and all signs to be installed directed or displayed in or on the Marina property and any changes thereto at anytime during this Agreement; and
- (8) Maintenance Requirements

Further, it is understood by Westrec, that should any changes related to the above items be disapproved, either Party may offer alternative solutions.

**(r) Shared Expenses.**

The Parties acknowledge that certain economies may be achieved with respect to certain expenses to be incurred on behalf of the City hereunder if materials, supplies, or services are purchased by Westrec in quantity for use not only in connection with the Marina but in connection with other marinas managed by Westrec or its affiliates. Westrec shall have the right, with the advice and written consent of the City, to purchase such materials, supplies, insurance or services in its own name and charge City a pro rata share of the cost; provided, however, that the pro rata cost of such purchase to City shall not result in expenses greater than would otherwise be incurred at competitive prices and on terms available in the area where the Marina is located or the service is rendered; and, provided further, Westrec shall provide a copy of the financial records to the City upon request and shall make records available to City at Westrec's corporate headquarters office at all reasonable times after reasonable notice to Westrec so City may review any such expenses incurred.

**(s) Reporting Requirements.**

Westrec must submit a monthly written report to the City Manager containing information which includes but is not limited to:

- (1) Occupancy (both numbers and dollars), historical comparison;
- (2) Marketing and promotions;
- (3) Revenues, Expenses and Net Income in compariason to approved budget;
- (4) Capital improvements status report;
- (5) Insurance claims;
- (6) Delinquent Receivables (exceeding 60 days)
- (7) Litigation; and
- (8) Safety and environmental incidents;

the City.

**(n) Insurance.**

Westrec (as specified in its response to the bid, in its section entitled "Risk Management and Insurance", at Page 72) shall pay for and maintain all necessary insurances including but not limited to, Marina Operators Legal Liability, automobile coverage, theft coverage, and environmental pollution coverage, listing the City as an additional named insured. Westrec shall provide Workers Compensation coverage. The costs incurred by Westrec for insurance coverage applicable to the MOA shall be included in the approved marina budget and shall be paid or reimbursed by the City, pursuant to the approved marina budget.

Westrec shall purchase or endorse its master policy to include the City. Westrec's policy must be primary.

As a part of the marina budget planning process for each subsequent Fiscal Year (beginning in FY2010 – 2011), all insurance coverage will be re-evaluated and specific coverage may be redistributed between the City and Westrec depending on what is most advantageous to the Parties. However, at all times the cost for insurance coverage for the MOA and the marina operations shall remain a part of the marina budget and will ultimately be paid or reimbursed by the City. If either Party chooses to carry additional insurance coverage that is not contemplated by the approved marina budget, then the cost of such coverage shall be the responsibility of the insured Party.

**(o) Restrictions.**

Notwithstanding anything to the contrary set forth in this Section 4, Westrec shall not be required to do, or cause to be done, anything for the account of City (i) which may make Westrec liable to third parties; or (ii) which may not be commenced, undertaken or completed because of insufficient funds of City.

**(p) Force Majeure.**

Neither the City nor Westrec is required to perform any term or covenant of this Agreement so long as performance is delayed or prevented by *force majeure*, which includes acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, and any other cause not reasonably within the City's or Westrec's control and that the City or Westrec cannot, by exercising due diligence, prevent or overcome in whole or in part.

**(q) City Approval**

Westrec agrees it will obtain prior written approval from the City prior to implementing changes on the following matters:



receipts and disbursements in connection with the management of the Marina. The books, records and accounts shall be maintained at Westrec's Southern Regional Accounting Office using a Westrec's accounting system. Revenue billings and receipts shall be reconciled, totaled on a bank deposit slip and deposited to the City's bank, or delivered to the City's Finance Department daily to discourage thefts and office break-ins at the Marina office. The City shall pay \$300 per month for bookkeeping, billing and accounting services.

City acknowledges that any budgets or projections prepared by Westrec for City are only estimates of revenues and expenses, that the initial budgets and projections prepared by Westrec and approved by the City will be based in part on information provided by City, that any projections prepared by Westrec are subject to, and may be affected by, changes in financial, economic, competitive and other conditions and circumstances beyond Westrec's control and that such projections and budgets are not to be construed as a guarantee by Westrec of the actual results to be obtained from operations. Westrec acknowledges the importance of monitoring its actual revenue collections and expenditures in comparison to the approved budget plan. Westrec shall notify the City Manager in writing at least monthly of material deviations from the marina's approved budget plan. A material deviation from the marina's budget plan shall be defined as a cumulative fiscal year to date budget variance in either revenues or expenditures that exceeds 15% of the budget plan, respectively. City acknowledges that Westrec makes no representations or warranties as to the results to be obtained from operations. City acknowledges that Westrec has no knowledge, and cannot certify the accuracy of any historical information provided to Westrec by City. All receipts will be deposited into the City's bank account. Receipts will be accounted for on the Westrec's books by Westrec personnel. All purchases for the Marina which fall under the City's area(s) of responsibility shall be made such that they are in compliance with the City's Purchasing Policy, Procedures and Code.

**(l) Collection.**

Westrec shall analyze and direct the collection and billing of all accounts receivable due to the City with respect to the Marina. Westrec shall provide a monthly reporting to the City in electronic format reflecting the details of each receivable balance and the cumulative total of all receivables that are more than 60 days past due and shall be responsible for establishing policies and procedures to minimize the amount of bad debts.

**(m) Legal Actions.**

Westrec shall cause to be instituted, on behalf and in the name of the City, any and all legal actions or proceedings Westrec deems necessary or advisable to collect charges with the advice and consent of the City, rent or other income due to City with respect to the Marina or to oust or dispossess tenants or other persons unlawfully in possession under any lease, license, concession agreement or otherwise, and to collect damages for breach thereof or default thereunder by such tenant, licensee, concessionaire or occupant. Westrec shall also assist the City in the defense of any and all actions and proceedings brought by tenants, suppliers, vendors and similar persons relating to the Marina and City shall be responsible for satisfying and paying the costs of defending all such claims to the extent not covered by insurance. Westrec shall provide notice to City of any and all actions or proceedings instituted by, on behalf of, or against

Westrec shall make and execute, or supervise and have control over the making and executing of, all decisions concerning the acquisition of furniture, fixtures and supplies for the Marina, and the purchase, lease or other acquisition of the same, on behalf of the City within the scope of the marina's annual approved budget. Westrec shall make and execute, or supervise and have control over the making and executing of, all decisions concerning the routine day-to-day maintenance, including parking lot and restrooms, repair and landscaping of the Marina, on behalf of the City. In connection with performance of routine day-to-day maintenance, repair and landscaping, Westrec shall negotiate and supervise the installation of minor capital improvements related to the Marina which Westrec, in its reasonable discretion, deems necessary or appropriate; provided, however, that Westrec shall obtain the prior approval of the City for all expenditures in excess of five hundred dollars (\$500.00) for any one item (except monthly or recurring operating charges and emergency repairs if in the opinion of Westrec such expenditures are necessary to protect the Marina from damage or to maintain services to the tenants as called for in their leases). Westrec agrees to follow and comply with the City's Purchasing Policies and Procedures. All invoices for repairs, maintenance and improvements costs shall be approved by Westrec in writing and be paid directly by the City, subject to the approved marina budget or any subsequent approvals.

**(e) Personnel.**

Westrec's employees in contact with the public shall perform their duties in an efficient and courteous manner. Westrec shall insure all its personnel are courteous and cooperative and present a neat, clean and professional appearance at all times. Failure of an employee to do so shall be grounds for the City to demand his or her removal from duties on the Marina property. Westrec shall provide the City with the name and telephone number of a management person who will be on call at all times for emergencies or other matters related to the operations under this Agreement.

**(f) Non-compete provision.**

Current Marina employees will be provided an opportunity for employment with Westrec pursuant to this Agreement. Westrec agrees and that some of these employees may seek other positions within the City's personnel system shall not interfere with the hiring of such employees by the City. The City agrees not to solicit these employees for employment or otherwise compete with Westrec in this regard.

**(g) Budget.**

The City's 2009-2010 Preliminary Budget was prepared by City staff and Westrec shall review and provide recommended adjustments to the City Administration by August 27, 2010 for consideration at the City's scheduled budget hearings. Westrec agrees to operate the Marina in accordance with the City's final annual marina budget that is approved by the City Commission (the attached Pro Forma is subject to the City's review, modification and approval). Westrec shall annually, beginning with the fiscal year 2011-12, develop a proposed budget in June, in conjunction with the City's budget preparation process, which shall be reviewed, modified and approved by the City Manager and City Commission in September. The annual budget submittal shall include, but not be limited to, all of the proposed revenue sources and expenditures for the Marina. Westrec proposes to sell sundries to marina tenants and shall remit to the City on a monthly basis, within ten (10) days after the end of the applicable month, five percent (5%) of



partner nor joint venturer of the City. Westrec acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 located at 8 USC Section 1324 et seq. and regulations relating thereto as either may be amended from time to time. [REDACTED] failure to comply with the above provisions shall be considered a material breach and shall be grounds for immediate termination of the contract at the discretion of the City.

4. **Authority of [REDACTED]**

(a) **General Authority.**

Westrec hereby agrees to provide the City with Marina Management Services as requested and as specifically outlined in the RFP, this Agreement and all subsequent official documents that form the contract documents for this Agreement, in compliance with the City's approved annual marina budget and City policy restrictions and procedures stated or referenced herein. Westrec shall have the authority to fully and completely supervise and direct the operations of the Marina and matters associated or related to the operation of the Marina, including boat slip rentals, retail sales of sundries, and supervision of all leases of space at the Marina referenced as Exhibit "A" attached to this Agreement and incorporated into it by this reference. City shall execute such documents as Westrec and City, in their reasonable judgment, deem necessary or advisable for Westrec to carry out its management of the Marina.

(b) **Renting of the Marina.**

Westrec shall use its reasonable discretion in recommending and establishing the terms and conditions of occupancy of boat slips in the Marina to the City. The City shall set the rates for the boat slip rentals after considering recommendations provided by [REDACTED] Westrec shall enter into written rental agreements (the form of which shall be reviewed and approved in advance and in writing by the City) with such tenants and Westrec will collect rent from such tenants as an agent of the City and shall be responsible for all rental receipts until physical delivery and signed acceptance of the receipts by the City. The form of rental agreement shall be prepared, reviewed, as appropriate by Westrec and recommended to and provided by the City for acceptance. Westrec shall maintain all rental and receipt records of the Marina and provide a summary report to the City at least monthly (or more frequently as requested by the City Finance Director) of marina rental revenues earned or billed, rental collections and outstanding balances due.

(c) **Marketing and Advertising.**

Westrec shall establish the policies and procedures which it deems necessary or advisable for directing the marketing activities of personnel relating to the Marina subject to authorized budget appropriations and restrictions. All advertising of the Marina, including signs, may be carried under the [REDACTED] name and the name of the City. All advertising and marketing costs shall be paid directly by Westrec on behalf of the City and shall be subject to the City's approval. Westrec shall include the Marina in all newsletters or periodicals which it publishes or distributes and City agrees to pay a pro rata share of related expenses as set out in paragraph 4 (r) Shared Expenses.

(d) **Repair, Maintenance and Improvements.**

partner nor joint venturer of the City. Westrec acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 located at 8 USC Section 1324 et seq. and regulations relating thereto as either may be amended from time to time. [REDACTED] failure to comply with the above provisions shall be considered a material breach and shall be grounds for immediate termination of the contract at the discretion of the City.

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(a) **General Authority.**

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(b) **Renting of the Marina.**

Westrec shall use its reasonable discretion in recommending and establishing the terms and conditions of occupancy of boat slips in the Marina to the City. The City shall set the rates for the boat slip rentals after considering recommendations provided by [REDACTED] Westrec shall enter into written rental agreements (the form of which shall be reviewed and approved in advance and in writing by the City) with such tenants and Westrec will collect rent from such tenants as an agent of the City and shall be responsible for all rental receipts until physical delivery and signed acceptance of the receipts by the City. The form of rental agreement shall be prepared, reviewed, as appropriate by Westrec and recommended to and provided by the City for acceptance. Westrec shall maintain all rental and receipt records of the Marina and provide a summary report to the City at least monthly (or more frequently as requested by the City Finance Director) of marina rental revenues earned or billed, rental collections and outstanding balances due.

(c) **Marketing and Advertising.**

Westrec shall establish the policies and procedures which it deems necessary or advisable for directing the marketing activities of personnel relating to the Marina subject to authorized budget appropriations and restrictions. All advertising of the Marina, including signs, may be carried under the [REDACTED] name and the name of the City. All advertising and marketing costs shall be paid directly by Westrec on behalf of the City and shall be subject to the City's approval. Westrec shall include the Marina in all newsletters or periodicals which it publishes or distributes and City agrees to pay a pro rata share of related expenses as set out in paragraph 4 (r) Shared Expenses.

(d) **Repair, Maintenance and Improvements.**



**(g) Performance.**

Service shall be performed in a timely manner as specified in the City's RFP.

The Parties expressly agree that time is of the essence in the performance of this Agreement and the failure to complete the performance within the time specified, or within a reasonable time if no time is specified herein, shall relieve the Parties of any obligation to accept such performance.

**(h) Notices.**

Any notice required or permitted herein is to be given in writing and shall be personally delivered or mailed, first class postage prepaid or delivered by an overnight delivery service to the respective addresses of the Parties set forth below their signatures on the signature page hereof, or to such other address as any party may give to the other in writing. Any notice required by this Agreement will be deemed to have been given and received when personally served or one (1) day after delivery to an overnight delivery service or five (5) days after deposit in the first class mail.

To the City: City of Dania Beach, Florida  
100 W. Dania Beach Blvd.  
Dania Beach, FL 33004  
Attn: City Manager

With Copy to: City of Dania Beach, Florida  
100 W. Dania Beach Blvd.  
Dania Beach, FL 33004  
Attn: Thomas Ansbros, City Attorney

To Westrec: Westrec Marina Management, Inc.  
16633 Ventura Boulevard, 6<sup>th</sup> Floor  
Encino, CA 91436

With copy to: [REDACTED] Marina  
801 North East Third Street  
Dania Beach, Florida 33004  
Attn: Gary Groenewold  
Vice President Southern Area

**(i) Remedies.**

Each party shall have full remedies available under existing laws, including, but not limited to, the Uniform Commercial Code, mediation, alternative dispute resolution and all state and federal courts of any jurisdiction.

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
9/10/2010

**PRODUCER** Commercial Lines ... 760-603-7600  
Wells Fargo Insurance Services USA, Inc. - CA Lic#: 0D08408  
5901 Priestly Drive, Suite 306  
Carlsbad, CA 92008

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.**

**INSURED** [REDACTED] Marina Management, Inc.  
c/o [REDACTED] Financial, Inc.  
16633 Ventura Blvd., 6th Floor  
Encino, CA 91436

INSURERS AFFORDING COVERAGE		NAIC #
INSURER A:	Old Republic Insurance Company	24147
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
		<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE	\$
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
						MED EXP (Any one person)	\$
						PERSONAL & ADV INJURY	\$
						GENERAL AGGREGATE	\$
						PRODUCTS - COMP/OP AGG	\$
		<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	\$
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
		<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE RETENTION \$				EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
							\$
A		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	MWC116451-00 AZ,CA,FL,GA,HI,IL,IN,NV,VA	02/01/2010	02/01/2011	X WC STATUTORY LIMITS	OTHER
						E.L. EACH ACCIDENT	\$ 1,000,000
						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
						E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
		OTHER					

### DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

RE: Marina Management Contract - Evidence of Workers Compensation coverage

### CERTIFICATE HOLDER

City of Dania Beach  
Attn: Risk Manager  
100 West Dania Beach Blvd.  
Dania Beach, FL 33004

### CANCELLATION Ten Day Notice for Non-Payment

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE *Jean Branda*





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/30/2010

9/9/2010

**PRODUCER** Lockton Insurance Brokers, LLC  
 CA License #OF15767  
 Two Embarcadero, Suite 1700  
 San Francisco 94111  
 (415) 568-4000

**INSURED** 1071490 Westrec Financial, Inc.  
 and Subsidiaries and Affiliates  
 Marina Management, Inc.  
 16633 Ventura Blvd. 6th Floor  
 Encino CA 91436

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Federal Insurance Company	20281
INSURER B: Philadelphia Indemnity Insurance Company	18058
INSURER C:	
INSURER D:	
INSURER E:	

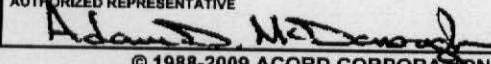
**COVERAGES** WESMA01 D8

THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER AND THE CERTIFICATE HOLDER.

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A		<b>GENERAL LIABILITY</b>	79532670	11/30/2009	11/30/2010	EACH OCCURRENCE	\$ 1,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
		<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 10,000
		GEN'L AGGREGATE LIMIT APPLIES PER:				PERSONAL & ADV INJURY	\$ 1,000,000
		<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS - COMP/OP AGG	\$ 1,000,000
B		<b>AUTOMOBILE LIABILITY</b>	PHPK593685	7/1/2010	7/1/2011	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
		<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$ XXXXXXXX
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$ XXXXXXXX
		<input checked="" type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$ XXXXXXXX
		<input checked="" type="checkbox"/> HIRED AUTOS				AUTO ONLY - EA ACCIDENT	\$ XXXXXXXX
		<input checked="" type="checkbox"/> NON-OWNED AUTOS				OTHER THAN AUTO ONLY: EA ACC	\$ XXXXXXXX
						AGG	\$ XXXXXXXX
		<b>GARAGE LIABILITY</b>	NOT APPLICABLE			EACH OCCURRENCE	\$ 15,000,000
		<input type="checkbox"/> ANY AUTO				AGGREGATE	\$ XXXXXXXX
A		<b>EXCESS / UMBRELLA LIABILITY</b>	79532671	11/30/2009	11/30/2010	EACH OCCURRENCE	\$ 15,000,000
		<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$ XXXXXXXX
		<input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> UMBRELLA FORM					\$ XXXXXXXX
		RETENTION \$					\$ XXXXXXXX
							\$ XXXXXXXX
		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>	NOT APPLICABLE			WC STATU-TORY LIMITS	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below				OTHER	
		Y/N <input type="checkbox"/>				E.L. EACH ACCIDENT	\$ XXXXXXXX
						E.L. DISEASE - EA EMPLOYEE	\$ XXXXXXXX
						E.L. DISEASE - POLICY LIMIT	\$ XXXXXXXX
A		<b>OTHER MOLL</b>	79532913	11/30/2009	11/30/2010	\$1,000,000	

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**  
 The City of Dania Beach and its respective officers, agents, employees and elected officials are named as additional insured as respects to their written agreement with the insured for liability arising out of the operations of the insured.

CERTIFICATE HOLDER	CANCELLATION
10993932 City of Dania Beach Attn: Risk Manager 100 West Dania Beach Blvd. Dania Beach FL 33004	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 

ACORD 25 (2009/01)

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