

RESOLUTION No. 14-08

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE SETTLEMENT OF THE LITIGATION STYLED THE *CITY OF DORAL V. TRIANGLE ASSOCIATES, INC.*, CASE NO. 2013-01299-CA-1(09) PENDING IN THE ELEVENTH JUDICIAL CIRCUIT; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE THE SETTLEMENT AGREEMENT AND ANY ADDITIONAL DOCUMENTS RELATED TO THE SETTLEMENT; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT; TO EXECUTE AND FILE ALL REQUIRED DOCUMENTS WITH THE COURT TO CONCLUDE THE LITIGATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Doral, Florida (the "City") filed suit for injunctive relief against Triangle Associates, Inc., in an action styled *The City of Doral, Florida vs. Triangle Associates, Inc.*, 2013-01299-CA-1(09), pending in the 11th Judicial Circuit (the "Litigation"); and;

WHEREAS, the Defendant filed a counter-claim against the City alleging breach of contract and seeking monetary damages from the City; and

WHEREAS, the City and the Defendant desire to avoid the expense and delay of continued litigation and desire to resolve the Litigation on an amicable basis, subject to certain terms and conditions set forth within the Settlement Agreement attached hereto; and

WHEREAS, as part of the Settlement Agreement the Defendant has agreed to execute a General Release and file with the Court a Voluntary Dismissal of Counterclaim With Prejudice, both in favor of the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF DORAL, FLORIDA, THAT:**

Section 1. Recitals. The above recitals are true and correct and incorporated herein.

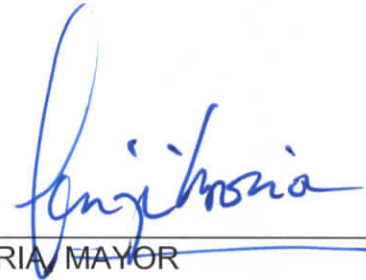
Section 2. Settlement. The Settlement Agreement between the City and the Defendant, a copy of which is attached as Composite Exhibit “A,” is hereby approved. The appropriate City officials, including the City Manager or designee, and City Attorney are authorized to take all actions necessary to implement the terms and conditions of the Settlement Agreement.

Section 3. Effective Date. This resolution shall take effect immediately upon its adoption.

The foregoing resolution was offered by Councilmember Rodriguez Aguilera who moved its adoption. The motion was seconded by Councilmember Rodriguez and upon being put to a vote, the vote was as follows:

Mayor Luigi Boria	Yes
Vice Mayor Christi Fraga	Yes
Councilwoman Ana Maria Rodriguez	Yes
Councilwoman Bettina Rodriguez Aguilera	Yes
Councilwoman Sandra Ruiz	Yes

PASSED and ADOPTED this 15th day of January, 2014



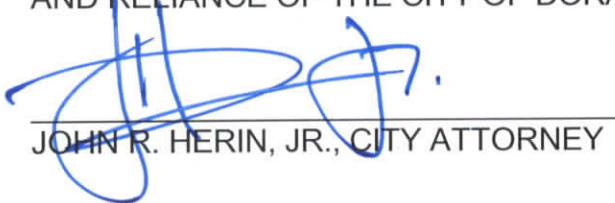
LUIGI BORIA, MAYOR

ATTEST:



BARBARA HERRERA, CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE CITY OF DORAL ONLY:



JOHN R. HERIN, JR., CITY ATTORNEY

COMPOSITE EXHIBIT "A"

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT, IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CASE NO. 2013-01299 CA 01

The City of Doral, Florida,

Plaintiff/Counter-Defendant,

vs.

Triangle Associates, Inc.,

Defendant/Counter-Plaintiff.

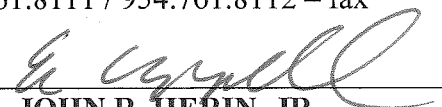
**PLAINTIFF/COUNTER-DEFENDANT'S NOTICE OF OFFER OF JUDGMENT TO
DEFENDANT/COUNTER-PLAINTIFF**

NOTICE IS HEREBY given that on the 27th day of November, 2013, Plaintiff/Counter-Defendant, The City of Doral, Florida, served upon Defendant/Counter-Plaintiff, Triangle Associates, Inc., an Offer of Judgment pursuant to Section 768.79 of Florida Statutes and Rule 1.442 of Florida Rules of Civil Procedure.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was sent via e-mail this 27th day of November, 2013 to Daniel Martinez, Esq. at dmartinez@themartinezfir.com and jose@thediazlawfirm.com.

GRAYROBINSON, P.A.
401 East Las Olas Boulevard, Suite 1000
Fort Lauderdale, Florida 33301
954.761.8111 / 954.761.8112 – fax

By: 
JOHN R. HERIN, JR.
Florida Bar No. 907928
jherin@gray-robinson.com
EVAN D. APPELL
Florida Bar No. 58146
eappell@gray-robinson.com

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT, IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CASE NO. 2013-01299 CA 01

The City of Doral, Florida,

Plaintiff/Counter-Defendant,

vs.

Triangle Associates, Inc.,

Defendant/Counter-Plaintiff.

**PLAINTIFF/COUNTER-DEFENDANT'S OFFER OF JUDGMENT TO
DEFENDANT/COUNTER-PLAINTIFF**

Plaintiff/Counter-Defendant, The City of Doral, Florida, states that at least ninety (90) days have passed since the commencement of this action, and there are at least forty-five (45) days remaining before the date set for trial or the first day of the docket on which this case is set for trial, whichever is earlier.

THEREFORE, The City of Doral, Florida hereby serves this Offer of Judgment on Defendant/Counter-Plaintiff, Triangle Associates, Inc. pursuant to Section 768.79 of Florida Statutes and Rule 1.442 of Florida Rules of Civil Procedure. This Offer of Judgment must be accepted in writing, within thirty (30) days, or it shall be deemed rejected. The Offer of Judgment is as follows:

- 1. PARTY MAKING PROPOSAL:** Plaintiff/Counter-Defendant, The City of Doral, Florida (the "City").
- 2. PARTY TO WHOM THE OFFER IS BEING MADE:** Defendant/Counter-Plaintiff, Triangle Associates, Inc. ("Triangle").

3. CLAIMS THE PROPOSAL ATTEMPTS TO RESOLVE: All claims asserted, or that could have been asserted, and set forth by Triangle against the City in its Counterclaim and all claims related to the Software License Agreement dated December 12, 2005 and any amendments thereto. This proposal resolves all damages that would otherwise be awarded in a final judgment in this matter.

4. TOTAL AMOUNT OF PROPOSAL: The City proposes to resolve all claims raised and asserted by Triangle against the City in its Counterclaim in exchange for payment to Triangle by or on behalf of the City, in the sum of \$7,500.00 (SEVEN THOUSAND FIVE HUNDRED DOLLARS AND 00/100).

A. NONMONETARY TERMS OF PROPOSAL: In exchange for payment, Triangle will execute and file a Notice of Voluntary Dismissal With Prejudice (attached as **Exhibit A**) thereby extinguishing the entire cause of action presented by Triangle against the City and will execute the General Release attached hereto as **Exhibit B**.

B. AMOUNT PROPOSED TO SETTLE CLAIM FOR PUNITIVE DAMAGES: Triangle has not alleged punitive damages and the City has not included any payment for punitive damages in this Offer of Judgment.

C. ATTORNEY'S FEES: Triangle has not alleged entitlement to attorney's fees as part of its Counterclaim. This Offer of Judgment does not include attorney's fees.

5. SERVICE AND FILING: The City served this Offer of Judgment on Triangle through counsel, but the City shall not file this Offer of Judgment unless necessary to enforce the provisions of Section 768.79 of Florida Statutes and/or Rule 1.442 of Florida Rules of Civil Procedure.

6. ACCEPTANCE AND REJECTION: The City shall deem this Offer of

Judgment rejected unless the City receives a written notice of acceptance from Triangle within thirty (30) days after service of the Offer of Judgment. The provisions of Rule 1.090(e) of Florida Rules of Civil Procedure do not apply to this Offer of Judgment. No oral communications shall constitute an acceptance, rejection or counteroffer of this Offer of Judgment.

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EXHIBIT A

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT, IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CASE NO. 2013-1299 CA 01

The City of Doral, Florida,

Plaintiff/Counter-Defendant,
vs.

Triangle Associates, Inc.,

Defendant/Counter-Plaintiff.

**DEFENDANT/COUNTER-PLAINTIFF'S NOTICE OF VOLUNTARY
DISMISSAL OF COUNTERCLAIM WITH PREJUDICE**

Defendant/Counter-Plaintiff, Triangle Associates, Inc., hereby dismisses its Counterclaim against Plaintiff/Counter-Defendant, The City of Doral, Florida, with prejudice.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ___ day of _____, 2013, a true and correct copy of the foregoing was sent via e-mail to John Herin, Esq. GrayRobinson, P.A. at john.herin@gray-robinson.com.

The Martinez Law Firm
1490 W. 68th Street, Suite 103
Hialeah, Florida 33014
(786) 536-5521 telephone
(786) 431-1357 facsimile

Daniel Martinez
Florida Bar No. 147338
dmartinez@themartinezfirm.com

EXHIBIT B

GENERAL RELEASE

KNOW ALL MEN BY THESE PRESENTS, that Triangle Associates, Inc. (including all of its officers, directors, members, employees, parent, subsidiary, successors, assigns, affiliate and/or related entities)(hereinafter "First Party"), for and in consideration of the sum of **SEVEN THOUSAND FIVE HUNDRED DOLLARS 00/100 Dollars (\$7,500.00)**, and other valuable considerations, received from or on behalf of The City of Doral, Florida (including all of its elected officials, managers and staff)(hereinafter "Second Party")(sometimes referred to as the "City"), the receipt whereof is hereby acknowledged,

HEREBY remises, releases, acquits, satisfies, waives and forever discharges the Second Party, of and from all, and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which the First Party ever had, now has, or which any personal representative, successor, heir or assign or transferee of the First Party, hereafter can, shall or may have, against the Second Party, for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of these presents (i.e. up to and through the date of execution of this General Release and delivery of it to and acceptance by the Second Party), including but not limited to the release of all claims the First Party alleged or could have alleged in: (i) the lawsuit styled *The City of Doral, Florida v. Triangle Associates, Inc.* pending in the Eleventh Circuit in and for Miami-Dade County, Case No. 2013-01299 CA 01; (ii) connection with or arising out of the Software License Agreement dated December 12, 2005 and any amendments thereto (iii) any and all other claims known or unknown, whether or not related to any of the forgoing matters set forth in items (i)-(ii) above the First Party has, has had or believes it may have against the Second Party.

The First Party acknowledges, represents and warrants that it is: (i) in good standing; (ii) duly authorized to execute and deliver this General Release; (iii) freely and voluntarily executing

and delivering this General Release to the Second Party; (iv) executing and delivering this General Release only after having consulted with its attorneys (v) not relying on any oral representations of the Second Party in connection with the execution and delivery of this General Release.

The First Party further represents and warrants that: (i) the undersigned signatory has full and complete authority to enter into this General Release on its behalf; (ii) it is the owner and holder of all rights and/or claims which it is settling and releasing hereunder; (iii) it has not assigned or otherwise transferred any such rights and/or claims released herein to any third party; (iv) this General Release is to be construed and applied as broadly as possible to provide the greatest benefit to the Second Party as is permitted under Florida law; and (v) it is releasing any and all claims for damages (whether such claims are for consequential, special, punitive or any other damages), specific performance, declaratory decrees and attorneys' fees and costs.

[SIGNATURE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, we have hereunto set my hand and seal this _____ day of _____, 2013.

TRIANGLE ASSOCIATES, INC.

By: _____
(Signature – in blue ink)

Print Name: _____

Print Title: _____

Signed, sealed and delivered
in the presence of:

(Witness Signature – Other than Notary Public)

Print Name: _____

(Witness Signature – Other than Notary Public)

Print Name: _____

STATE OF FLORIDA)
) SS:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____ 20 __,
by _____, on behalf of Triangle Associates, Inc., who took an
oath, and who is:

- PERSONALLY KNOWN TO ME -OR-
- PRODUCED THE FOLLOWING ID: _____
ID NO.: _____.

NOTARY PUBLIC
Print or Stamp Below Notary's Name:
Print or Stamp Below Commission No.:
Print or Stamp Below Commission Expires:
(NOTARY STAMP/SEAL BELOW)