

**MOHAWK AND INGHAM
LEASE**

RESOLUTION NO. 09-211

A RESOLUTION OF THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST (LRA) APPROVING THE ATTACHED LEASE BETWEEN THE LRA AND THE MIAMI-DADE HISTORICAL MARITIME MUSEUM FOR DOCKAGE OF THE USCGC MOHAWK AND USCGC INGHAM AT THE EAST QUAY PIER; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to section 2-941(c) of the Code of Ordinances, the LRA finds a public benefit to the proposed Lease, justifying a below-market rental rate;

NOW, THEREFORE, BE IT RESOLVED BY THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY, AS FOLLOWS:

Section 1: That the attached lease for dockage with the Miami-Dade Historical Maritime Museum, Inc. is hereby approved.

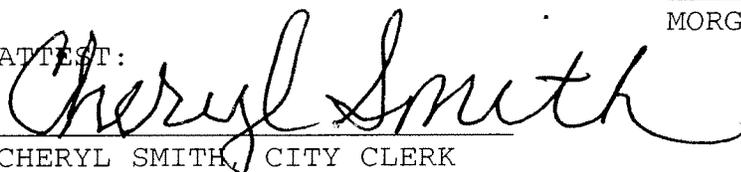
Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Authority.

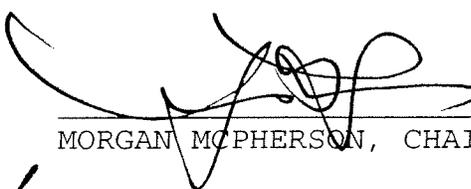
Passed and adopted by the Naval Properties Local Redevelopment Authority at a meeting held this 4th day of August, 2009

Authenticated by the presiding officer and Clerk of the Authority on August 5, 2009.

Filed with the Clerk August 5, 2009.

ATTEST:


CHERYL SMITH, CITY CLERK


MORGAN MCPHERSON, CHAIRMAN

Executive Summary



TO: City Commission

CC: Jim Scholl, Mark Finigan

FR: Marilyn Wilbarger, RPA, CCIM

DT: July 16, 2009

RE: Lease Renewal for the USS Mohawk CGC and the USCGC Ingham

ACTION STATEMENT

This is a request to consider a lease renewal for the US Mohawk CGC Maritime Museum with the addition of the USCGC Ingham, for the operation of a public education exhibit.

HISTORY

The City of Key West recognizes the importance of the maritime industry in the area and granted the USS Mohawk CGC Memorial Museum dockage along the East Quay Pier in Truman Annex pursuant to the original lease signed in August of 2006. Recently, a tremendous opportunity to add the USCGC Ingham, which is recognized as a National Historic Landmark, has become available. The proposed lease renewal considers both ships with the following terms:

Demised Premises: Dockage along the East Quay pier in Truman Annex, subject to relocation provisions and security restrictions.

Use: Public education and exhibitions representative of the history of the ships as well as onboard stays for groups such as the Scouts, etc.

Term: Ten years

Rent: \$1.00 per year plus Tenant shall pay a \$400.00 per month administrative fee with scheduled CPI increases

Utilities: Tenant shall pay for all utility connections and usage

Insurance: Tenant to provide general liability and contents coverage with the City of Key West named as additional insured.

Security Deposit: Waived

Other changed from the current lease are as follows:

- a. The termination provision has been deleted to allow the tenant to pursue grant funding which requires a long term lease.
- b. The condition that a partnership with the Mel Fisher Museum be formed has been deleted.
- c. The Administrative fee has cost of living increases in year 4 and 7.
- d. The tenant will provide a copy of the approved heavy weather plan as approved by the US Coast Guard Captain of the Port.

Advantages:

This is a prestigious location for the floating ships that can be viewed from water and land, offering an enticement for locals and visitors alike to come onboard. The ships will further diversify Key West's historic attractions and promote military tourism.

Disadvantages:

This is an under market rate lease that does not provide any direct income to the city.

FINANCIAL STATEMENT:

The lease calls for an administrative fee to offset city expenses in administering the lease and occupancy.

RECOMMENDATION:

Staff recommends approval of this lease.

ATTACHMENTS:

Draft Lease
Presentation

Lease Agreement

between

**CITY OF KEY WEST, NAVAL PROPERTIES
LOCAL REDEVELOPMENT AUTHORITY (LRA)**

as Landlord

and

MIAMI DADE HISTORICAL MARITIME MUSEUM, INC.

as Tenant

Dated September 1, 2009

THIS LEASE is made as of the 1st day of September, 2009 by and between the LANDLORD and TENANT identified below:

1. INFORMATION PROVISIONS: Information provisions in this section are intended to provide a summary of the corresponding sections of this lease and are in no way inclusive of the complete terms and conditions of this lease.

1.1 LANDLORD'S NAME & MAILING ADDRESS:

CITY OF KEY WEST, NAVAL PROPERTIES
LOCAL REDEVELOPMENT AUTHORITY (LRA)
525 ANGELA STREET
KEY WEST, FL 33040

1.2 TENANT'S NAME & MAILING ADDRESS:

MIAMI DADE HISTORICAL MARITIME MUSEUM, INC.
329 PEACON LANE
KEY WEST, FL 33040

TENANT'S TRADE NAME: D/B/A USS MOHAWK MEMORIAL MUSEUM
AND USCGC INGHAM MEMORIAL MUSEUM

1.3 GUARANTOR (S) AND ADDRESS: MIAMI DADE HISTORICAL MARITIME MUSEUM, 329 PEACON LANE, KEY WEST, FL 33040

1.4 DOCKAGE SPACE: (Section 2): **as per EXHIBIT "A"** located at the Truman Harbor Development Zone, subject to the deed covenants and restrictions in the BRAC transfer agreement between the US Navy and the City of Key West indicated on Exhibit N in that agreement and incorporated as Exhibit A herein.

EXPANSION/RIGHT OF FIRST REFUSAL: None

1.5 TERM (Section 3.): Ten Years

1.5.1 COMMENCEMENT DATE: September 1, 2009

1.5.2 RIGHT TO TERMINATE: None

1.5.3 RIGHT TO RENEW: Per City of Key West Code of Ordinances.

1.6 MINIMUM RENT FOR TERM (Section 4): The base rent for the term is One (\$1.00) Dollar per year.

1.6.1 ADDITIONAL RENT: TENANT shall pay an Administrative Fee of \$400.00 per month and any and all other sums of money or charges required to be paid by TENANT pursuant to the provisions of this lease.

1.6.2 RENT PAYMENT DUE DATE: Payable in advance on the first (1st) of each and every month of the term hereof.

- 1.6.3 LATE CHARGE: 15% of the amount in arrears if received after the fifth day of each and every month together with an administrative fee of \$50.00 for processing late payments.
- 1.6.4 PERCENTAGE RENT: N/A
- 1.6.5 HOLD OVER RENT: 150% of the then current Rent and Additional Rent
- 1.6.6 RENT CONCESSIONS: None
- 1.7 SECURITY DEPOSIT (Section 5) None required.
- 1.8 PERMITTED USE (Section 6): TENANT shall use the Dockage Space for educational purposes and the operation a floating maritime museum onboard the USS MOHAWK CGC (WPG-78) AND USCGC INGHAM (WHEC-35)
- 1.9 INSURANCE: (Section 9) \$1,000,000.00 commercial liability minimum per occurrence
- 1.10 ASSIGNMENT OR SUBLETTING: N/A
- 1.11 UTILITIES: (Section 17) TENANT shall pay for all connections, meters, and utility usage.

INITIALS: LANDLORD _____ TENANT 

WITNESSETH:

The LANDLORD and the TENANT for and in consideration of the keeping by the parties of their respective obligations hereinafter contained, as well as for one dollar (\$1.00) and other good and valuable consideration by each of the parties unto the other, in hand paid simultaneously with the execution and delivery of these presents, the receipt of which is hereby acknowledged, have agreed as follows:

2. DOCKAGE SPACE- Upon the terms and conditions hereinafter set forth, and in consideration of the payment from time to time by the TENANT of the rents hereinafter set forth, and in consideration of the performance continuously by the TENANT of each and every one of the covenants and agreements hereinafter contained by the TENANT to be kept and performed, the LANDLORD does hereby lease, let, and demise unto the TENANT, and the TENANT does hereby lease of and from the LANDLORD, the Dockage Space located at the Truman Harbor Development Zone, Truman Waterfront, situated, lying, and being in Monroe County, Florida AS SHOWN ON Exhibit "A" attached hereto and incorporated herein.

LANDLORD reserves the right from time to time with good cause, upon advance written notice to relocate TENANT to other Dockage Space prior to or during the term of this Lease. TENANT acknowledges and agrees that in the event that the Navy or the development of the marina requires use of the Dockage Space TENANT will re-locate the vessels at TENANT'S sole cost and expense.

3. TERM - The term of this Lease shall be for Ten (10) years and shall commence on September 1, 2009 and shall end at midnight August 31, 2019 unless sooner terminated as provided for herein. Upon occupancy TENANT shall furnish LANDLORD a written

statement stating the TENANT has accepted the Dockage Space for occupancy and setting forth the actual commencement and expiration dates of the Lease. TENANT'S written statement shall become attached to and incorporated into this lease as Exhibit "C". In the absence of TENANT'S written statement the lease term shall remain as stated above. A Lease Year is the twelve-month period beginning on the commencement date of each year and ending at the conclusion of the same date 364 days later. If possession of the Dockage Space shall for any reason not be delivered to Tenant on the Commencement Date, this Lease shall nevertheless continue in full force and effect, and no liability whatsoever shall arise against LANDLORD out of any delay other than the abatement of rent.

Right to Terminate – None

Right to Renew – TENANT shall have the right to renew this lease pursuant to City of Key West Code of Ordinances.

4. RENT - All rentals provided for herein shall be payable in advance, without prior demand therefore and without deductions or setoffs for any reason whatsoever on the first day of each and every month of the term hereof.

4.1 Late Charges. Any monthly rental not received by the fifth day of the month shall incur a late fee equal to fifteen percent 15% of the amount in arrears. In addition, all payments received after the due date shall incur a **\$50.00** administrative fee to cover the costs of collecting and processing late payments. LANDLORD shall have no obligation to accept less than the full amount of all installments of rental, additional rental or other amounts due hereunder and interest thereon which are due and owing by TENANT to LANDLORD. If LANDLORD accepts less than the full amount owing, LANDLORD may apply the sums received toward such TENANT'S obligations, as LANDLORD shall determine in its sole discretion.

4.2 Interest on Rent. Rent and additional rent not paid within fifteen (15) days of when due shall bear interest from the date due until paid at the highest rate permitted by law.

4.3 Obligation to Survive. TENANT'S obligation to pay rent that is accrued and unpaid hereunder shall survive the expiration or termination of the Lease.

4.4 The rent reserved under this Lease for the term hereof shall be and consist of:

(a) Beginning with the commencement date and throughout the term of this Lease, TENANT agrees to pay to the LANDLORD as and for minimum rent for the Dockage Space the annual amount of One (\$1.00) Dollar. TENANT shall also pay an Administrative Fee of \$400.00 per month. Administrative fee will be increased beginning in year four (4), and year (7) seven of the lease to an amount determined by the cumulative increase in the United States Department of Labor, Bureau of Labor Statistics, Miami - Ft. Lauderdale Consumers Price Index for All Urban Consumers.

(b) Simultaneously with each such payment, TENANT agrees to pay to LANDLORD any sales, use or excise tax imposed or levied against rent or any other charge or payment required hereunder to be made by TENANT which tax has been imposed or levied by any governmental agency having jurisdiction thereof, this shall include any new taxes imposed during the term of this Lease which are in addition to or in substitution for any such tax which is presently imposed.

(e) **Additional Rent.** Any and all other sums of money or charges required to be paid by Tenant pursuant to the provisions of this Lease, whether or not the same be so designated, shall be considered as "Additional Rent", and shall be payable and recoverable in the same manner as Rent. However, such Additional Rent shall be due upon demand and failure to pay such additional rent within seven (7) days shall be deemed a material breach of this lease. If Landlord shall make any expenditure for which Tenant is liable under this Lease and for which Tenant has not paid, the amount thereof shall be deemed Additional Rent due and payable by as indicated above. In addition to the foregoing rent, all other payments to be made by TENANT shall be deemed to be and shall become additional rent hereunder whether or not the same be designated as such and it shall be due and payable upon demand together with interest thereon at the highest rate permissible by law from their due date until the date it is paid. The LANDLORD shall have the same remedies for TENANT'S failure to pay said additional rental the same as for non-payment of rent. LANDLORD, at its election, shall have the right to pay or do any act which requires the expenditure of any sums of money by reason of the failure or neglect of TENANT to perform any of the provisions of this Lease, and in the event LANDLORD shall, at its election, pay such sums or do such acts requiring the expenditure of monies, TENANT agrees to pay LANDLORD, upon demand, all such sums, and the sums so paid by LANDLORD and any expenses incurred by LANDLORD in the payment of such sums together with interest thereon at the highest rate permitted by law from their due date through the date they are paid by TENANT shall be deemed additional rent and shall be payable and collectible as such. Rent shall be made payable to the LANDLORD as stated in Section 1.1 hereof.

(f) **Holding Over.** It is agreed that in the event of TENANT holding over after the termination of this lease, thereafter the tenancy shall be from month to month in the absence of a written agreement to the contrary; the TENANT shall pay to LANDLORD a monthly occupancy charge equal to One Hundred Fifty (150%) Percent of the then current monthly rent and additional rent including administrative fees, for each month from the termination or expiration of this Lease until the Dockage Space is delivered to the LANDLORD in the condition required herein, and LANDLORD'S right to damages for such illegal occupancy shall survive. In addition, TENANT shall pay all other charges payable by TENANT under this Lease

(g) **Rent Concessions.** None

(h) **Non-Profit Status.** Annually, upon filing, TENANT shall provide LANDLORD with proof of its non-profit status under Internal Revenue Service regulations.

5. SECURITY – No deposit required

6. USE OF THE DOCKAGE SPACE- TENANT shall use the Dockage Space for educational purposes and the operation a floating maritime museum onboard the USS MOHAWK CGC (WPG-78) AND USCGC INGHAM (WHEC-35)

TENANT further agrees:

(a) TENANT shall pay the cost of all utility connections, meters and any other improvements required to facilitate use as stated herein including but not limited to ingress/egress, life safety, all applicable code requirements, security, and sanitation. TENANT shall pay all costs associated with the mooring of the vessels including dock protection, mooring lines, cleats, etc.

(b) With respect to the dockage space, not to display any merchandise, solicit business or distribute advertising material nor in any manner use any part of the landside for purposes other than for their intended common use and not to obstruct any part thereof.

- (c) Not to display any banners, pennants, searchlights, balloons, or similar temporary advertising media with the exception of typical dress ship displays.
- (d) Not to commit waste in the Dockage Space or Common Areas and to keep the immediate adjacent areas including, without limitation, adjacent sidewalks, in a safe, neat, clean and orderly condition.
- (e) Not to use the Dockage Space or permit the same to be used in any manner which violates any law, ordinance, United States Navy deed restrictions, or constitutes a nuisance; for lodging purposes; or that would constitute an extra-hazardous use or violate any insurance policy of TENANT, LANDLORD or any other TENANT in the Property or increase the cost thereof.
- (f) To keep all garbage, refuse and solid waste inside in the kind of containers specified by LANDLORD, or to place the same outside the Dockage Space, prepared for collection, in the manner and at the times and places designated by LANDLORD or the appropriate disposal company. TENANT agrees not to burn or permit any burning of garbage or refuse. TENANT further agrees that, upon LANDLORD'S instruction, TENANT shall separate garbage for recycling and deposit the separate garbage in the receptacle designated by LANDLORD. TENANT further agrees to make every effort to recycle all glass, metal, paper and plastic refuse and solid waste. Sort glass by colors and metal and paper by type and deposit in the appropriate recycling containers provided by the LANDLORD.
- (g) TENANT shall contract directly with the pertinent governmental authority or disposal company and shall be responsible for all fees and costs of removal and disposal of solid waste, garbage, and refuse, including but not limited to, impact fees and dumpster rental. TENANT shall indemnify, save harmless and defend LANDLORD from and against any loss, claim, injury, damage or expense arising out of or related to the generation, storage, or removal or disposal of TENANT'S garbage, refuse or solid waste.
- (h) To use its best efforts to cause all trucks serving the Dockage Space to load and unload during the hours established by LANDLORD.
- (i) To take no action that would: (i) violate LANDLORD'S contracts if any, affecting the Property or (ii) cause any work stoppage, picketing or cause any manner or interference with LANDLORD or, occupants, customers or any person lawfully in and upon the Property (iii) violate the United States Navy deed restrictions.
- (j) Not to use amplified music or any other noise making machinery or devices that in LANDLORD'S determination is harmful or disturbing or in violation of the City of Key West Noise ordinance.
- (k) To abide by and observe all reasonable rules and regulations established from time to time by LANDLORD and LANDLORD'S insurance carrier with respect to the operation of the vessels, the Property and it's Common Areas. Rules and regulation are attached and incorporated herein as **EXHIBIT "B"**.
- (l) Not to conduct any auction, fire, bankruptcy or selling-out sale except in strict compliance with City Code Chapter 18.
- (m) TENANT shall not (either with or without negligence) cause or permit the escape, disposal or release of any biologically or chemically active or other hazardous substances or materials which

materials or substances in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such substances or materials, nor allow to be brought onto the vessels or the Property any such materials or substances except to use in the ordinary course of TENANT'S business, and then only after written notice is given to LANDLORD of the identity of such substances or materials. Without limitation, hazardous substances and materials shall include those described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901 et seq., any applicable state or local law and the regulations adopted under these acts. In addition, TENANT shall execute affidavits, representations and the like from time to time at LANDLORD'S request concerning TENANT'S best knowledge and belief regarding the presence of hazardous substances or materials in the Dockage Space. In all events, TENANT shall indemnify LANDLORD in the manner elsewhere provided for in this Lease against any liability resulting from any release of hazardous substances or materials in the Dockage Space or on the Property by TENANT or its agents, while TENANT is in possession or caused by TENANT or persons acting under TENANT which is due to hazardous substances that TENANT or its agents brought onto the Dockage Space or Property.

(n) TENANT shall be solely responsible for all provisioning necessary to secure the vessels at all times, including but not limited to impending storms, hurricanes or other wind or rain storms, at TENANT'S sole cost and expense. TENANT agrees to provide the LANDLORD with a copy of the current heavy weather plan as approved by the USGC Captain of the Port of Key West, FL and reviewed by the Commanding Officer Naval Air Station Key West in accordance with CFR Title 33 part 334- Danger Zone and Restricted Area Regulations..

7. COVENANT OF QUIET POSSESSION - So long as TENANT pays all of the rent and charges due herein, TENANT shall peaceably and quietly have, hold, and enjoy the Dockage Space throughout the term of this Lease without interference or hindrance by LANDLORD or any person claiming by, through, or under LANDLORD. TENANT agrees that in the event of heightened security conditions, implementation of some procedures, either by the Navy (United States Government) or the City of Key West may result in curtailed or reduced non-government access to the Truman Waterfront and to Truman Harbor for periods of time. Additional security measures may include, but are not limited to, inspection of vessels or boats entering the harbor, escort of vessels or boats in the harbor, and placement of water-borne barriers or booms. Non-routine security measures such as evacuation of the harbor and its adjacent shores would be undertaken in conjunction with local civil authorities and as permitted by law.

TENANT also agrees and acknowledges that the government and the city of Key West assume no liability to the TENANT or its sub-lessees, licensees or successors and assigns should implementation of any of the above security procedures or any of the development plans interfere with or disrupt the use of the Dockage Space or the TENANT'S operations in Truman Harbor or result in any damages or economic hardships to the TENANT or its sub-lessees, licensees or successors and assigns and shall have no claim on account of any such interference against the government or the city of Key West or any officer, agent, employee, or contractor thereof.

8. INDEMNIFICATION - TENANT does hereby agree to indemnify, defend and save LANDLORD harmless from and against any and all liability for any injury to or death of any person or persons or damage to property (including adjoining property for environmental damage) in any way arising out of or connected with the conditions, use or occupancy of the Dockage Space, or in any way arising out of the activities of TENANT, its agents, employees, licensees or invitees and from reasonable attorney's fees, incurred by LANDLORD in connection therewith, excepting, however, liability caused by LANDLORD'S gross negligence in its failure to perform any of

LANDLORD'S covenants, obligations or agreements of this Lease.

9. TENANT'S INSURANCE - TENANT covenants and agrees with LANDLORD that TENANT shall:

A. At TENANT'S sole cost and expense, during the entire Term hereof, procure, pay for and keep in full force and effect; (i) an occurrence form commercial general liability policy, covering the Dockage Space and the operations of Tenant and any person conducting business in, on or about the vessels or Dockage Space in which the limits with respect to liability and property damage shall not be less than One Million (\$1,000,00.00) Dollars per occurrence (ii) all risk property insurance, including theft coverage, written at replacement cost value and a replacement cost endorsement insuring TENANT'S improvements and betterments, fixtures, furnishings, equipment and any other property belonging to TENANT; and (iii) workers compensation coverage as required by the provisions of Florida statute. Any consignment agreement used by TENANT must provide that consignor acknowledge that the LANDLORD does not have any liability whatsoever for any damage which may be done to items left in the Dockage Space on consignment. The TENANT must provide the LANDLORD with a copy of any consignment agreement used by TENANT regarding the Dockage Space. LANDLORD shall not be responsible for damage to any property belonging to TENANT or consignor. TENANT completely indemnifies the LANDLORD with regard to any claims made by any consignor for any reason. From time to time during this Lease, at LANDLORD'S request, TENANT shall (i) procure, pay for and keep in full force and effect such other insurance as LANDLORD shall require and (ii) increase the limits of such insurance as LANDLORD may reasonably require.

B. All policies of insurance required to be carried by TENANT pursuant to this lease shall be written by responsible insurance companies authorized to do business in Florida with an AM Best rating of A-VI or better. Any such insurance required to be carried by TENANT hereunder may be furnished by TENANT under any blanket policy carried by it or under a separate policy therefore. A copy of each paid up policy evidencing such insurance or a certificate of the insurer, certifying that such policy has been issued, providing the coverage required by this Lease and containing provisions specified herein, shall be delivered to LANDLORD prior to the commencement of the Term of this Lease and, upon renewals, but not less than sixty (60) days prior to the expiration of such coverage. In the event TENANT shall fail to procure such insurance, LANDLORD may, at its option, procure the same for the account of TENANT, and the cost thereof shall be paid to LANDLORD as an additional charge upon receipt by TENANT of bills therefore, together with an administrative fee equal to fifteen (15%) percent to cover the cost of the LANDLORD'S efforts to procure such policy.

C. Each policy evidencing insurance required to be carried by TENANT pursuant to this Lease shall contain the following provisions and/or clauses: (i) a provision that such policy and the coverage evidenced thereby shall be primary and non-contributing with respect to any policies carried by LANDLORD; (ii) a provision naming LANDLORD and any other parties in interest as designated by LANDLORD as an additional insured (except with respect to worker's compensation insurance); and (iii) a provision that the insurer will not cancel, materially change or fail to renew the coverage provided by such policy without first giving LANDLORD thirty (30) days prior written notice.

Any general liability or other policy insuring the LANDLORD does not provide any contributing or excess coverage for TENANT. The policies TENANT procures for TENANT'S exposure are the only coverage available to TENANT.

10. ASSIGNMENT AND HYPOTHECATION - This Lease is not transferable or assignable

and may not be hypothecated nor sublet without the prior written consent of the LANDLORD which may be withheld and shall be at the sole discretion of the LANDLORD.

This TENANT may assign the Lease without the written consent of the LANDLORD for the sole and limited purpose of collateralizing a loan from a financial institution.

Any assignment or sub-letting, even with LANDLORD'S consent shall not relieve TENANT from liability for payment of Rent or from the obligation to keep and be bound by the agreements of this Lease. The acceptance of Rent from any other person shall not be deemed to be a waiver of any of the agreements of this Lease or to be consent to the assignment for the benefit of creditors or by operation of law and shall not be effective to transfer any rights to any assignee without prior consent of LANDLORD. In the event TENANT wishes to assign this Lease and LANDLORD consents to such assignment, LANDLORD may charge a reasonable fee, not to exceed \$500.00 to help offset any costs LANDLORD may have in preparing such assignment, or in examining the information, financial statements, operating history, references, etc., necessary to effectuate same. Any assignment, transfer, hypothecation, mortgage, or subletting without LANDLORD'S written consent shall give LANDLORD the right to terminate this Lease and to re-enter and repossess the Dockage Space and the LANDLORD'S right to damages shall survive.

If the TENANT is a corporation, then a sale or transfer of a controlling interest in the corporation by sale of stock or otherwise shall constitute an assignment for purposes of this provision.

11. SUBORDINATION - This Lease, and all rights of TENANT hereunder, are and shall be subject and subordinate to all mortgages, bond indentures and any other financing instrument (hereinafter referred to as security agreements) which may now or hereafter affect the Dockage Space and to each and every advance made or hereafter to be made under such security agreements and to all renewals, modifications, replacements and extensions of such security agreements and spreaders and consolidations of such security agreements. This paragraph shall be self operative and no further instrument of subordination shall be required to make it effective, however, TENANT shall promptly execute and deliver any instrument reasonably requested to evidence such subordination.

If the holder of any such security instrument shall succeed to the rights of LANDLORD under this Lease, then at the request of such party so succeeding to the LANDLORD'S rights and upon such successor LANDLORD'S written agreement to accept TENANT'S attornment, TENANT shall attorn to such successor LANDLORD and will execute such instruments as may be necessary or appropriate to evidence such attornment. Upon such attornment, this Lease shall continue in full force and effect as if it were a direct Lease between the successor LANDLORD and TENANT upon all the terms, conditions, and covenants as are set forth in this Lease and shall be applicable after such attornment.

TENANT shall deliver to LANDLORD or the holder of any such security instrument or auditors, or prospective purchaser or the owner of the fee, when requested by LANDLORD, a certificate to the effect that this Lease is in full force and that LANDLORD is not in default therein, or stating specifically any exceptions thereto. Failure to give such a certificate within ten business days after written request shall be conclusive evidence that the Lease is in full force and effect and LANDLORD is not in default and in such event, TENANT shall be stopped from asserting any defaults known to TENANT at that time.

12. CONDEMNATION

(a) It is further understood and agreed that if at any time during the continuance of this Lease the

legal title to the real estate or the improvements or buildings located thereon or any portion thereof be taken or appropriated or condemned by reason of eminent domain, there shall be such division of the proceeds and awards in such condemnation proceedings and such abatement of the fixed rent and other adjustments made as shall be just and equitable under the circumstances. If the LANDLORD and the TENANT are unable to agree upon what division of the condemnation award, abatement of fixed rent, or other adjustments are just and equitable within thirty (30) days after such award has been made, then the matters in dispute shall, by appropriate proceedings, be submitted to a court having jurisdiction of the subject matter of such controversy for its decision and determination of the matters in dispute. If the legal title to the entire Dockage Space be wholly taken by condemnation, or if the portion taken will prevent the Dockage space from being used for the purpose the TENANT intends, this Lease shall be canceled.

(b) In general, it is the intent and agreement of the parties that upon condemnation, the parties hereto shall share in the condemnation award to the extent that they would be entitled to receive compensation and damages under the Florida law for the depreciation, damage, or destruction of their interests by the exercise of the right of eminent domain. In no event shall TENANT be permitted to receive a share based on the value of the land or buildings, and/or improvements.

13. TENANT'S DEFAULT

(a) If the TENANT shall fail to pay any of the taxes or assessments herein provided for; or in case of the sale of or forfeiture of the Dockage Space or any part thereof during the demised term for non-payment of any tax or assessment; or in case the TENANT shall fail to keep insured the improvements which are now or which may at any time hereafter be upon the property, as herein provided for; or shall fail to spend insurance money, as herein provided for; or if the TENANT shall fail to perform any of the covenants of this Lease by it to be kept and performed; then, in any of such events, except in the event of non payment of rent, upon ten (10) business days written notice, within which the TENANT may cure, and upon its failure to cure, it shall and may be lawful for the LANDLORD, at its election, to declare the demised term ended and to re-enter upon said Dockage Space, and improvements situated thereon, or any part hereof, either with or without process of law, the TENANT hereby waiving any demand for possession of the Dockage Space and any and all improvements then situated thereon. In the event of nonpayment of rent, LANDLORD may assert its right of notice and eviction pursuant to Chapter 83, Florida Statutes.

(b) Or, the LANDLORD may have such other remedies as the law and this instrument afford, and the TENANT covenants and agrees that upon the termination of said demised term, at such election of the said LANDLORD, or in any other way, TENANT will surrender and deliver up the Dockage Space and property (real and personal) peaceably to the LANDLORD, its agent, or attorneys, immediately upon the termination of the said demised term. If the TENANT, its agents, attorneys, or shall hold the Dockage Space or any part thereof, one (1) day after the same should be surrendered according to the terms of this Lease, it shall be deemed guilty of forcible detainer of the Dockage Space under the statute and shall be subject to eviction or removal, forcibly or otherwise, with or without process of law.

(c) BANKRUPTCY OF TENANT. IN THE EVENT TENANT FILES ANY FORM OF BANKRUPTCY, LANDLORD SHALL BE ENTITLED TO IMMEDIATE TERMINATION OF THE AUTOMATIC STAY PROVISIONS OF 11 U.S.C. §362, GRANTING THE LANDLORD COMPLETE RELIEF AND ALLOWING THE LANDLORD TO EXERCISE ALL OF HIS LEGAL AND EQUITABLE RIGHTS AND REMEDIES, INCLUDING, WITHOUT LIMITATION, THE RIGHT TO TERMINATE THIS LEASE AND DISPOSSESS TENANT FROM THE DEMISED PREMISES IN ACCORDANCE WITH FLORIDA LAW. ADDITIONALLY, TENANT AGREES NOT TO DIRECTLY OR INDIRECTLY OPPOSE OR OTHERWISE DEFEND AGAINST THE

LANDLORD'S EFFORT TO GAIN RELIEF FROM ANY AUTOMATIC STAY. THE LANDLORD SHALL BE ENTITLED AS AFORESAID TO THE LIFTING OF THE AUTOMATIC STAY WITHOUT THE NECESSITY OF AN EVIDENTIARY HEARING AND WITHOUT THE NECESSITY OR REQUIREMENT OF THE LANDLORD TO ESTABLISH OR PROVE THE VALUE OF THE LEASEHOLD, THE LACK OF ADEQUATE PROTECTION OF HIS INTEREST IN THE LEASEHOLD, OR THE LACK OF EQUITY IN THE SAME. TENANT SPECIFICALLY AGREES AND ACKNOWLEDGES THAT THE LIFTING OF THE AUTOMATIC STAY HEREUNDER BY THE APPROPRIATE BANKRUPTCY COURT SHALL BE DEEMED TO BE "FOR CAUSE" PURSUANT TO SECTION 362(D) (1).

(d) Where the alleged default consists of some alleged violation of any term of this Lease, other than the payments of money, including rent, the LANDLORD may not declare this Lease in default until such violation shall have continued for ten (10) days after the LANDLORD shall have given the TENANT written notice of such violation, and TENANT shall not have undertaken, during said ten (10) day notice period, to cure said violation by vigorous and affirmative action, provided, however, that nothing herein contained shall be construed as precluding the LANDLORD from having such remedy as may be and become necessary in order to preserve the LANDLORD'S right and interest of the LANDLORD in the Dockage Space and in this Lease, even before the expiration of the grace or notice periods provided for in this paragraph, if, under particular circumstances then existing, the allowance of such grace or the giving of such notice would prejudice or endanger the rights and estate of the LANDLORD in this Lease and in the Dockage Space. With respect to the payment of the insurance premiums, the same must be paid at least fifteen (15) days prior to the time when the policies would lapse for the failure to pay premiums thereon, and evidence of such payment given to the LANDLORD without any written notice being required to be served upon the TENANT in connection therewith.

(e) All default and grace periods shall be deemed to run concurrently and not consecutively.

(f) It is mutually covenanted and agreed that the various rights, powers, options, elections, privileges, and remedies of the LANDLORD contained in this Lease shall be construed as cumulative and no one of them shall be construed as being exclusive of the other or exclusive of any rights or priorities allowed by law.

(g) It is further covenanted and agreed by and between the parties hereto that the right given to the LANDLORD in this Lease to collect the rent that may be due under the terms of this Lease by any proceeding under same, or the right to collect any additional rent, money, or payments due under the terms of this Lease by any proceedings under same, or the right given the LANDLORD to enforce any of the terms and provisions of this Lease shall not in any way affect the right of such LANDLORD to declare this Lease void and the terms ended hereby, as herein provided, when default is made in the payment of said rent or when default is made by the TENANT in any of the terms and provisions of this Lease.

(h) If at any time, by reason of the failure of the TENANT to keep and perform any covenant or agreement which, under the terms of this Lease, the TENANT is bound and obligated to keep and perform, it becomes necessary for LANDLORD to employ an attorney to protect the rights and interests of the LANDLORD in the property demised or to enforce the Lease or proceed under it in any particular, then in any of such events, the TENANT will owe and will pay unto LANDLORD all costs of Court and reasonable attorneys fees incurred or expended by the LANDLORD in taking such actions, including actions taken in all trial and appellate courts.

14. TENANT'S REPAIRS - The TENANT covenants and agrees with the LANDLORD that during the continuance of this Lease, the TENANT shall be solely responsible for maintaining the

Dockage Space in a clean, sanitary and safe condition in accordance with the laws of the State of Florida and in accordance with all directions, rules and regulations of all inspectors, governmental departments and agencies having jurisdiction over the Dockage Space to ensure a good state of repair of the Dockage Space and all improvements, including any special equipment brought, placed, or installed upon the Dockage Space by TENANT; nor will the TENANT suffer or permit any strip, waste, or neglect of any improvement or such personal property to be committed; and the TENANT will repair, replace, and renovate the said improvements and personal property as often as it may be necessary in order to keep the improvements and the personal property which is subject to the LANDLORD'S lien, in good repair and condition. In the event that improvements or repairs are contemplated prior to or at the beginning of or during TENANT'S occupancy, then this provision shall apply to the condition of the property as of the last repair, improvement or renovation.

In the event that LANDLORD shall deem it necessary or be required by any governmental authority to repair, alter, remove, reconstruct or improve any part of the Dockage Space or of the property (unless the same result from TENANT'S act, neglect, default or mode of operation, in which event LANDLORD shall make all such repairs, alterations or improvements at TENANT'S sole cost and expense), then the same shall be made by LANDLORD with reasonable dispatch, and should the making of such repairs, alterations and improvements cause any interference with TENANT'S use of the Dockage Space, such interference shall not relieve TENANT from the performance of its obligations hereunder nor shall such interference be deemed an actual or constructive eviction or partial eviction or result in abatement of rental.

15. ALTERATIONS

TENANT shall not make any alterations, additions or improvements to the Dockage Space (whether or not the same may be structural in nature) without LANDLORD'S prior written consent. All alterations, additions, or improvements made to the Dockage Space, except movable furniture and equipment installed at TENANT'S expense, shall be the property of the LANDLORD and remain upon and be surrendered with the Dockage Space at the expiration of the term of this Lease; provided, however, that LANDLORD may require TENANT to remove any additions made at TENANT'S request to the Dockage Space and to repair any damage caused by such removal, and provide further, that if TENANT has not removed its property and equipment within ten (10) days after the expiration or termination of this Lease, LANDLORD may elect to retain the same as abandoned property.

In the event TENANT shall request LANDLORD'S permission, and LANDLORD shall permit TENANT to perform any alterations, additions, improvements or repairs to the Dockage Space, TENANT shall (i) submit its plans and specifications to LANDLORD for its approval prior to the commencement of any construction, (ii) obtain all necessary permits prior to the commencement of any construction, (iii) only use contractors approved by LANDLORD, (iv) not permit any construction liens to be placed or remain on the Dockage Space. In the event a construction lien shall be filed against the Dockage Space as a result of work undertaken by TENANT, TENANT shall within ten (10) days of receiving notice of such lien, discharge the lien of record either by payment of the indebtedness to the lien claimant or by filing a bond as security therefore. All such work made by or on behalf of TENANT shall be performed in such manner as LANDLORD may designate and in accordance with all applicable laws and regulations of governmental authorities having jurisdiction over the same. All such work by TENANT or its contractors shall not interfere with, impede or delay any work by LANDLORD or its contractors, tenants or TENANT'S contractors. All contractors engaged by TENANT shall be bondable, licensed contractors, possessing good labor relations, and capable of performing quality workmanship.

16. EQUIPMENT, FIXTURES AND SIGNS

(a) All furnishings, fixtures, trade fixtures, equipment, and signs used in the Dockage Space by TENANT but provided by LANDLORD, will, at all times, be, and remain, the property of LANDLORD. Provided that this Lease is in good standing and subject to the LANDLORD'S lien for rent, TENANT will have the right to remove any furniture or fixtures provided by TENANT, or any part thereof, from the Dockage Space during the term of this Lease, at the expiration thereof, or within a reasonable time thereafter, provided, however, that TENANT, in so doing, does not cause any irreparable damage to the Dockage Space, and provided further, that TENANT will pay or reimburse LANDLORD for the reasonable expense of repairing damage caused by such removal.

(b) All TENANT signs shall be approved by the LANDLORD and must meet all applicable codes. The exact location, style, text, and color(s) of the sign shall be agreed upon by the LANDLORD, in writing, prior to TENANT'S installation. LANDLORD'S approval shall not be unreasonably withheld or delayed.

17. ADDITIONAL COVENANTS OF THE TENANT

(a) The TENANT shall pay for all utilities associated with the use of the Dockage Space including, but not limited to, water, electricity, sewer, gas and waste, (if applicable).

(b) The TENANT covenants and agrees with the LANDLORD that no damage or destruction to any improvement by fire, windstorm, or any other casualty shall be deemed to entitle the TENANT to surrender possession of the Dockage Space or to terminate this Lease or to violate any of its provisions or to cause any abatement or rebate in the rent then due or thereafter becoming due under the terms hereof, unless otherwise specifically provided for herein. If the Lease be canceled for the TENANT'S default at any time while there remains outstanding any obligation from any insurance company to pay for the damage or any part thereof, then the claim against the insurance company shall, upon the cancellation of the within-Lease, be deemed immediately to become absolute and unconditional property of the LANDLORD. In the event of destruction to the Dockage Space by casualty or hazard, LANDLORD will have the option of canceling the Lease, or repairing the Dockage Space, and in the event that the LANDLORD elects to repair the Dockage Space, an appropriate abatement of rent will occur.

(c) The TENANT covenants and agrees with the LANDLORD that nothing in this Lease contained shall ever be construed as empowering the TENANT to encumber or cause the LANDLORD to encumber the title or interest of the LANDLORD.

(d) The TENANT covenants and agrees with the LANDLORD that, at the termination of this Lease, the TENANT will peaceably and quietly deliver unto the LANDLORD, possession of the Dockage Space and all improvements located thereon, as well as the TENANT'S interest in all fixtures and equipment appertaining thereto.

(e) The TENANT agrees not to make any changes or alterations without written approval of the LANDLORD. This provision does not apply to TENANT'S trade fixtures and/or other non-permanent fixtures onboard the vessels.

18. LANDLORD'S RIGHT OF ENTRY - The LANDLORD or its agents shall have the right to enter upon the Dockage Space at all reasonable times to examine the condition and use thereof, provided only that such right shall be exercised in such manner as not to interfere with the TENANT in the conduct of the TENANT'S business in said Dockage Space. If the said Dockage Space is damaged by fire, windstorm, or by any other casualty then the LANDLORD may enter

upon the Dockage Space to make emergency repairs. LANDLORD may enter upon the Dockage Space to make renovations and repairs of a non-emergency nature by giving reasonable notice to the TENANT, and in such a manner as to minimize any inconvenience to both parties.

19. TENANT'S ACCEPTANCE - The TENANT accepts the Dockage Space and improvements thereon in an as is condition and all improvements and additions shall be at the sole expense of the TENANT except as may be otherwise provided for in this Lease.

20. MISCELLANEOUS PROVISIONS - It is mutually covenanted and agreed by and between the parties as follows:

- (a) That no waiver of a breach of any of the covenants in this Lease contained shall be construed to be a waiver of all succeeding breach of the same covenant.
- (b) That time is of the essence in every particular and particularly where the obligation to pay money is involved.
- (c) That all arrearages in the payment of rent or in the repayment to the LANDLORD of any sums which the LANDLORD may have paid in order to cure a default of the TENANT (as elsewhere herein provided for), shall bear interest from the date when due and payable at the highest rate permitted by law until paid.
- (d) That no modification, release, discharge, or waiver of any provision hereof shall be of any force, effect, or value unless in writing and signed by the persons who are then LANDLORD and TENANT.
- (e) That all covenants, promises, conditions, and obligations contained herein or implied by law, or covenants running with the land, shall attach to and be binding upon the heirs, executors, administrators, successors, legal representatives, and assigns of each of the parties to this Lease.
- (f) That this instrument contains the entire agreement between the parties as of this date, and that the execution hereof has not been induced by either of the parties by representations, promises or understandings not expressed herein, and that there are not collateral agreements, stipulations, promises, or understandings whatsoever between the respective parties in any way touching the subject matter of this instrument which are not expressly contained in this instrument.
- (g) That when either of the parties desire to give notice to the other or others in connection with and according to the terms of this Lease, such notice shall be deemed given when it shall have been deposited in the U.S. Registered or Certified mail with sufficient postage pre-paid thereon to carry it to its addressed destination. Said notice shall be addressed as follows:

AS TO LANDLORD: PROPERTY MANAGEMENT
CITY OF KEY WEST
P.O. BOX 6434
KEY WEST, FL 33040

AS TO TENANT: MIAMI DADE HISTORICAL MARITIME MUSEUM
P.O. BOX 186
KEY WEST, FL 33040

When the parties on either side (LANDLORD or TENANT) consists of more than one person,

notice or default by one of the persons on that side shall constitute notice or default by all of the persons on that side.

(h) This Lease and the provisions thereof shall be governed by and construed and enforced in accordance with the laws of the State of Florida.

(i) If the TENANT or TENANTS are signing in a capacity other than as individuals, then the LANDLORD may require personal guarantees from individuals as the LANDLORD deems necessary.

(j) LANDLORD may delegate its decision-making authority regarding any provision of this Lease to an Advisory Board.

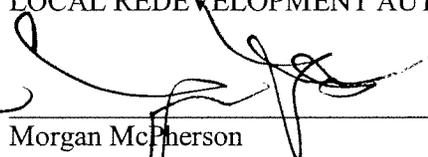
IN WITNESS WHEREOF, the parties hereto have caused the foregoing Lease to be executed on the day and year first above written.

ATTEST

LANDLORD:
CITY OF KEY WEST, NAVAL PROPERTIES
LOCAL REDEVELOPMENT AUTHORITY (LRA)



Cheryl Smith, City Clerk



Morgan McPherson
Mayor
City of Key West

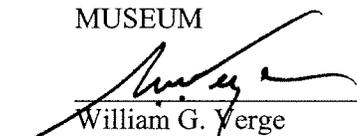
Date: 9-2-09

Date: 9-2-09

TENANT:
MIAMI DADE HISTORICAL MARITIME
MUSEUM



WITNESS



William G. Verge
Executive Director

Date: 9/1/2009

Date: 9/1/2009

EXHIBIT "A" Dockage Space, Site Plan

EXHIBIT “B” Rules and Regulations

To be developed.

EXHIBIT "C"

TENANT'S written notice of acceptance of the Dockage Space and setting forth the commencement and expiration dates of the lease.