RESOLUTION NO. : 05-02-14

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, REVISING RESOLUTION NO. 46-12-13 WHICH AUTHORIZED AND DIRECTED THE MAYOR TO EXECUTE AN AGREEMENT WITH FREEDOM ADVENTURES, LLC D/B/A FREEDOM BOAT CLUB TO LEASE SLIPS AT THE LAKE PARK HARBOR MARINA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town has all of the powers and authority conferred upon it pursuant to the Florida constitution and Chapter 166, Florida Statutes; and

WHEREAS, pursuant to its proprietary functions and authority, the Town owns and operates a marina known as the Lake Park Harbor Marina (the Marina) which leases slips to the operators of both recreational and commercial vessels; and

WHEREAS, at the December 4, 2013 the Town Commission authorized the Mayor to sign a dockage agreement with the Freedom Boat Club (FBC) which has acquired the right to own and operate an exclusive Palm Beach County FBC franchise and would like to base its franchise at the Lake Park Harbor Marina; and

WHEREAS, FBC has negotiated an agreement with the Town whereby it would lease 10 slips to accommodate vessels it owns and leases to its members; and

WHEREAS, the Town Manager and Marina Director have recommended to the Town Commission that entering into the Agreement with FBC is in the best interests of the Marina.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1. The foregoing recitals are incorporated herein.

Section 2. The Mayor is hereby authorized and directed to execute the Agreement with FBC which is attached hereto and incorporated herein as **Exhibit "A"**.

Section 3. This Resolution shall be effective upon adoption.

The foregoing Resolution was offered by Commissioner O'Rourke who moved its adoption. The motion was seconded by Commissioner Rapoza and upon being put to a roll call vote, the vote was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	✓	
VICE-MAYOR KIMBERLY GLAS-CASTRO	✓	
COMMISSIONER ERIN FLAHERTY		✓
COMMISSIONER MICHAEL O'ROURKE	✓	
COMMISSIONER KATHLEEN RAPOZA	✓	

The Town Commission thereupon declared the foregoing Resolution NO. 05-02-14 duly passed and adopted this 19 day of February, 2014.

TOWN OF LAKE PARK, FLORIDA

BY: _____
JAMES DUBOIS
MAYOR

ATTEST:

_____
VIVIAN MENDEZ
TOWN CLERK

TOWN OF LAKE PARK SEAL FLORIDA

(TOWN SEAL)

Approved as to form and legal sufficiency:

BY: _____
THOMAS J. BAIRD
TOWN ATTORNEY

DOCKAGE AGREEMENT TO LEASE SLIPS TO
FREEDOM ADVENTURES, LLC (dba Freedom Boat Club)
at LAKE PARK HARBOR MARINA

This Agreement to Lease Slips at the Lake Park Harbor Marina (Agreement) is entered into this 19 day of February 2014 between Freedom Adventures, LLC, aka Freedom Boat Club (hereinafter "FBC") and the Town of Lake Park (hereinafter the "Town").

RECITALS

WHEREAS, the Town has all of the powers and authority conferred upon it pursuant to the Florida constitution and Chapter 166, Florida Statutes; and

WHEREAS, pursuant to its proprietary functions and authority, the Town owns and operates a marina known as the Lake Park Harbor Marina (the Marina) which leases slips to the operators of both recreational and commercial vessels; and

WHEREAS, FBC has acquired the right to own and operate an exclusive Palm Beach County FBC franchise and would like to base its franchise at the Lake Park Harbor Marina.

NOW THEREFORE THE PARTIES HAVE AGREED AS FOLLOWS:

1. **RECITALS.**

The above recitals are true and correct and are hereby incorporated herein.

2. **TERM.**

The initial term of this agreement shall be for one (1) year. This Agreement shall automatically renew for two (2) additional two (2) year terms unless FBC violates any of the terms of this dockage Agreement . At the Town's sole discretion, this Agreement may be extended for five (5) additional one-year terms.

3. **PROPERTY SUBJECT TO LEASE.**

The property to be leased by the Town to FBC is located within the Marina as shown on Exhibit "A" attached hereto and incorporated herein. As shown in Exhibit "A', FBC, shall immediately make arrangements with the Marina Director to lease 6 slips, said slips to be designated by the Town, those slips designated by the Town as being located at the easternmost set of fixed slips against the seawall at the edge of the parking lot. The slips are identified as being amongst Slip No's: F-88 through F-97. Within 90 days of the execution of this agreement FBC shall make monthly payments through the term, and any renewals thereof, for an additional 2 slips (8 total). Within 180 days of the execution of this Agreement, FBC shall make monthly payments through the term, and any renewals thereof, for an additional 2 slips (10 total).

4. **TERMINATION.**

Either Party may terminate the Agreement at the end of the Term by providing the other with 60 days advance written notice of its intention to do so. Provided however, the Town may terminate this Agreement in the event FBC fails to timely pay the rent due as recited herein, or for any violation of the "dockage agreement" following written notice to FBC from the Town to FBC. If the Town notices its intention to terminate the Lease, FBC shall vacate the premises prior to the 60th day of the notice.

5. **DEPOSIT.**

FBC shall deposit with the Town an amount equal to 1 month's rent for all 10 slips within 10 business days of the execution of the Lease by the Mayor. The deposit for the 10 slips is calculated as $7,650.00.

6. **RENT.**

FBC shall pay a monthly slip rental fee of $17.00/ft. of dock space based on the assumed length of 45' per slip for each of the slips identified above. This amount is calculated as $4,590.00 per month while leasing 6 slips, $6,120.00 per month while leasing 8 slips, and $7,650.00 per month when renting 10 slips. After the initial 1 year term, FBC shall pay the Town the same per foot slip rental rate as established by the Town for commercial vessels.

FBC shall reimburse the Town for the cost of electricity provided to the 10 rented slips at the established rate of .11 cents per kilowatt or at the prevailing rate during the term of the Lease. Water service shall be provided through the Town at a cost of $60.00 per month for the 10 rented slips

7. **PARKING.**

The Town shall initially permit the use of 2 parking spaces per rental boat, not to exceed a maximum of 18 parking spaces, plus 1 handicapped parking space located adjacent to the 10 slips in an area designated by the Marina Director. FBC agrees to purchase a maximum of 19 parking spaces at a rate of $100.00 per parking space per year. Parking in the designated area is restricted for FBC customer use only and under no circumstances may employees or guests of FBC use any other parking spaces that may be available in the parking lot that are available for marina tenants or the general public.

Should the demand for parking also utilized by marina tenants in the designated parking lot shared by FBC become greater than the number of spaces available, FBC agrees to renegotiate the terms of parking for its customers to the satisfaction of FBC and the Town.

Should the Town modify its annual parking pass rate, FBC shall pay to the Town the then current annual parking pass rate on the anniversary date of the Town's original issuance of parking passes.

8. **SIGNS.**

FBC may put up signs in those parking spaces designating them for the exclusive use of FBC members. The cost of installation of those signs and the maintenance of those signs shall be the responsibility of the FBC. FBC may also install appropriate business identification signage allowed under the Town Code. FBC shall apply to the Building Department for approval of such signage.

9. **MODIFICATIONS TO SLIPS.**

Should FBC wish to modify any of the 10 fixed slips by adding floating dock systems, it may do so with the Town's written approval and only after presenting to the Town any and all appropriate permits which may be required by any regulatory agencies. Prior to the end of the term or any renewal thereof, FBC shall restore the Marina to the condition that existed at the time this Agreement was executed; normal wear and tear only excepted.

10. **TRASH CONTAINERS.**

FBC shall provide and maintain trash containers to be determined by the Town to adequately serve FBC. The number and location of the trash containers are subject to the approval of the Town's Marina Director. Storage of trash (e.g. cartons, boxes, etc.) outside of the trash containers is prohibited and FBC shall dispose of trash on a daily basis in the dumpster designated by the Town.

11. **STORAGE LOCKERS.**

FBC shall provide and maintain a sufficient number of secure storage lockers, which may be placed on the seawall facing the leased slips. The storage lockers shall be subject to the approval of the Town's Marina Director.

12. **TRAINING.**

FBC shall provide all appropriate training to their members before members are allowed to operate their vessels. FBC shall provide the Town's Marina Director with an outline of the appropriate training program that FBC will provide.

13. **DOCKAGE TERMS.**

FBC shall comply with all requirements of the Town's standard "dockage agreement". The dockage agreement is attached hereto and incorporated herein. To the extent any of the terms in the dockage agreement conflict with this Agreement, the terms herein shall apply.

14. **SPECIAL EVENTS.**

The Town reserves the right to require that FBC temporarily modify their operations during certain events/construction, however, the Town will accommodate FBC's on-going operations somewhere within the boundaries of the marina (with a minimum of three consecutive slips in any one relocated area). The Town shall provide FBC with a minimum of thirty (30) calendar day's notice of the need to temporarily modify their operations.

15. **NOTICES**

All notices required hereunder shall be made to the parties at the address listed below:

To FBC:

Freedom Adventure, LLC
Daniel J. Lund, Managing Member
63 River Drive
Tequesta, FL 33469

and in the case of the Town, to:

THE TOWN OF LAKE PARK
c/o Town Manager
535 Park Avenue
Lake Park, Florida 33403

16. **GOVERNING LAW/VENUE.**

This Agreement shall be governed by the laws of the State of Florida. Venue for any cause of action arising out of this Agreement shall lie in the 15th Judicial District in and for Palm Beach County, Florida, or the United States District Court, Southern District of Florida, West Palm Beach, Florida.

17. **ASSIGNMENT.**

This Agreement may not be assigned may not be assigned by FBC without the written approval of the Town. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, personal representatives, successors and permitted assigns.

18. **SEVERABILITY.**

In the event that any sentence, section, paragraph or portion of this Agreement shall be held by a court to be invalid for any reason, such invalidity shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

19. **WAIVER.**

Any waiver by either party hereto of any one or more of the covenants, conditions, or provisions of this Agreement, shall not be construed to be a waiver of any subsequent or other breach of the same or any covenant, condition or provision of this Agreement.

20. **ENTIRE AGREEMENT.**

This Agreement embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings, oral or written, relating to said subject matter. This Agreement may only be modified by written amendment executed by the Town and FBC.

21. **PREVAILING PARTY.**

In the event either party is required to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney fees and costs.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year last executed below.

ATTEST:

By: _____
Vivian Menéndez, Town Clerk

TOWN OF LAKE PARK SEAL FLORIDA

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
Thomas J. Baird, Town Attorney

TOWN OF LAKE PARK

By: _____
James Dubois, Mayor

Date: 2/19/14

WITNESSES:

_____

Print Name: SHARI CANADA

_____

Print Name: Janet Perry

FREEDOM ADVENTURES, LLC
(dba Freedom Boat Club)

By: _____

Print Name: Daniel J. Lund

Title: Manager