RESOLUTION NO. 15-117

A RESOLUTION OF THE CAROLINE STREET CORRIDOR AND BAHAMA VILLAGE COMMUNITY REDEVELOPMENT AGENCY (CRA), APPROVING THE ATTACHED "LEASE AGREEMENT" (HALF SHELL RAW BAR) BETWEEN THE CRA AND MORO MANAGEMENT, INC D/B/A HALF SHELL RAW BAR; PROVIDING FOR AN EFFECTIVE DATE

NOW, THEREFORE, BE IT RESOLVED BY THE CAROLINE STREET CORRIDOR AND BAHAMA VILLAGE COMMUNITY REDEVELOPMENT AGENCY, AS FOLLOWS:

Section 1: That the attached Lease Agreement between the CRA and Moro Management, Inc. d/b/a/ Half Shell Raw Bar 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 Agency.

Passed and adopted by the Caroline Street Corridor and Bahama Village Community Redevelopment Agency at a meeting held this 17 day of March, 2015.

Authenticated by the presiding officer and Clerk of the Agency on March 18, 2015.

Filed with the Clerk March 18, 2015.

Chairman Craig Cates	Yes
Vice Chair Mark Rossi	Yes
Commissioner Teri Johnston	Yes
Commissioner Clayton Lopez	Yes
Commissioner Billy Wardlow	Yes
Commissioner Jimmy Weekley	Yes
Commissioner Tony Yaniz	Yes

CRAIG CATES, CHAIRMAN

ATTEST:

CHERYL SMITH, CITY CLERK

Executive Summary

TO: **Key West Bight Management District Board**
Caroline Street Community Redevelopment Agency

CC: **Jim Scholl**

FR: **Marilyn Wilbarger, RPA, CCIM**

DT: **February 19, 2015**

RE: **Half Shell Raw Bar Lease Renewal**

ACTION STATEMENT:
This is a request to approve a lease renewal for Moro Management Inc. DBA the Half Shell Raw Bar located at 231 Margaret Street.

BACKGROUND:
The current 20 year lease per City Resolution 97-344 will expire March 31, 2016. The lease was previously assigned to Smithburg, Inc. per Resolution 03-089 and to the current tenant Moro Management per Resolution 12-345 in 2012. The proposed terms of the renewal are as follows:

Permitted Use: Operation of a restaurant containing 247 licensed seats with alcohol, a retail area for logo apparel, gifts, souvenirs, and fish market sales

Demised Premises: **9715** square feet per a new survey that is comprised of:

Main Building	7827
Covered Outdoor Dining	203
Open Air Dining	1089
Storage	596

Tenant will vacate the fish market space effective with the commencement of the renewal term

Square Footage for Common Area Maintenance Charges (CAM): **8873** square feet which reflects a 50% reduction for outdoor space

Main Building	7827
Covered Outdoor Dining	203
Open air Dining	545
Storage	298

Term:	Ten years effective April 1, 2015
Rate:	Blended rate of $29.19 for 9,715 sf comprised of: $31.00 per square foot for the main building $26.00 per square foot for covered outdoor dining $24.00 for the open air dining area $16.00 per square foot for the storage area
Increases:	Annual CPI increases in base rent
Percentage Rent:	6% over a breakpoint in sales which is $4,726,374.50 in year one of the renewal and Tenant's 2014 sales were $4,640,935
Use of the Margaret Street Plaza:	6 times per year and if the events require a special event permit they will be limited to 5 events per year per city ordinance. The events must not close down the small parking lot in front of the restaurant and all events are subject to the City's approval.
Building Improvements:	The Tenant will make all improvements necessary to complete the replacement of the roof as per the scope attached to the lease as Exhibit "E" at Tenant's sole cost and expense. If requested by the Tenant, Landlord will provide roof replacement funding in an amount not to exceed $150,000 as determined by final competitive bidding. The final approved amount will be reimbursed by Tenant on a monthly basis over the term of the lease for the full amount plus interest calculated at the prime rate plus 100 basis points (1%) which shall be adjusted annually at the beginning of each lease year. The reimbursement will be considered additional rent and subject to the lease provisions therefore. The Tenant also agrees to make the repairs identified in the building inspection report which is attached to the lease as Exhibit "F".
Security:	Security for the payment of rent and repayment of the amortized funds will be in the form of a personal guaranty from Pasquale W. Croce and an irrevocable letter of credit in the amount equal to six (6) months of rent. Additionally, pursuant to Sec. 2-871 of the Key West Code of Ordinances the award of a lease of city-owned property with annual rentals that will exceed $100,000.00 and all extensions or renewals thereof will require a background check of persons awarded a lease. If any such person is found by the police department to have been

convicted of a felony within the past five years or found to have been convicted of a public entity crime and is then listed on the convicted vendor list, as established in F.S. § 287.133, the proposed lease or sublease, concession or franchise agreement or any extension or renewal thereof with such person shall not be executed by the city or, if it has been executed, it shall be subject to revocation and be voidable by the city commission after notice and hearing.

Also, every person applying for a lease, a lease renewal or a sublease of city-owned property or a concession or franchise agreement shall submit to the city, together with the application, a sworn disclosure statement that contains the following financial information for the immediately prior two calendar years: a statement attesting to the applicant's net worth, assets and liabilities, annual gross income, and primary source of such income. In addition to such disclosures, any business entity shall submit a copy of its organizational documents, together with a list of all current principals.

The city shall consider financial information for each applicant as a factor in making its award determination. The respective lease, sublease, concession or franchise agreement of any person who intentionally or knowingly supplies false or misleading information or who omits material information on the disclosure form under this section shall be subject to revocation and shall be voidable by the city commission after notice and a hearing.

FINANCIAL IMPACT:

The base rent proposed is $283,580.85 in year one of the lease and will be increased annually based upon the Consumer Price index. Reimbursement of operating expenses in year one of the lease will be approximately $35,935.65 based on current estimates. The Tenant has vacated the fish market located in the Margaret Street Plaza which will become 1,100 square feet of re-captured space that will produce additional rent of approximately $45,000 annually thereby increasing the income to the CRA as there is no charge for this space in the current lease. If roof replacement funding is requested it will be transferred from the unrestricted reserves of Fund 405.

For comparison purposes, the current lease and proposed lease basic economic terms are detailed here, as follows:

	Current Lease	**Proposed Lease**
Square Feet	9,212 +1,100 (fish market)	9,715 (re-measured)
Rent	$285,756	$283,580
% Rent	5%	6%
CAM Square Feet	9,212	8,873
CAM Reimbursement	$37,308	$35,935

For further comparison, the current base rents in City restaurant leases are as follows:

Half Shell	$29.19 (proposed)
Turtle Kraals	$25.18
Conch Republic Seafood	$24.54
Waterfront Brewery	$21.00
El Meson de Pape	$32.93
Southernmost Beach Café	$36.46

CONCLUSION:
The proposed terms of the lease renewal represent a market rate for the property and the rent will increase annually based upon the Consumers Price Index which will maintain the base rental rate as adjusted for inflation. The percentage rent will be increased from 5% to 6% which is consistent with the other leases. The use will remain unchanged which supports the historic maritime flavor of the seaport. The Tenant has made significant improvements in the demised premises and will replace the roof at their cost in addition to other deferred maintenance as outlined in the building inspection report. As the Historic Seaport is within a redevelopment area there have been several leaseholders that have received financial support from the CRA some of which were in the form of rent credits issued in exchange for the improvements to the real property as well as financial funding for structural improvements and this lease is representative of these past practices.

Moro Management is a corporation whose President, Pat Croce owns and operates several restaurants in Key West. The City has received all of the information requested including the background check, sworn disclosure and organizational documents. The information received meets the legal and financial requirements of the Code of Ordinances for lease renewals pursuant to Sec 2-871 and the lease is further securitized with an irrevocable letter of credit and personal guaranty. The Tenant is current with the rent and has an excellent payment history. This lease renewal represents a new commitment to the continued growth and prosperity of the Historic Seaport by Pat Croce, and the CRA'S support of his efforts. It is surely a recipe for success.

ATTACHMENTS:
Lease
Exhibits A-F
Personal Guaranty

Lease Agreement

between

Caroline Street Corridor and Bahama Village Community Redevelopment Agency

as Landlord

and

Moro Management, Inc., DBA Half Shell Raw Bar

as Tenant

Dated 2/28/15

THIS LEASE is made as of the _____day of _____, 20__ 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:
Caroline Street Corridor and
Bahama Village Community
Redevelopment Agency,
P.O. BOX 6434
KEY WEST, FL 33040

1.2 TENANT'S NAME & MAILING ADDRESS:
Moro Management, Inc.
P.O. Box 520A
Villanova, Pennsylvania 19085

TENANT'S TRADE NAME: Half Shell Raw Bar

1.3 GUARANTOR (S) AND ADDRESS: Pasquale W. Croce
706 Canterbury Lane, Villanova, PA 19085

1.4 DEMISED PREMISES (Section 2): **as per EXHIBIT "A"** located at 231 Margaret Street (hereinafter referred to as the "Demised Premises") in the Historic Seaport (hereinafter referred to as the "Property")

9715 NET USABLE SQUARE FEET COMPRISED OF:

(A) Main Building	7827
(B) Covered Outdoor Dining	203
(C), (F) Open Air Dining	1089
(D) (E) Storage	596

The above square footage does not include the Half Shell Fish House as effective with the commencement of the renewal term the TENANT shall vacate the Half Shell Fish House and return the premises to the LANDLORD.

The Demised Premises does not include the dock immediately behind the Demised Premises and TENANT agrees to remove all personal property and equipment and discontinue any and all uses thereof.

PROPORTIONATE SHARE OF THE TOTAL NET USABLE SQUARE FEET:

TENANT'S Proportionate Share is based upon TENANT"S Net Usable Square Feet as it relates to the Total Net Usable Square Feet of the Property and will be adjusted by the factor described in Maximus CAM Report for the purposes of calculating property Common Area Maintenance charges.

Property Common Area is defined as all facilities furnished by the LANDLORD and designated for the general use in common, with other occupants of the Property,

including TENANT, their officers, agents, employees and customers, and the general public, including but not limited to any of the following which may have been furnished by LANDLORD: lavatories, parking areas, driveways, entrances, and exits thereto, pedestrian sidewalks and ramps, landscapes areas, and other similar facilities, and all areas which are located within the Property and which are not leased to tenants.

Common Area Maintenance (CAM) charges will be based upon the square feet as described in the Maximus CAM report which provides that additional outdoor areas be factored at 50%. This includes (1) consumption area (2) area that is available for exclusive use of the tenant and (3) generates revenue therefore CAM square footage is:

Main Building	7827
Covered Outdoor Dining	203
Open air Dining	545
Storage	298
Total CAM Square Feet	**8,873 SF**

1.4.1 EXPANSION/RIGHT OF FIRST REFUSAL: None

1.5 TERM (Section 3.): TEN (10) YEARS

1.5.1 COMMENCEMENT DATE: April 1, 2015 as acknowledged by TENANT'S written statement

1.5.2 RIGHT TO TERMINATE: None

1.5.3 RIGHT TO RENEW: This Lease may be renewed upon rent and terms to be negotiated by the parties and in accordance with the City of Key West Code of Ordinances.

1.6 MINIMUM RENT FOR TERM (Section 4): The base rent and base rent increases for the term and any renewals thereof as **per EXHIBIT "B"** attached hereto and incorporated herein. Every year thereafter throughout the term of the lease the minimum base rent shall be adjusted annually on the anniversary date of the lease by the increase in Consumer Price Index for all Urban Consumers as published by the United States Department of Labor. In no event shall the minimum base rent be decreased. **The base rent for year one shall be calculated at an annualized rate of Twenty Nine and 19/100 Dollars ($29.19) per Net Usable Square Foot.** The base rent for year one of the lease is a blended rate comprised of:

$31.00 per square foot for the main building
$26.00 per square foot for covered outdoor dining
$24.00 for the open air dining area
$16.00 per square foot for the storage area

1.6.1 ADDITIONAL RENT: Tenant shall pay its Proportionate share of CAM, Real Estate Taxes, Insurance, Sales, Use or Excise Taxes together with Management and Administrative fees estimated as per **EXHIBIT "B",** 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: Six Percent (6%) of TENANT'S Gross Sales in excess of the "Percentage Rent Base Amount" **as per EXHIBIT "B".**

1.6.5 HOLD OVER RENT: 150% of the Minimum Base rent during the last year of the expiring term.

1.6.6 RENT CONCESSIONS: None

1.6.7 REMIBURSEMENT OF BUILDING IMPROVEMENTS (Section 4.5): The LANDLORD agrees to provide the initial building improvement funding as follows:

An amount not to exceed $150,000.00 as determined by final competitive bidding for the entire cost of the roof replacement only pursuant the plans and specifications approved by LANDLORD and TENANT and in accordance with the scope of work attached hereto and incorporated herein as Exhibit "E". Final amount will be reimbursed over the term of the lease and TENANT agrees to reimburse LANDLORD the full amount plus interest calculated at the prime rate plus 1% which will be adjusted annually at the beginning of each lease year. In the event that the TENANT elects to repay the outstanding balance of the building improvements for roof replacement at any time during the lease term, TENANT shall not incur a prepayment penalty.

1.7 SECURITY DEPOSIT (Section 5): Tenant shall maintain an irrevocable letter of credit in the amount equal to six months' rent throughout the term of this lease and until such time as the tenant has vacated the Demise Premises and the LANDLORD has determined that the TENANT has no outstanding amounts due under this lease.

1.8 PERMITTED USE (Section 6): Operation of restaurant containing 247 licensed seats with alcohol sales, retail area for logo apparel, gifts, souvenirs, fish market sales (fish food products), retail sales of alcohol and beer and no other purpose.

1.9 INSURANCE: (Section 9) $2,000,000.00 commercial liability minimum aggregate, $1,000,000.00 per occurrence

1.10 ASSIGNMENT OR SUBLETTING: (Section 10) TENANT shall have the right to assign the Lease only to a qualified tenant and with the written consent of the LANDLORD, which consent shall be based upon consideration of the proposed tenant's background, current financial statements, and expertise in the restaurant business.

1.11 UTILITIES: (Section 17) The TENANT shall pay for all utilities associated with the use of the Demised Premises.

INITIALS: LANDLORD AC TENANT R

WITNESSETH:

That the LANDLORD and the TENANT, for and in consideration of the keeping by the parties of

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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. DEMISED PREMISES - 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 following Demised Premises situated, lying, and being in Monroe County, Florida: That portion of the Property outlined and/or crosshatched on Exhibit "A" which depicts the Net Usable Square Feet of the Demised Premises. The Net Usable Square Feet is defined as all interior floor space, any second floor space, storage, covered dining areas and commercially used outdoor areas or any other area set aside for the exclusive use and economic benefit of the Tenant and containing the approximate dimensions and area measured in accordance with the published BOMA/ANSI standard for calculating net usable floor area for stores. It is agreed that the Net Usable Square Feet for the purpose of any calculations which are based on Net Usable Square Feet is as stated in Section 1.4. It is agreed that TENANT'S Proportionate Share is based upon TENANT"S Net Usable Square Feet as it relates to the Total Net Usable Square Feet of the Property. LANDLORD reserves the right to re-measure the Demised Premises from time to time and to adjust the TENANT'S Net Usable Square Feet and the rent or rental rate applied to the square footage as determined by any re-measurement or change in use. TENANT accepts the Demised Premises in an "as is", "where is" condition and acknowledges that LANDLORD has no obligations for any construction or improvements in connection with TENANT'S occupancy of the Demised Premises.

Property Common Area is defined as all facilities furnished by the LANDLORD and designated for the general use in common, with other occupants of the Property, including TENANT, their officers, agents, employees and customers, and the general public, including but not limited to any of the following which may have been furnished by LANDLORD: lavatories, parking areas, driveways, entrances, and exits thereto, pedestrian sidewalks and ramps, landscapes areas, and other similar facilities, and all areas which are located within the Property and which are not leased to tenants.

Expansion/Right of First Refusal – None

3. TERM - The term of this Lease shall be for ten years which shall commence on April 1, 2015 and shall end at midnight on March 31, 2025 unless sooner terminated as provided for herein. Upon occupancy TENANT shall furnish LANDLORD a written statement stating the TENANT has accepted the Demised Premises 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 "D". 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 one year later. If possession of the Demised Premises 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.

3.1 **Right to Terminate** – None

3.2 **Right to Renew** – This Lease may be renewed upon rent and terms to be negotiated by the parties in accordance with the City of Key West Code of Ordinances. The rent and terms of the renewal term must be acceptable to both the LANDLORD and the TENANT in their absolute discretion and must be set forth in written addendum to this Lease. If the parties fail for any reason whatsoever to agree upon and enter into such addendum at least 120 days prior to the end of the initial term of this Lease, then any obligations that the parties may have pursuant to this section to negotiate renewal terms shall cease and LANDLORD shall be free to lease the Demised Premises to the general public upon such rent and terms as it deems appropriate.

4. RENT - The base rent and base rent increases for the term and any renewals thereof as **per EXHIBIT "B"** attached hereto and incorporated herein. Every year thereafter throughout the term of the lease the minimum base rent shall be adjusted annually on the anniversary date of the lease by the increase in Consumer Price Index for all Urban Consumers as published by the United States Department of Labor. In no event shall the minimum base rent be decreased. 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, without waiving LANDLORD'S remedies for default.

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 Demised Premises the annual amount, in equal monthly installments, in advance, on the first day of each and every calendar month, as per **EXHIBIT"B".** In the event the rent commencement date is other than the first day of a calendar month, the rent for the partial first calendar month of the term will be prorated on a daily basis and payable on the commencement date.

(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.

(c) Commencing with the 1st day of the Term, TENANT agrees to pay to LANDLORD,

as Additional Rent, TENANT'S Proportionate Share, as stated in Section 1.4, of Common Area Maintenance Charges in Monthly Installments as specified herein.

The Common Area Maintenance Charges are based on the Estimated Common Area Maintenance Charges attached hereto as **EXHIBIT "B"** These charges are only estimates. The TENANT shall be responsible for its proportionate share of all Common Area Maintenance Charges actually incurred. Any increase in the common area charges shall result in an increase in the TENANT'S Common Area Maintenance Charges. Except for TENANT'S proportionate share of Real Estate Taxes and Insurance Premiums, Common Area Maintenance Charges for expenses assessed after the base year shall not increase in any given year by more than 5% of the previous year's common area assessment for expenses. The base year for the purpose of limiting increases in Common Area Maintenance Charges shall be the first year of the term of this lease. This limitation shall apply only to those services included in the base year's common area charges. Any services charged for that are not included in the base year's charges shall not be limited by this 5% cap nor shall they be included for determining this 5% cap.

Common Area Maintenance Charges shall include any and all expenses reasonably incurred in the operation and maintenance of the Property Common Area including but not limited to management and administrative fees, salaries and compensation paid in connection with operations, maintenance and administration, amortization (including interest) of equipment and facilities acquired and used for maintenance, to reduce energy usage, to otherwise reduce operating costs or common area seasonal decorating or redecorating. Major capital improvements will not be included in Common Area Maintenance Charges unless those improvements reduce expenses and if so the improvements will be amortized over the useful life of the equipment as determined by the manufacturers' specifications or IRS depreciation regulations. Additionally, notwithstanding anything contained herein to the contrary, Common Area Maintenance Charges will not include any expenses incurred in the City Common Area Enhancement Plan Project No. KB-1103.

Monthly installments shall be due and payable on the 1st day of each calendar month during the Term. The installments set forth herein represent TENANT'S Proportionate Share of the estimated Common Area Maintenance Charges at the Commencement Date. Thereafter, LANDLORD shall, prior to the beginning of each calendar year, estimate the expected Common Area Maintenance Charges for the coming calendar year and TENANT'S Proportionate Share thereof, l/12th of which shall constitute the Monthly Installments for such year; provided such installments shall never be lower than the installments specified herein. Within 90 days after the end of each year, LANDLORD shall calculate the actual Common Area Maintenance Charges paid or payable during the prior calendar year, and there shall be an adjustment between LANDLORD and TENANT so that LANDLORD shall receive the actual amount of TENANT'S annual Proportionate Share for said year. If TENANT'S Proportionate Share is less than the amount paid by TENANT during the prior year, LANDLORD shall, at its option, pay TENANT the difference between the amount received and the amount actually due, or credit such difference against TENANT'S next succeeding installments. If TENANT"S Proportionate Share is greater than the amount paid by TENANT during the prior year, TENANT shall pay LANDLORD the difference between the amount paid by TENANT and the amount actually due upon LANDLORD billing TENANT for same. LANDLORD agrees to keep, at its principal office, records relating to said Common Area Maintenance Charges. TENANT shall have the right to audit said records for the sole purpose of ascertaining the correctness of said Charges. Such audit shall be made

during normal business hours; not unreasonably interfere with LANDLORD'S office operations; shall be performed by TENANT, TENANT'S chief financial officer, or a CPA selected by TENANT; shall not be made more often than once during each calendar year; and shall be limited to the preceding calendar year. If TENANT desires to audit said records as aforesaid, TENANT shall notify LANDLORD 30 days in advance thereof, commence said audit within 60 days of said notice, and once commenced, diligently complete the same. If any such audit shows the amount of such charges to TENANT was overstated, LANDLORD shall refund any such overcharge.

Commencing with the 1st day of the Term, TENANT agrees to pay to LANDLORD, as Additional Rent, TENANT''S Proportionate Share as stated in Section 1.4 of the Real Estate Tax Expense which shall include all real estate taxes and assessments both general and special imposed by federal, state or local governmental authority or any other taxing authority having jurisdiction over the Property against the land, buildings, store rooms, Common Areas and all other improvements within the Upland Property (excluding any public area which will not be taxed and excluding the Marina), together with any and all expenses incurred by LANDLORD in negotiations, appealing or contesting such taxes and assessments. Real Estate Tax Expense shall not include any additional charges or penalties incurred by LANDLORD due to late payment of Real Estate Taxes. In the event that any of the public area excluded later becomes taxable or is determined to be taxable then it shall be included for purposes of determining TENANT'S proportionate share.

TENANT'S Proportionate Share of Real Estate Taxes shall be paid as part of the Common Area Charges provided for herein. The 5% cap limitation provided for in Section 4.4(c) shall not be applicable to this particular common area charge.

Commencing with the 1st day of the Term, TENANT agrees to pay to LANDLORD, as Additional Rent, TENANT'S Proportionate Share as stated in Section 1.4, of the Insurance Expenses which shall include all insurance premiums incurred by the LANDLORD in insuring the Property including hazard and liability insurance for any and/or all buildings, improvements and common areas.

TENANT'S Proportionate Share of Insurance expenses shall be paid as part of the Common Area Charges provided for herein. The 5% cap limitation provided for in Section 4.4(c) shall not be applicable to this particular common area charge.

Should any governmental taxing authority acting under any present or future law, ordinance or regulation, levy, assess or impose a tax, excise and/or assessment (other than an income or franchise tax) upon or against the rentals payable by TENANT to LANDLORD, whether by way of substitution for, or in addition to, any existing tax on land and buildings or otherwise, or any other substitute tax, the proceeds of which are to be used to fund the same governmental functions as were funded by ad valorem taxes, TENANT shall be responsible for and reimburse LANDLORD for the amount thereof, as the case may be, as additional rent, 7 days before the date that any penalty or interest would be added thereto for non-payment or, at the option of LANDLORD, the same shall be payable in the manner provided for in the preceding paragraph. Substitute taxes as referred to above in this Section shall include, without limitation, any surtax on parking spaces.

Initial here if applicable

LANDLORD OC TENANT RC

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(d) In addition to the foregoing rent, TENANT agrees to pay LANDLORD as Percentage Rent a sum equal to 6% multiplied by an annual Gross Sales per Lease Year in excess of the Percentage Rent Base Amount. The Percentage Rent Base Amount is calculated by dividing the current annual Base Rent by six percent (6%). Within twenty (20) days following the end of each month of each Lease Year, TENANT shall forward to LANDLORD a statement of Gross Sales together with an accurate and complete copy of the State of Florida Department of Revenue, Sales and Use Return Form DR-15 (or such forms as the State of Florida shall hereafter substitute for said form) showing the full amount of Tenant's Gross Receipts from the Demised Premises during the previous month. The statement of Gross Sales must be in affidavit form. TENANT is subject to a fifty-dollar ($50.00) late submission penalty should TENANT not furnish to LANDLORD copies of Form DR-15 by the twentieth (20th) day of each month. Failure of Tenant to timely submit any monthly report shall entitle LANDLORD to estimate Gross Sales based upon available data (with a reconciliation upon receipt of the final report), and TENANT shall be obligated to pay percentage rent on such estimated Gross Sales. If by the end of any such preceding month the Gross Sales in the Demised Premises during such Lease Year shall exceed the Percentage Base Rent Amount, TENANT shall pay to LANDLORD, at the time of delivery of said Statement, an amount equal to the Percentage Rent times the Gross Sales exceeding the Percentage Rent Base Amount, less the Percentage Rent, if any, previously paid by TENANT to LANDLORD during that Lease Year. TENANT shall also furnish to LANDLORD within thirty (30) days after the expiration of each full Lease Year, a complete statement showing in all reasonable detail the amount of Gross Sales made by TENANT from the Demised Premises during the preceding Lease Year.

"Gross Sales" shall mean the amount of sales of all merchandise or services sold or rendered at or derived from the use of the Demised Premises by TENANT or any sub-TENANT, licensee, etc. TENANT may deduct from Gross Sales: (i) any refunds to customers or discounts to customers or discounts to employees, provided they have been included in Gross Sales; (ii) the amount of any sales tax levied upon retail sales and payable over to the appropriate governmental authority (iii) wholesale sale of fish market products to restaurants in which Pat Croce or members of his immediate family have a controlling interest. TENANT agrees to keep, at its principal office, records in accordance with generally accepted accounting practices, in which said Gross Sales shall be recorded. Such records shall be open for inspection by LANDLORD or its agents, including accountants retained for that purpose, during reasonable business hours for the Term and for at least 3 years thereafter.

Pursuant to City Ordinance Section 2-872, In addition to other periodic reviews, all city leases, franchises, concessions and other agreements wherein percentage revenues are collected shall be audited at least once every three years by an external certified public accountant utilizing generally accepted accounting principles (GAAP) and in such a manner as directed by the city manager. All city leases, franchises, concessions and agreements entered into after the effective date of this ordinance shall provide for such audits without cost or expenses to the city.

If any audit shows that the amount of Gross Sales on the statement was understated by more than 1% for any year, then shall pay the Percentage Rent due for such understatement within ten (10) days after TENANT'S receipt of LANDLORD'S invoice. If such understatement is willful and/or fraudulent, LANDLORD shall have the option, upon ten (10) days notice to TENANT, to terminate this Lease on the date specified in

such notice and Tenant shall remain liable for all rent and other charges under this lease for the full term hereof.

(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 monthly rental for the last lease year for each month from the termination or expiration of this Lease until the Demised Premises are 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

4.5 Reimbursement of Building Improvement Costs: If requested by TENANT, the LANDLORD agrees to provide the initial roof replacement funding as referred to in Section 15 below as follows:

(a) An amount not to exceed $150,000.00 as determined by final competitive bidding for the entire cost of the roof replacement only pursuant the plans and specifications approved by LANDLORD and TENANT and in accordance with the scope of work attached hereto and incorporated herein as Exhibit "E".

(b) The final approved amount (which shall not exceed $150,000) will be reimbursed by TENANT on a monthly basis over the term of the lease commencing thirty (30) days after LANDLORD releases funds (as set forth in Section e below) and TENANT agrees to reimburse LANDLORD for the full amount plus interest calculated at the prime rate as

determined by LIBOR plus 100 basis points (1%) which will be adjusted annually at the beginning of each lease year.

(c) TENANT'S reimbursement of the roof replacement shall be considered additional rent and subject to the provisions in Section 4.4(e) herein

(d) In the event that the TENANT elects to repay the outstanding balance of the building improvements for roof replacement at any time, TENANT shall not incur a prepayment penalty.

(e) LANDLORD will release funding when final inspection is passed and a full release of lien waiver is received. TENANT agrees that the construction contract will meet the City of Key West general contract conditions, in accordance with procurement policy, attached hereto and incorporated as Exhibit "G". Landlord acknowledges that a payment and performance bond will not be required.

5. SECURITY – TENANT simultaneously with the execution and delivery of this Lease, Tenant shall maintain an irrevocable letter of credit in the amount equal to six months rent throughout the term of this lease and until such time as the tenant has vacated the Demised Premises and the LANDLORD has determined that the TENANT has no outstanding amounts due under this lease as stated in Section 1.7 hereof, the receipt of which is hereby acknowledged as security for the payment by TENANT of the rents herein agreed to be paid by TENANT and for the faithful performance by TENANT of the terms, conditions and covenants of this Lease. It is agreed that LANDLORD, at LANDLORD'S option, may at any time apply said sum or any part thereof toward the payment of the rents and any other sum payable by TENANT under this Lease, and/or toward the performance of each and every covenant under this Lease, but such covenants and TENANT'S liability under this Lease shall thereby be discharged only pro tanto; that TENANT shall remain liable for any amounts that such sum shall be insufficient to pay; that LANDLORD may exhaust any or all rights and remedies against TENANT before resorting to said sum, but nothing herein contained shall require or be deemed to require LANDLORD to do so; that, in the event this deposit shall not be utilized for any of such purposes, then such deposit shall be returned by LANDLORD to TENANT within sixty (60) days after the expiration of the term of this Lease. TENANT shall deposit with LANDLORD such additional sums which may be necessary to replace any amounts expended there from by LANDLORD pursuant hereof, so that there shall always be a security deposit in the sum first set forth above. The Security deposit provided for herein shall be held by the LANDLORD in a non-interest bearing account and may be co-mingled by the LANDLORD at the LANDLORD'S sole discretion.

6. USE OF THE DEMISED PREMISES -TENANT shall use the Demised Premises for the purposes of:

Operation of restaurant containing 247 licensed seats with alcohol sales, retail area for logo apparel, gifts, souvenirs, fish market sales (fish food products), retail sales of alcohol and beer and no other purpose.

TENANT further agrees:

(a) To operate 100% of the Demised Premises for the entire term of this lease during all reasonable hours established by LANDLORD, pursuant to the highest reasonable standards of its Business category, maintaining a substantial stock of appropriate merchandise on display, with sufficient personnel to service its trade.

(b) With respect to the Property, not to display any merchandise, solicit business or distribute advertising material beyond the Demised Premises, nor in any manner use any art of the Common Areas for purposes other than for their intended common use and not to obstruct any part thereof.

(c) Not to display any banners, pennants, searchlights, window signs, balloons, or similar temporary advertising media on the exterior of the Demised Premises.

(d) Not to commit waste in the Demised Premises or Common Areas and to keep the Demised Premises and immediate adjacent areas including, without limitation, adjacent sidewalks, in a safe, neat, clean and orderly condition and to maintain and repair any lighting or signs under any canopy immediately in front of the Demised Premises.

(e) Not to use the Demised Premises or permit the same to be used in any manner which violates any law, ordinance or constitutes a nuisance; for lodging purposes; that may injure the reputation of the Property or annoy, inconvenience or damage its patrons or other TENANT'S; 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 the Demised Premises in the kind of containers specified by LANDLORD, or to place the same outside the Demised Premises, 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 on the Demised Premises or any part of the Property. 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 Demised Premises to load and unload from the hours of 7:00 a.m. to 11:00 a.m. and not to permit such trucks to service through the front entrance of the Demised Premises except when no other entrance is available.

(i) To take no action that would: (i) violate LANDLORD'S contracts if any, affecting the Property (including without limitation the use restrictions contained in LANDLORD'S leases with its Anchor Tenants, which restrictions have been explained to TENANT); or (ii) cause any work stoppage, picketing or cause any manner or interference with LANDLORD or other Tenants, occupants, customers or any person lawfully in and upon the Property.

(j) Not to use amplified music or any other noise making machinery or devices that in LANDLORD'S determination is harmful to the building or disturbing to other Tenants.

(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 Property and it's Common Areas. Rules and regulation are attached and incorporated herein as **EXHIBIT "C".**

(l) Not to conduct any auction, fire, bankruptcy or selling-out sale on or about the Demised Premises except in strict compliance with City Code Chapter 18.

(m) To pay its proportionate share of any and all maintenance contracts wherein LANDLORD elects to purchases goods and services for the benefit of the entire Property including but not limited to LANDLORD directing all pest extermination at such intervals and service levels that LANDLORD deems appropriate.

(n) 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 TENANT or it agents brought onto the Property. TENANT shall not allow storage or use of such 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 into the Demised Premised 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 Demised Premises. 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 Demised Premises or Property by TENANT or it 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 Demised Premises or Property.

6.1 **Use of the Property Common Area** -TENANT has the non-exclusive right to use the Property Common Areas solely for the purposes for which they were designed. The Property Common Area may also be used by anyone else LANDLORD has or hereinafter in its sole discretion grants the right to use them.

Subject to the LANDLORD'S sole discretion, TENANT shall have the right to use the Plaza area adjacent to the Demised Premises up to **six (6) times per calendar year** without an additional usage fee therefor however any revenue generated by the TENANT'S use shall be included in the definition of TENANT'S Gross Sales for the purposes of determining Percentage Rent.

In the event that the TENANT'S use requires a special events permit the

TENANT shall be responsible for obtaining the permit. Use of the plaza that does not require special events permit must be approved in writing by the LANDLORD and the TENANT'S request must include a description of all activities to occur during the event, schedule of the activities and map showing how plaza will be used. The events must not close down the small parking lot in front of the Demised Premises.

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 Demised Premises throughout the term of this Lease without interference or hindrance by LANDLORD or any person claiming by, through, or under LANDLORD.

8. INDEMNIFICATION - TENANT does hereby agree to indemnify, defend, and save LANDLORD, its respective officers, directors, agents and employees 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 Demised Premises, or in any way arising out of the activities of TENANT, its agents, employees, licensees or invitees on the Demised Premises and/or the building, including reasonable attorney's fees and court costs incurred by LANDLORD in connection therewith, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, excepting, however, only liability caused by LANDLORD'S gross negligence or willful misconduct, or the gross negligence or willful misconduct of any of LANDLORD's employees, officers, directors or agents in its failure to perform any of LANDLORD'S covenants, obligations or agreements of this Lease. Nothing herein is intended to waive the sovereign immunity afforded to City pursuant to Florida law, including section 768.28, Florida Statutes.

The indemnification obligations under this Section shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for TENANT under Workers' Compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of TENANT or of any third party to whom TENANT may subcontract work. This indemnification shall continue beyond the date of termination of the Agreement.

9. TENANT'S INSURANCE - At TENANT'S sole cost and expense, TENANT is to secure, pay for, and file with the LANDLORD, during the entire Term hereof, an occurrence form commercial general liability policy, covering the Demised Premises and the operations of TENANT and any person conducting business in, on or about the Demised Premises in a at least the following minimum amounts with specification amounts to prevail if greater than minimum amount indicated. Notwithstanding any other provision of this Lease, TENANT shall provide the minimum limits of liability coverage as follows:

Commercial General Liability	$2,000,000	Aggregate
	$2,000,000	Products Aggregate
	$1,000,000	Any One Occurrence
	$1,000,000	Personal Injury
	$300,000	Fire Damage/Legal

TENANT shall also procure the following insurance coverage:

(i) "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.

(ii) 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 Demised Premises on consignment. The TENANT must provide the LANDLORD with a copy of any consignment agreement used by TENANT regarding Demised Premises. 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.

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.

TENANT shall furnish an original Certificate of Insurance indicating, and such policy providing coverage, to LANDLORD named as "Additional Insured" on a PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its equivalent, INCLUDING A "Waiver of Subrogation" clause in favor of LANDLORD on all policies. TENANT will maintain the General Liability coverage summarized above with coverage continuing in full force including the "additional insured" endorsement until at least 3 years beyond the termination of this Lease.

TENANT's insurance policies shall be endorsed to give 30 days written notice to LANDLORD in the event of cancellation or material change, using form CG 02 24, or its equivalent.

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. Certificates 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.

Certificates of Insurance submitted to LANDLORD will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary. **PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.**

10. ASSIGNMENT AND HYPOTHECATION - This Lease is not transferable or assignable and may not be hypothecated or sublet without the prior written consent of the LANDLORD, which may not be unreasonably withheld. TENANT shall have the right to assign the Lease only to a qualified tenant and with the written consent of the LANDLORD, which

consent shall be based upon consideration of the proposed tenant's background, current financial statements, and expertise in the restaurant business.

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 Demised Premises 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.

The provisions of this Section shall not apply to a transfer of the tenant entity (i) to Pasquale Croce's spouse, children, parents, siblings, descendants or spouses of such natural persons (collectively "Family Members"), (ii) to a trust, corporation, partnership, or limited liability company which is solely owned by Pasquale Croce or his Family Members, or (iii) by will or intestate succession.

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 Demised Premises 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; provided however, TENANT's duty to subordinate to LANDLORD's mortgagees is conditioned upon receipt by TENANT of a Non-Disturbance Agreement from said mortgagees in customary form and one which obligates the mortgagee in the event the mortgagee would take possession of the Demised Premises to be bound and to perform all of the LANDLORD's affirmative obligations as set forth in this Lease. The Agreement will also provide that in the event the mortgagee would take possession, this Lease would continue to be valid and honored by mortgagee as long as TENANT is not in default.

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 Demised 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 Demised Premises be wholly taken by condemnation, or if the portion taken will prevent the Demised Premises 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 Demised Premises 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 building or improvements which are now or which may at any time hereafter be upon the Demised Premises, 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 nonpayment 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 Demised Premises, building, 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 Demised Premises and any and all buildings and 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 Demised Premises 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 Demised Premises 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 Demised Premises 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 Demised Premises 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 Demised Premises. 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. Notwithstanding the foregoing, in the event the non-monetary default cannot be reasonably cured within ten (10) days, then TENANT shall not be in default of the Lease provided that TENANT continues to proceed in good faith and in a

timely manner to cure the default.

(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) In the event of litigation in connection with this Lease, the prevailing party shall be entitled to recover from the losing party as part of an order, judgment, or award that may be rendered, all of the prevailing party's costs and expenses of such litigation, including without limitation reasonable attorney's fees and costs, through and including all trial and appellate levels and post-judgment proceedings.

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 Demised Premises 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 Demised Premises to ensure a good state of repair of the Demised Premises and all furnishings, including any special equipment brought, placed, or installed upon the Demised Premises by TENANT; nor will the TENANT suffer or permit any strip, waste, or neglect of any building or such personal property to be committed; and the TENANT will repair, replace, and renovate the said real and personal property as often as it may be necessary in order to keep the building or buildings 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. TENANT shall also be responsible for repair of the HVAC and all air conditioning systems together with the plumbing and electrical system solely within the Demised Premises. With respect to plumbing, TENANT's obligation shall extend from the interior of the Demised Premises to the nearest manhole outside of the Premises. TENANT shall be responsible for repairing (but not replacing) the roof, storage areas and outdoor dining areas that comprise the Demised Premises.

In addition to the foregoing, with the exception of the LANDLORD repairs, TENANT agrees to make the repairs identified in Exhibit "F" at TENANT'S sole cost and expense. In the event that the existing damaged windows (including but not limited to those shown as being damaged in the report attached as Exhibit "F") cannot be repaired or replaced to match the existing awning style windows, TENANT agrees to replace the windows throughout the Premises in a consistent style approved by the Historic Architectural Review Commission and the LANDLORD, said approval

shall not be unreasonably withheld. Notwithstanding anything contained herein to the contrary, TENANT shall not be obligated to replace the existing double hung windows however in the event that the TENANT replaces the windows throughout the Premises the double hung windows will also be replaced in the approved style. Repairs will be made according to the schedule and time frame established therefore and all TENANT repairs set forth in Exhibit "F" will be completed within 270 days of the commencement of the lease term, unless such items are related to the roof, in which case such repairs will be completed during the roof replacement.

14.1 Landlord Repairs

Notwithstanding anything contained herein to the contrary, LANDLORD shall be responsible for the repair and replacement of the structure of the building, including the repairs identified in 2.0 and 2.1 of Exhibit "F", the walls, foundation, floor, support columns, and exterior of the building, as well as the seawall. In the event that LANDLORD shall deem it reasonably necessary or be required by any governmental authority to repair, alter, remove, reconstruct or improve any part of the Demised Premises 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, at LANDLORD'S sole cost and expense, with reasonable dispatch, and should the making of such repairs, alterations and improvements cause any interference with TENANT'S use of the Demised Premises, such interference shall not relieve TENANT from the performance of its obligations hereunder.

Any changes, additions or alterations to the Premises, the Property, the Building or the Shopping Center shall not (a) unreasonably impair access to, visibility of or frontage of the Premises; (b) materially affect the conduct of Tenant's customary business therein; or (c) unreasonably detract from Tenant's signage, create confusion regarding the business conducted in the Premises, or adversely affect the presentation of Tenant's exterior signage and storefront in a material way.

In the event of any such unreasonable interference that results in full or partial closure of TENANT'S business, loss of sales, inventory losses, employee layoffs and employers unemployment obligations due to closure, advertising losses, re-opening expenses in addition to Tenant's other rights and remedies under applicable law and this Lease, the Base Rent shall be equitably abated based on the degree of interference with Tenant's business. Additionally, consideration for rent abatement will include the length of notice period, public meetings, or other communication received from the LANDLORD to enable the TENANT to minimize losses due to the disruption.

15. ALTERATIONS

TENANT agrees to replace the roof on the Demised Premises and TENANT agrees reimburse the LANDLORD for the entire cost thereof in the event LANDLORD funds such roof replacement. LANDLORD will amortize the roof replacement cost over the term of the lease as per Section 4.5 hereof. The scope of the building improvement for roof replacement is attached hereto and incorporated in as Exhibit "E". TENANT hereby agrees that such work shall be completed promptly, efficiently, competently and in a good and workmanlike manner by duly qualified or license persons or entities and in accordance with the City of Key West general contract conditions as per Exhibit "G". TENANT hereby agrees that LANDLORD shall not be liable for any damage, loss, liability or any other claim related to the roof replacement.

Except for those items described in Exhibit F, TENANT shall not make any alterations, additions or improvements to the Demised Premises (whether or not the same may be structural in nature) without LANDLORD'S prior written consent. All alterations, additions, or improvements made to the Demised Premises, 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 Demised Premises 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 Demised Premises 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 Demised Premises, 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 Demised Premises. In the event a construction lien shall be filed against the Demised Premises 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 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 on the Demised Premises 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 Demised Premises 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 Demised Premises, 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 Demised Premises including, but not limited to, water, electricity, sewer, gas and waste, (if applicable). In the event that a separate bill for the Demised Premises is not available for one or more of the utility services required by the Demised Premises, then the TENANT shall pay a pro-rated share of that particular utility bill based on a calculation of the ratio

of the square footage of the Demised Premises and the total square footage of the Premises covered by that particular utility bill. In the event that the TENANT shall be billed for a pro-rated share, the LANDLORD shall provide TENANT a utility bill each month and TENANT shall pay the amount due to LANDLORD within ten (10) days of its receipt.

(b) The TENANT covenants and agrees with the LANDLORD that no damage or destruction to any building or improvement by fire, windstorm, or any other casualty shall be deemed to entitle the TENANT to surrender possession of the Demised Premises 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 Demised Premises by casualty or hazard, LANDLORD will have the option of canceling the Lease, or repairing the building, and in the event that the LANDLORD elects to repair the building, an appropriate abatement of rent will occur.

(c) The TENANT shall be responsible for maintaining the HVAC and all air conditioning systems together with the plumbing and electrical system solely within the Demised Premises. With respect to the plumbing, TENANT'S obligation shall extend from the interior of the Demised Premises to the nearest manhole outside the Premises.

(d) The TENANT shall be responsible for maintaining the roof, storage areas and outdoor dining areas that comprise the Demised Premises as well as painting and cleaning the exterior of the building.

(e) 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.

(f) 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 Demised Premises and all buildings and improvements located thereon. Notwithstanding the foregoing, TENANT shall be authorized to remove any equipment and trade fixtures so long as TENANT repairs any damage caused by such removal. However any fixtures or equipment that are permanently attached to the building including but not limited to hood exhaust/suppression systems, walk in coolers, freezers etc. shall remain unless the LANDLORD agrees, in writing, to the removal thereof.

(g) The TENANT agrees not to make any internal changes or exterior 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 on the interior of the Demised Premises.

18. LANDLORD'S RIGHT OF ENTRY - The LANDLORD or its agents shall have the right to enter upon the Demised Premises 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 on said Demised Premises. If the said

Demised Premises are damaged by fire, windstorm, or by any other casualty which caused the Demised Premises to be exposed to the elements, then the LANDLORD may enter upon the Demised Premises to make emergency repairs. LANDLORD may enter upon the Demised Premises 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 Demised Premises 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 supersedes any previous agreements and 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: MORO MANAGEMENT, INC.

P.O. BOX 520A
VILLANOVA, PA 19085

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.

(k) LANDLORD will not permit any development or use of the waterfront directly behind the Demised Premises that would block the view of the water from the existing dining area.

(l) LANLDORD will provide for short term docking for customers and patrons of the Property at the dock behind the Demised Premises if the area is navigable and suitable for such purposes.

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

ATTEST:

SEAL OF THE CITY OF KEY WEST, FLORIDA

Cheryl Smith, City Clerk

Date: 3-18-15

LANDLORD: Caroline Street Corridor and Bahama Village Community Redevelopment Agency

Craig Cates, Chairman

Date: 3-17-15

WITNESS ERICA H. STERLING

Date: 2-28-15

TENANT: Moro Management, Inc.

Pasquale W. Croce, President

Date: 2/28/15

Diane T. Castillo 2/28/15

DIANE T. CASTILLO

EXHIBIT "A" Demised Premises, Site Plan

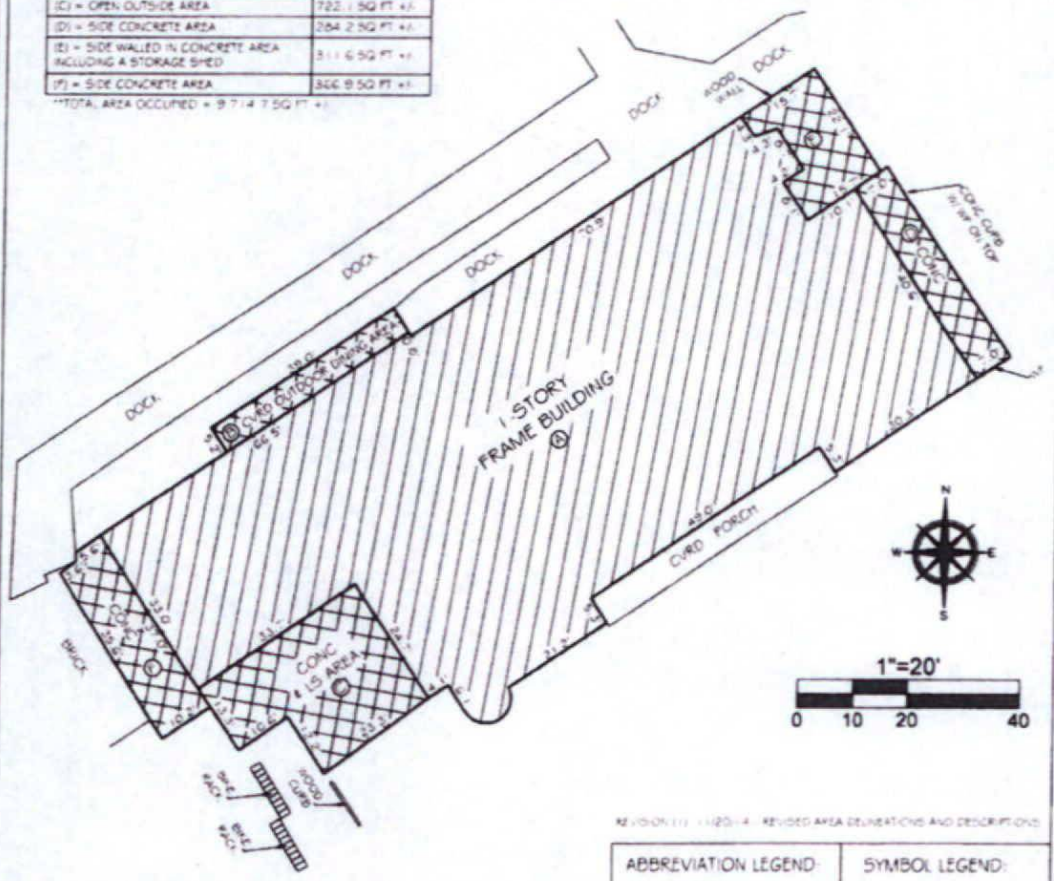
SPECIFIC PURPOSE SURVEY SKETCH TO SHOW LEASE AREA

NET USABLE SQ FT OF THE DIMENSIONED PREMISES ON HALF SHELL RAW BAR
231 MARGARET STREET, KEY WEST, MONROE COUNTY, STATE OF FLORIDA

LOCATION MAP - NTS
SEC 31-T67S-R25E

AREA DELINEATION / DESCRIPTION	AREA
(A) = MAIN BUILDING INCLUDING DINING AREA, BAR, KITCHEN, STORAGE & OFFICE	7,827 ± SQ FT +/-
(B) = COVERED OUTDOOR DINING AREA	202.8 SQ FT +/-
(C) = OPEN OUTSIDE AREA	722.1 SQ FT +/-
(D) = SIDE CONCRETE AREA	284.2 SQ FT +/-
(E) = SIDE WALLED IN CONCRETE AREA INCLUDING A STORAGE SHED	311.6 SQ FT +/-
(F) = SIDE CONCRETE AREA	366.8 SQ FT +/-

**TOTAL AREA OCCUPIED = 9,714.7 SQ FT +/-



REVISION (1) - 1/20/14 - REVISED AREA DELINEATIONS AND DESCRIPTIONS

NORTH ARROW IS REFERENCED TO GRID NORTH, BASED ON THE 1990 ADJUSTMENT OF THE NORTH AMERICAN DATUM OF 1983 (NAD 83/90), FLORIDA STATE PLANE COORDINATE SYSTEM (TRANSVERSE MERCATOR PROJECTION), EAST ZONE (0901).

ALL UNITS ARE SHOWN IN U.S. SURVEY FEET.

THIS IS NOT A BOUNDARY SURVEY. ANY BOUNDARY OR RIGHT OF WAY LINES SHOWN HEREON ARE FOR INFORMATIONAL PURPOSES ONLY, AND ARE A GRAPHICAL REPRESENTATION OF THE BOUNDARY BASED ON THE RECOVERY OF SUFFICIENT BOUNDARY MONUMENTATION TO SPATIALLY DEFINE THE LINES. NO ATTEMPT WAS MADE TO RESOLVE CONFLICTS BETWEEN THE RECOVERED BOUNDARY INFORMATION AND OCCUPATIONAL LINES.

ADDRESS:
231 MARGARET STREET
KEY WEST, FL 33040

ABBREVIATION LEGEND:

BM = BENCHMARK
CALC = CALCULATED
CB = CONCRETE BLOCK
CL = CENTERLINE
CLF = CHAINLINK FENCE
CM = CONCRETE MONUMENT
CONC = CONCRETE
CPP = CONCRETE POWER POLE
EP = EDGE OF PAVEMENT
MEAS = MEASURED
NGS = NATIONAL GEODETIC SURVEY
NGVD = NATIONAL GEODETIC VERTICAL DATUM (1929)
ROA = RIGHT OF WAY LINE
NTS = NOT TO SCALE
OHW = OVERHEAD WIRES
PC = POINT OF CURVE
PCP = PERMANENT CONTROL POINT
PK = PARKER KALON NAIL
WF = WOOD FENCE

SYMBOL LEGEND:

CATCH BASIN
DRAINAGE MANHOLE
CONCRETE UTILITY POLE
ELECTRIC MANHOLE
LIGHT POLE
GUY WIRE
HYDRANT
SANITARY CLEANOUT
SANITARY MANHOLE
SIGN
WOOD UTILITY POLE
WOOD BOLLARD
WATER VALVE

NOTE: LEGAL DESCRIPTION(S) HAVE BEEN FURNISHED BY THE CLIENT OR HIS/HER REPRESENTATIVE. PUBLIC RECORDS HAVE NOT BEEN RESEARCHED BY THE SURVEYOR TO DETERMINE THE ACCURACY OF THESE DESCRIPTIONS NOR HAVE ADJOINING PROPERTIES BEEN RESEARCHED TO DETERMINE OVERLAPS OR GAPS. ADDITIONS OR DELETIONS TO SURVEY MAP OR REPORT BY OTHER THAN THE SIGNING PARTY IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY. THE BOLD LINE SHOWN HEREON REPRESENTS THE SURVEYOR'S OPINION OF THE DEED LINES. THE MEAN HIGH WATER LINE WAS NOT DETERMINED FOR THIS SURVEY. THE APPARENT MEAN HIGH WATER LINE IS SHOWN FOR REFERENCE ONLY.

SCALE	1"=20'
FIELD WORK DATE	02/11/2014
REVISION DATE	1/20/20 - 4
SHEET	1 OF 1
DRAWN BY	MFB
CHECKED BY	
JOB FILE #	070238

I HEREBY CERTIFY THAT THIS SKETCH AND PLAT WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTERS 20 4-047 & 5-17.05, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES AND COMPLIES WITH CHAPTER 177, PART I, FLORIDA STATUTES.

NOT VALID WITHOUT THE SIGNATURE AND THE RAISED SEAL OF A FLORIDA SURVEYOR AND MAPPER.

SIGNED:

ERIC A. BANKS, PSM #6781, PROFESSIONAL SURVEYOR AND MAPPER - DATE

FLORIDA KEYS LAND SURVEYING
19960 OVERSEAS HIGHWAY
SUGARLOAT KEY, FL 33042
PHONE (305) 394-3690
EMAIL: FKLSurvey@Gmail.com

EXHIBIT "B" Rent Schedule

EXHIBIT "B"

Tenant: **Moro Mgt LLC DBA Half Shell Raw Bar**
Location: **231 Margaret**
Contact: **Pasquale Croce**

Square Feet **8873** CAM
Square Feet **9715** BASE RENT
Term 10 years Effextive April 1, 2015

$4.05 PER SQ. FT.

YEAR #	Period Beginning	Base Rent per sq. ft.	Base Rent Annual	Base Rent Monthly	Tax, Ins., CAM Annual	Tax, Ins., CAM Monthly	Total Rent Before Sales Tax Monthly	Sales Tax Monthly	Total Rent With Tax Monthly	TOTAL RENT ANNUAL	Percentage Rent Base Amount
1	April 1, 2015	$29.19	$283,580.85	$23,631.74	$35,935.65	$2,994.64	$26,626.38	$1,996.98	$28,623.35	$343,480.24	$4,726,347.50
2	April 1, 2016	CPI									
3	April 1, 2017	CPI									
4	April 1, 2018	CPI									
5	April 1, 2019	CPI									
6	April 1, 2020	CPI									
7	April 1, 2021	CPI									
8	April 1, 2022	CPI									
9	April 1, 2023	CPI									
10	April 1, 2024	CPI									

Tax, Insurance and CAM are **estimated**

EXHIBIT "C" Rules and Regulations

1. TENANT shall not use any area outside of the demised premises as shown on Exhibit A or any portion of any common area or any parking areas for or any other purpose whatsoever including but not limited to the storage of goods, inventory, equipment, materials, whether or not said area is inside a building or outdoors.

EXHIBIT "D"

Tenant's written statement occupancy commencement

Exhibit "E"

Building Improvement Scope for Roof Replacement

Exhibit "E"
Moro Management LLC
Lease Agreement
Effective April 1, 2015

THE CITY OF KEY WEST

3140 Flagler Ave
Key West, FL 33040

July 29, 2014

Scope of Work – Half Shell Raw Bar Roof Replacement

1. Remove all unused equipment, conduit, and piping.
2. Remove all deteriorated or damaged roofing membrane or areas of the roofing where the sheathing is soft.
3. Close and seal all abandoned penetrations
4. All electric, water, condensation, or Freon lines are to be routed together where possible in a weatherproof chase.
5. Any and all utilities running across the roof are to be eliminated or rerouted.
6. All utilities and associated wiring, piping, etc. shall be brought up to the current building code.
7. Sheathing that is damp, rotting, or otherwise in a state of deterioration shall be replaced.
8. Structural members with any concerns shall be brought to the attention of City staff immediately.
9. Roofing shall be replaced with single ply PVC, heat welded roofing system, Duro-Last or similar.
10. Roofing material must be approved by City staff prior to installation. The roofing system must be installed by a certified installer of the particular product. Warranty information shall be provided to the City.
11. The specified roofing system must carry a warranty of at least 15 years.
12. Installation of HARC approved equipment screening and re-location of equipment and piping as determined by HARC.

Exhibit "F"

Building Inspection Report and Schedule of Repairs

Conch Republic
Home Repair
&
Improvements

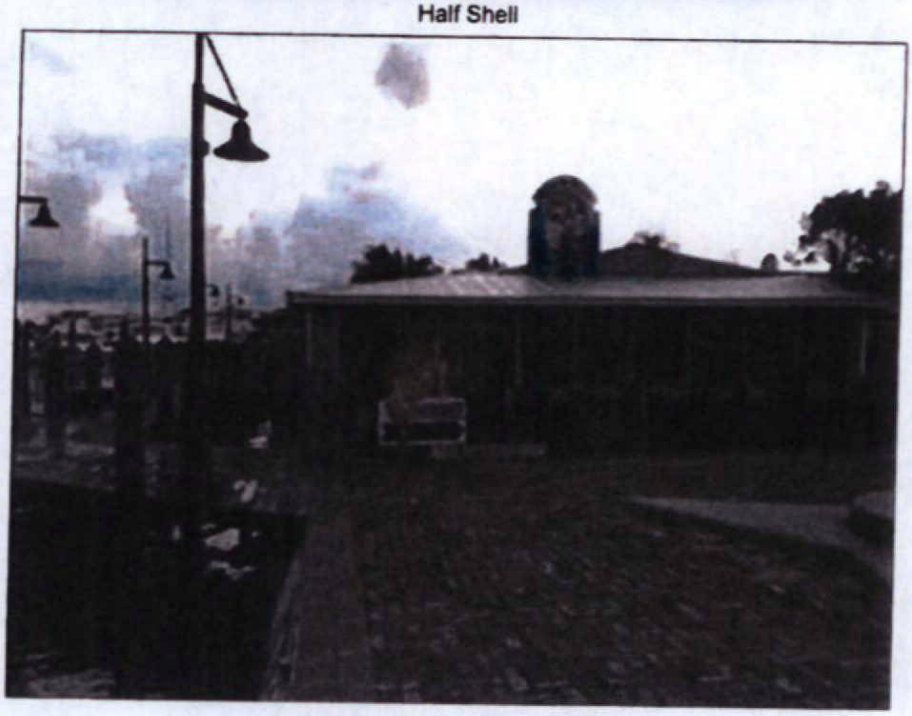
Inspection Report

John Paul Castro

Property Address:
231 Margaret St.
Key West Fl. 33040

Half Shell Raw Bar

Half Shell



Historic Half Shell Restaurant

Conch Republic Home Repair Inc.

Peter Tryon #HI1205
17043 Green Turtle Ln
Sugarloaf,Fl.
33042

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Date: 7/31/2014	Time: 08:00 AM	Report ID: 7312014
Property: 231 Margaret St. Key West Fl. 33040	**Customer:** John Paul Castro	**Real Estate Professional:**

Comment Key or Definitions

The following definitions of comment descriptions represent this inspection report. All comments by the inspector should be considered before purchasing this building. Any recommendations by the inspector to repair or replace suggests a second opinion or further inspection by a qualified contractor. All costs associated with further inspection fees and repair or replacement of item, component or unit should be considered before you purchase the property.

Inspected (IN) = I visually observed the item, component or unit and if no other comments were made then it appeared to be functioning as intended allowing for normal wear and tear.

Not Inspected (NI)= I did not inspect this item, component or unit and made no representations of whether or not it was functioning as intended and will state a reason for not inspecting.

Not Present (NP) = This item, component or unit is not in this building or building.

Repair or Replace (RR) = The item, component or unit is not functioning as intended, or needs further inspection by a qualified contractor. Items, components or units that can be repaired to satisfactory condition may not need replacement.

Standards of Practice:
NACHI National Association of Certified Home Inspectors

In Attendance:
Vacant (inspector only)

Type of building:
Restaraunt

Style of Home:
Restaurant

Approximate age of building:
Over 50 Years 1955

Building Faces:
SE

Temperature:
Over 65 (F) = 18 (C)

Weather:
Cloudy

Ground/Soil surface condition:
Damp

Rain in last 3 days:
Yes

1. Roofing, Roof Structure, Chimneys, and Attic

The building inspector shall observe: Roof covering; Roof drainage systems; Flashings; Skylights, chimneys, and roof penetrations; and Signs of leaks or abnormal condensation on building components The building inspector shall: Describe the type of roof covering materials; and Report the methods used to observe the roofing. The building inspector is not required to: Walk on the roofing; or Observe attached accessories including but not limited to solar systems, antennae, and lightning arrestors

Styles & Materials

Viewed roof covering from:
Walked roof

Roof-Type:
Flat

Roof Covering:
Rolled Asphalt/Fiberglass

Chimney (exterior):
N/A

Sky Light(s):
None

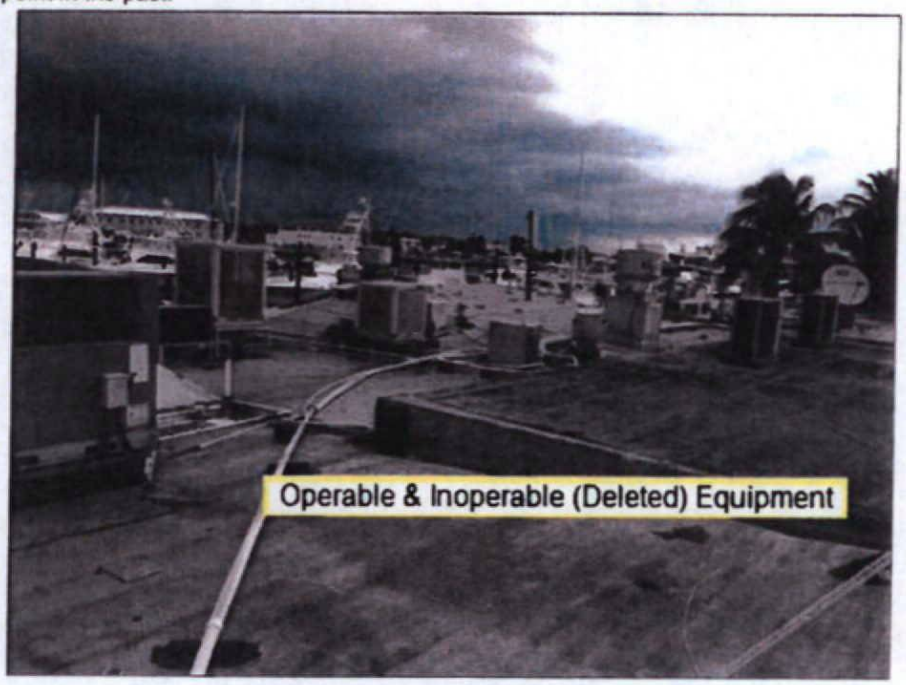
Roof Structure:
2 X 6 Rafters
Not visible
Extra Info : Sections of 6" x 6" rafters

		IN	NI	NP	RR
1.0	Roof Coverings	X			X
1.1	Roof Flashings	X			X
1.2	Skylights, Chimneys and Roof Penetrations	X			X
1.3	Roof Structure and Attic (report leak signs or condensation)	X			

IN=Inspected, NI=Not Inspected, NP=Not Present, RR=Repair or Replace

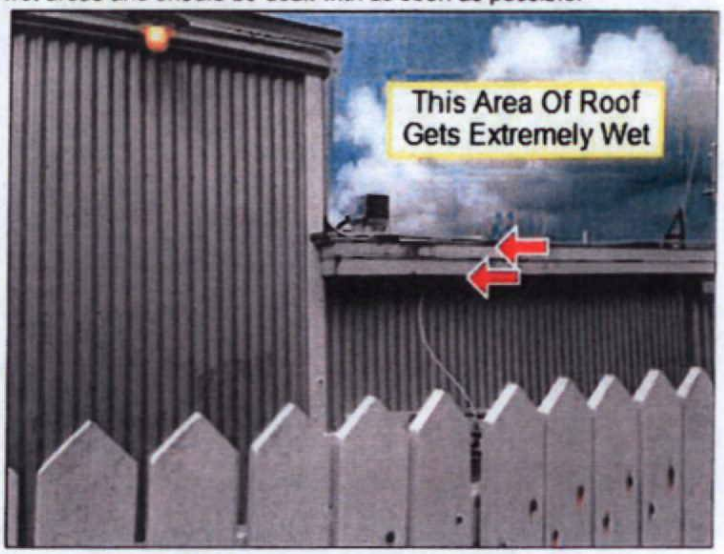
Comments:

1.0 The roof covering on the building was an extremely poor condition. A lot of abandoned/deleted equipment was left on the roof at some point in the past.



1.0 Picture 1 Roof

1.1 The roof flashings on the building was also extremely poor condition. Two areas of the most concern are shown in this report as being extremely wet areas and should be dealt with as soon as possible.



1.1 Picture 1 NE Side Of Building

1.3 Although I don't believe it's a safety issue, the bracing holding up the facade is failing

1.3 Picture 1 Facade

The roof of the building was inspected and reported on with the above information. While the inspector makes every effort to find all areas of concern, some areas can go unnoticed. Roof coverings and skylights can appear to be leak proof during inspection and weather conditions. Our inspection makes an attempt to find a leak but sometimes cannot. Please be aware that the inspector has your best interest in mind. Any repair items mentioned in this report should be considered before purchase. It is recommended that qualified contractors be used in your further inspection or repair issues as it relates to the comments in this inspection report.

2. Exterior

The building inspector shall observe: Wall cladding, flashings, and trim; Entryway doors and a representative number of windows; Garage door operators; Decks, balconies, stoops, steps, areaways, porches and applicable railings; Eaves, soffits, and fascias; and Vegetation, grading, drainage, driveways, patios, walkways, and retaining walls with respect to their effect on the condition of the building. The building inspector shall: Describe wall cladding materials; Operate all entryway doors and a representative number of windows; Operate garage doors manually or by using permanently installed controls for any garage door operator; Report whether or not any garage door operator will automatically reverse or stop when meeting reasonable resistance during closing; and Probe exterior wood components where deterioration is suspected. The building inspector is not required to observe: Storm windows, storm doors, screening, shutters, awnings, and similar seasonal accessories; Fences; Presence of safety glazing in doors and windows; Garage door operator remote control transmitters; Geological conditions; Soil conditions; Recreational facilities (including spas, saunas, steam baths, swimming pools, tennis courts, playground equipment, and other exercise, entertainment, or athletic facilities); Detached buildings or structures; or Presence or condition of buried fuel storage tanks. The building inspector is not required to: Move personal items, panels, furniture, equipment, plant life, soil, snow, ice or debris that obstructs access or visibility.

Styles & Materials

Siding Style:	Siding Material:	Exterior Entry Doors:
V-groove	Wood	Wood
T-111	Metal	Steel

Appurtenance:	Driveway:
Covered porch	Parking lot

		IN	NI	NP	RR
2.0	Wall Cladding Flashing and Trim	X			X
2.1	Doors (Exterior)	X			X
2.2	Windows	X			X
2.3	Decks, Balconies, Stoops, Steps, Areaways, Porches, Patio/Cover and Applicable Railings	X			X
2.4	Vegetation, Grading, Drainage, Driveways, Patio Floor, Walkways and Retaining Walls (with respect to their effect on the condition of the building)	X			
2.5	Eaves, Soffits and Fascias	X			X
2.6	Plumbing Water Faucets (hose bibs)	X			
2.7	Polarity and Grounding of Receptacles on Exterior Walls of Inspected Structure	X			X

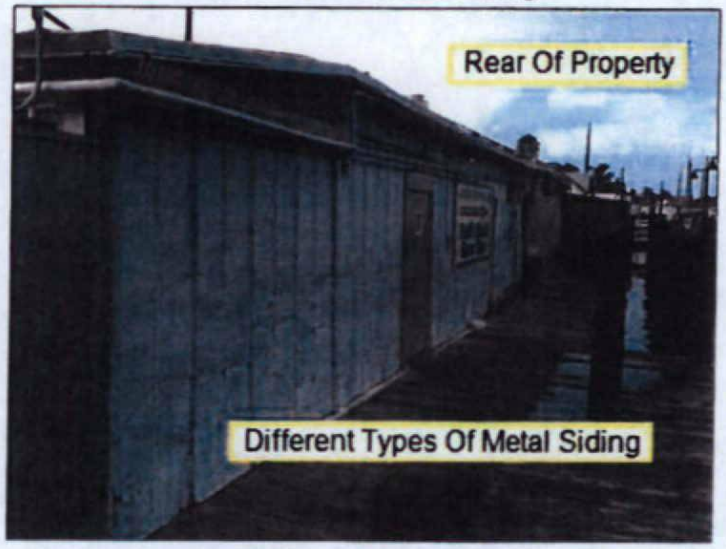
		IN	NI	NP	RR

IN=Inspected, NI=Not Inspected, NP=Not Present, RR=Repair or Replace

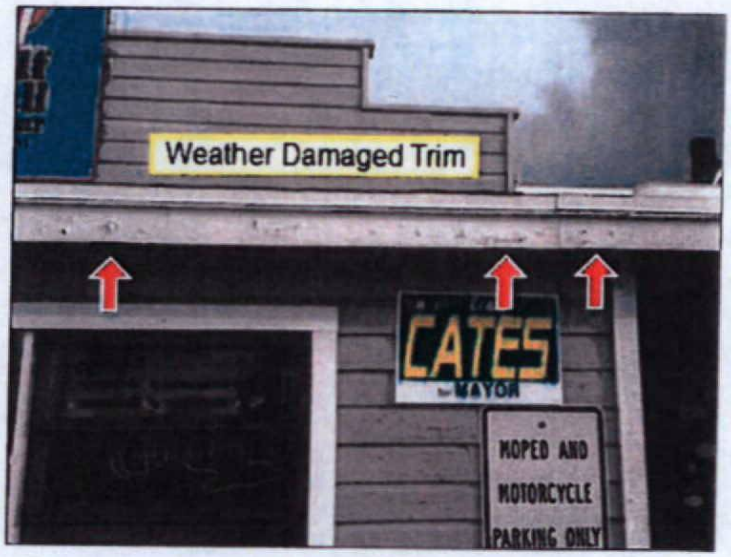
Comments:

2.0 This is a somewhat typical waterfront historic restaurant in Key West Florida. The exterior of the building is indeed in poor condition but was probably meant to be left that way to some degree.

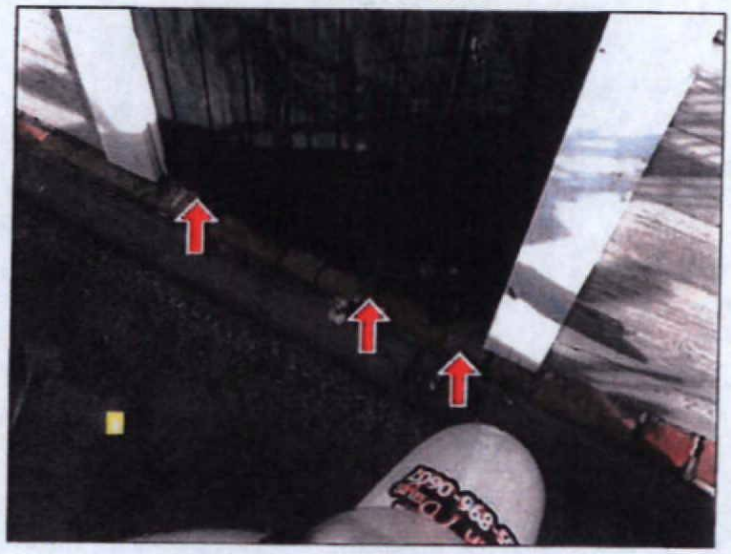
2.0 Picture 1 Section of building



2.0 Picture 2 Oceanside

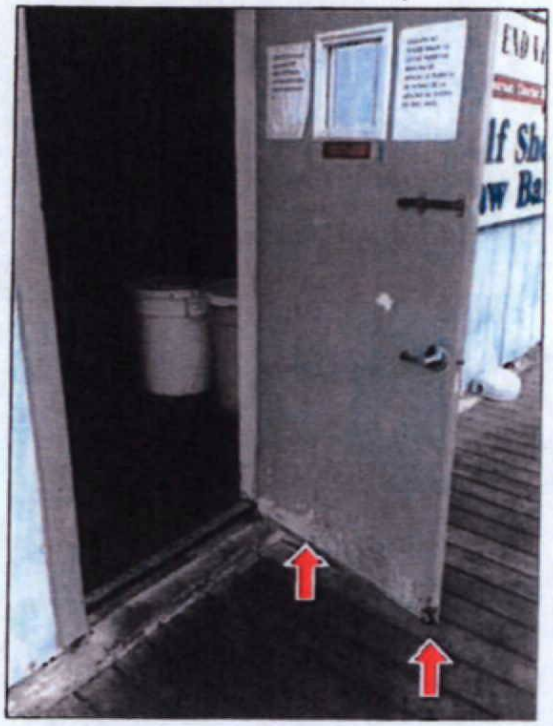


2.0 Picture 3 Exterior



2.0 Picture 4 Weather Damaged

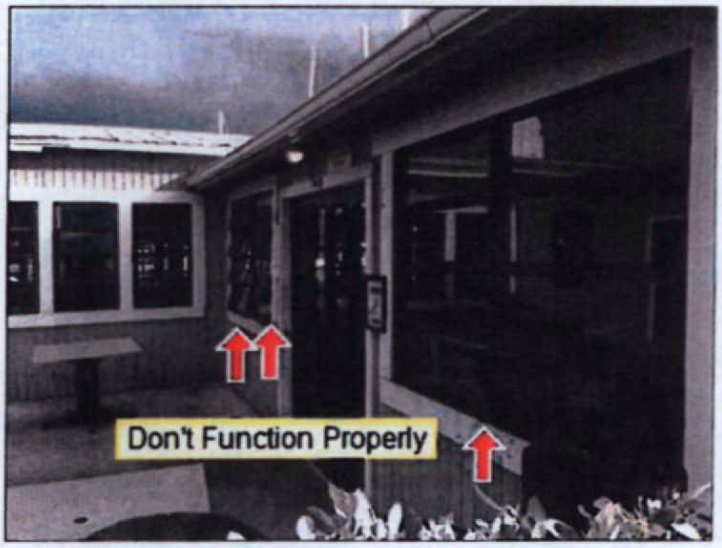
2.1 Picture 4 Front Entry



2.1 Picture 5 Typical Damaged Exterior Door

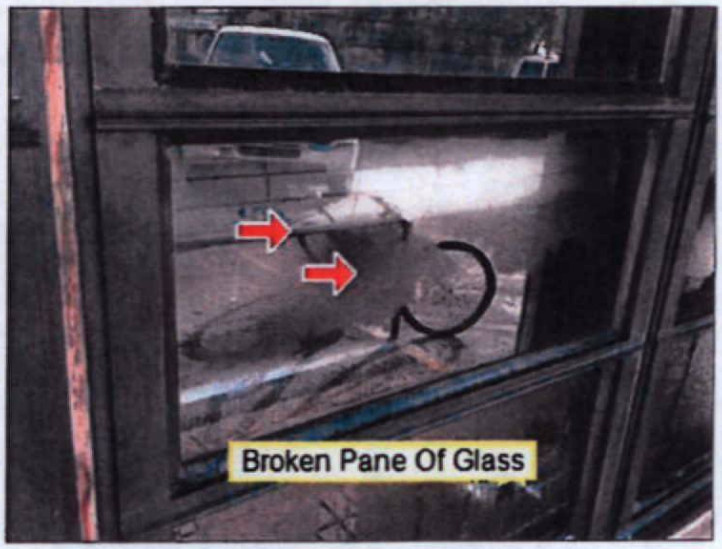
2.2 The windows throughout the restaurant are in poor condition. Most of the hardware is missing or inoperable. A lot of the windows could not be closed. One of the panes of glass out front was actually broken as shown in picture number four.

2.2 Picture 1 Windows



2.2 Picture 2 Windows

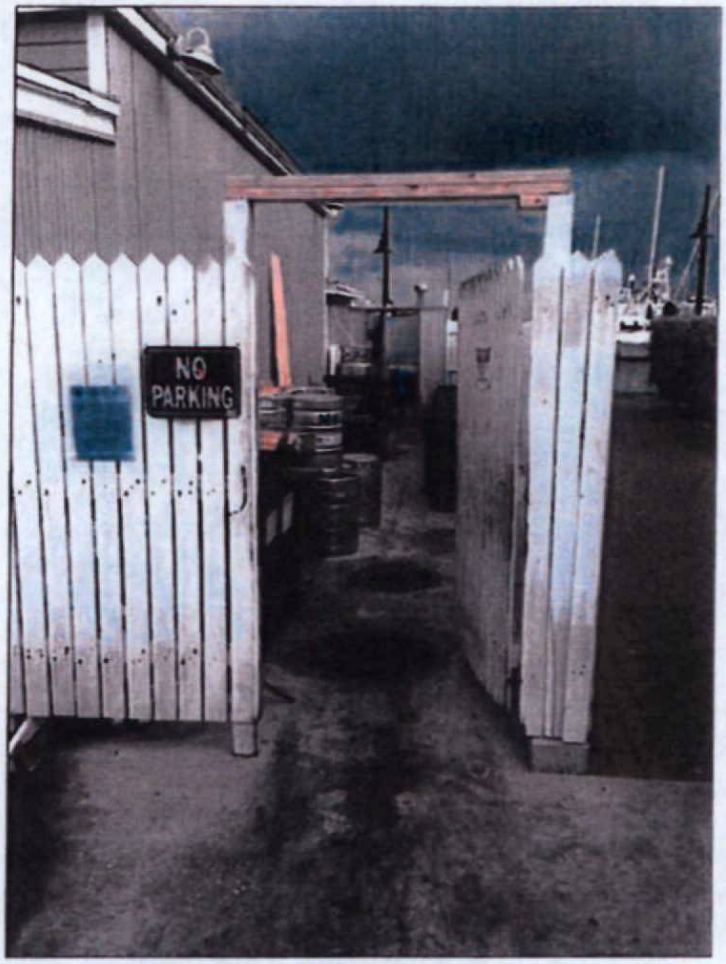
2.2 Picture 3 Windows



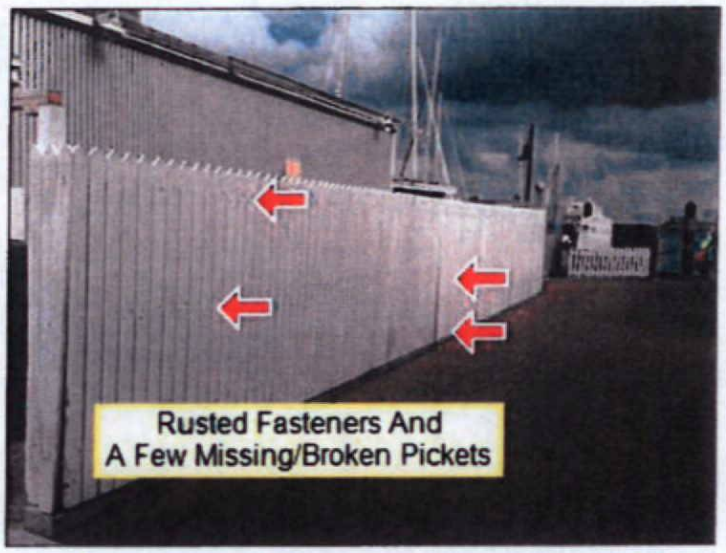
2.2 Picture 4 Near Front Entry

2.3 Although the front porch cover seems to have been repaired recently a lot of rot still remains.

The fence along the northeast side of the property was found in fairly good condition although the fasteners are rusted and a few pickets are loose or missing.



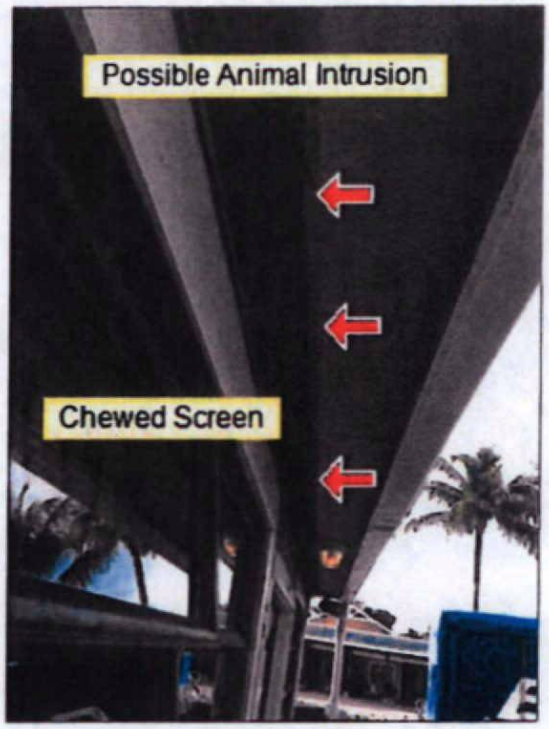
2.3 Picture 1 NE Side Of Building



2.3 Picture 2 Fence

2.3 Picture 3 Front Porch Ceiling

2.5 The soffit around most of the building was found to be in poor condition. Most of the screen has been ripped or chewed which could invite animal activity.



2.5 Picture 1 Soffits

The exterior of the building was inspected and reported on with the above information. While the inspector makes every effort to find all areas of concern, some areas can go unnoticed. Please be aware that the inspector has your best interest in mind. Any repair items mentioned in this report should be considered before purchase. It is recommended that qualified contractors be used in your further inspection or repair issues as it relates to the comments in this inspection report.

3. Structural Components

The building inspector shall observe structural components including foundations, floors, walls, columns or piers, ceilings and roof. The building inspector shall describe the type of Foundation, floor structure, wall structure, columns or piers, ceiling structure, roof structure. The building inspector shall: Probe structural components where deterioration is suspected; Enter under floor crawl spaces, basements, and attic spaces except when access is obstructed, when entry could damage the property, or when dangerous or adverse situations are suspected; Report the methods used to observe under floor crawl spaces and attics; and Report signs of abnormal or harmful water penetration into the building or signs of abnormal or harmful condensation on building components. The building inspector is not required to: Enter any area or perform any procedure that may damage the property or its components or be dangerous to or adversely effect the health of the building inspector or other persons.

Styles & Materials

Foundation:	Method used to observe Crawlspace:	Floor Structure:
Poured concrete	No crawlspace	Slab
Wall Structure:	**Columns or Piers:**	**Floor System Insulation:**
Wood	Wood piers	NONE

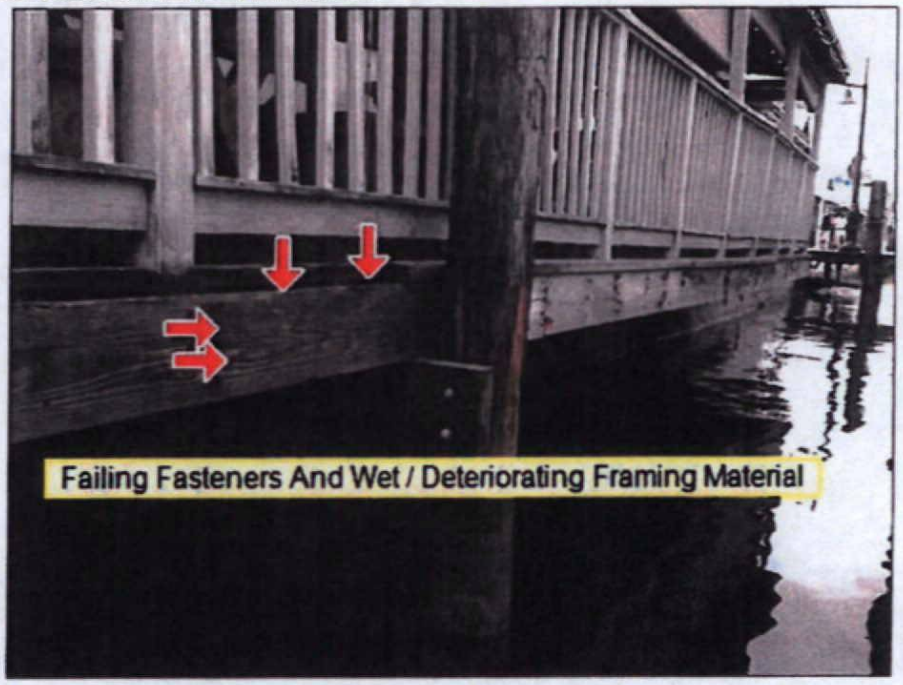
		IN	NI	NP	RR
3.0	Foundations, Basements and Crawlspaces (Report signs of abnormal or harmful water penetration into the building or signs of abnormal or harmful condensation on building components.)	X			
3.1	Walls (Structural)	X			
3.2	Floors (Structural)	X			X
3.3	Vapor Retarders (on ground in crawlspace or basement)			X	
3.4	Ventilation of Foundation Areas (crawlspace or basement)			X	

		IN	NI	NP	RR

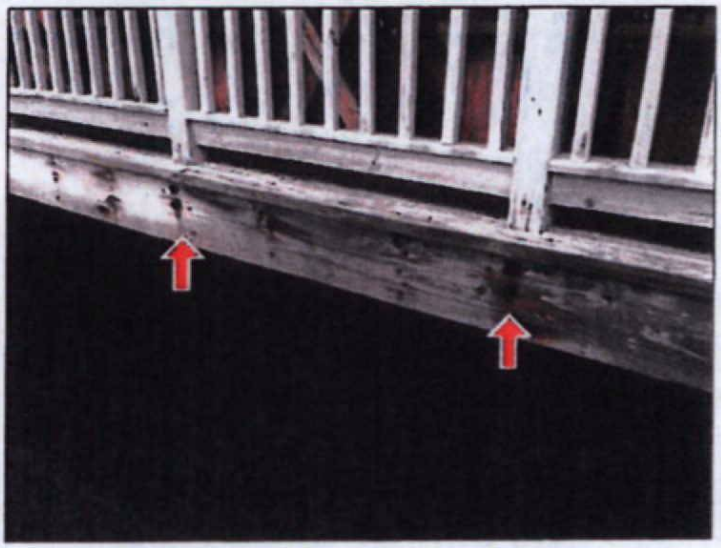
IN=Inspected, NI=Not Inspected, NP=Not Present, RR=Repair or Replace

Comments:

3.2 The cantilever structure of the restaurant appears to be structurally sound at this time. A number of fasteners are rusted and the framing material does show signs of water damage and it is my recommendation a structural engineer be contacted for further evaluation and recommendation.



3.2 Picture 1 Cantalever



3.2 Picture 2 Failing /Rusting Fasteners

3.2 Picture 3 Cantalever

The structure of the building was inspected and reported on with the above information. While the inspector makes every effort to find all areas of concern, some areas can go unnoticed. Please be aware that the inspector has your best interest in mind. Any repair items mentioned in this report should be considered before purchase. It is recommended that qualified contractors be used in your further inspection or repair issues as it relates to the comments in this inspection report.

4. Plumbing System for Building

The building inspector shall observe: Interior water supply and distribution system, including: piping materials, supports, and insulation; fixtures and faucets; functional flow; leaks; and cross connections; Interior drain, waste, and vent system, including: traps; drain, waste, and vent piping; piping supports and pipe insulation; leaks; and functional drainage; Hot water systems including: water heating equipment; normal operating controls; automatic safety controls; and chimneys, flues, and vents; Fuel storage and distribution systems including: interior fuel storage equipment, supply piping, venting, and supports; leaks; and Sump pumps. The building inspector shall describe: Water supply and distribution piping materials; Drain, waste, and vent piping materials; Water heating equipment; and Location of main water supply shutoff device. The building inspector shall operate all plumbing fixtures, including their faucets and all exterior faucets attached to the house, except where the flow end of the faucet is connected to an appliance. The building inspector is not required to: State the effectiveness of anti-siphon devices; Determine whether water supply and waste disposal systems are public or private; Operate automatic safety controls; Operate any valve except water closet flush valves, fixture faucets, and hose faucets; Observe: Water conditioning systems; Fire and lawn sprinkler systems; On-site water supply quantity and quality; On-site waste disposal systems; Foundation irrigation systems; Spas, except as to functional flow and functional drainage; Swimming pools; Solar water heating equipment; or Observe the system for proper sizing, design, or use of proper materials.

Styles & Materials

Water Source:
Public

Water Filters:
(We do not inspect filtration systems)

Plumbing Waste:
Cast iron

Water Heater Power Source:
Electric

Water Heater Capacity:
Two units
Tankless

Water heater Manufacturer:
Rannai

Water Heater Location:
Outdoor Closet

		IN	NI	NP	RR
4.0	Plumbing Drain, Waste and Vent Systems	X			X
4.1	Plumbing Water Supply and Distribution Systems and Fixtures	X			
4.2	Hot Water Systems, Controls, Chimneys, Flues and Vents	X			

IN=Inspected, NI=Not Inspected, NP=Not Present, RR=Repair or Replace

Comments:

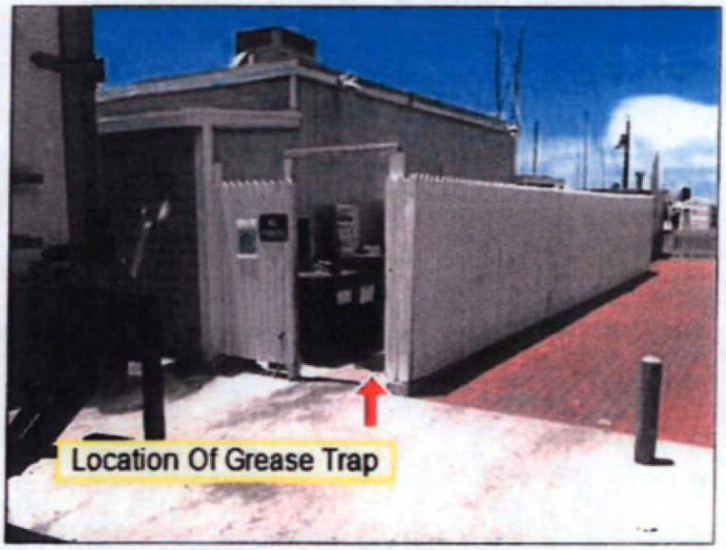
4.0 Picture number one shows two PVC drains that appear to have been discarded and left open.

The changing of floor heights throughout the kitchen area has made the drain system faulty.

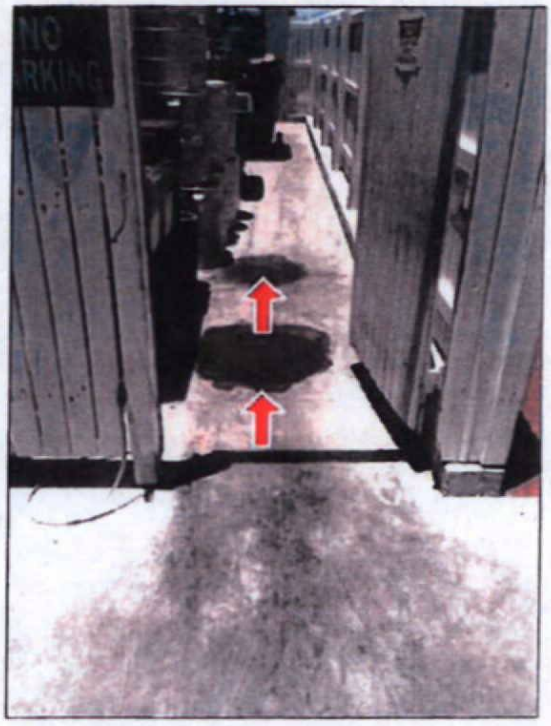
Staff states no negative issues and maintenance is up to date.

4.0 Picture 1 Drain

4.0 Picture 2 Kitchen Drain System



4.0 Picture 3 Grease Trap



4.0 Picture 4 Grease Trap Covers

4.2 The two tankless water heaters shown in picture number one were difficult to access for further inspection due to clutter in the area.

4.2 Picture 1 2 Tankless Units

The plumbing in the building was inspected and reported on with the above information. While the inspector makes every effort to find all areas of concern, some areas can go unnoticed. Washing machine drain line for example cannot be checked for leaks or the ability to handle the volume during drain cycle. Older homes with galvanized supply lines or cast iron drain lines can be obstructed and barely working during an inspection but then fails under heavy use. If the water is turned off or not used for periods of time (like a vacant building waiting for closing) rust or deposits within the pipes can further clog the piping system. Please be aware that the inspector has your best interest in mind. Any repair items mentioned in this report should be considered before purchase. It is recommended that qualified contractors be used in your further inspection or repair issues as it relates to the comments in this inspection report.

5. Offices / Suites (duplicate using the Components bar)

The building inspector shall observe permanently installed heating and cooling systems including: Heating equipment; Cooling Equipment that is central to building; Normal operating controls; Automatic safety controls; Chimneys, flues, and vents, where readily visible; Solid fuel heating devices; Heat distribution systems including fans, pumps, ducts and piping, with supports, insulation, air filters, registers, radiators, fan coil units, convectors; and the presence of an installed heat source in each room. The building inspector shall describe: Energy source; and Heating equipment and distribution type. The building inspector shall operate the systems using normal operating controls. The building inspector shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance. The building inspector is not required to: Operate heating systems when weather conditions or other circumstances may cause equipment damage; Operate automatic safety controls; Ignite or extinguish solid fuel fires; or Observe: The interior of flues; Fireplace insert flue connections; Humidifiers; Electronic air filters; or The uniformity or adequacy of heat supply to the various rooms.

Styles & Materials

Ceiling Materials:
Drywall
Wood

Wall Material:
Wood

Floor Covering(s):
Tile
Unfinished
Wood
Extra Info : Concrete

Interior Doors:
Hollow core
Wood

Window Types:
Awning
Single-hung

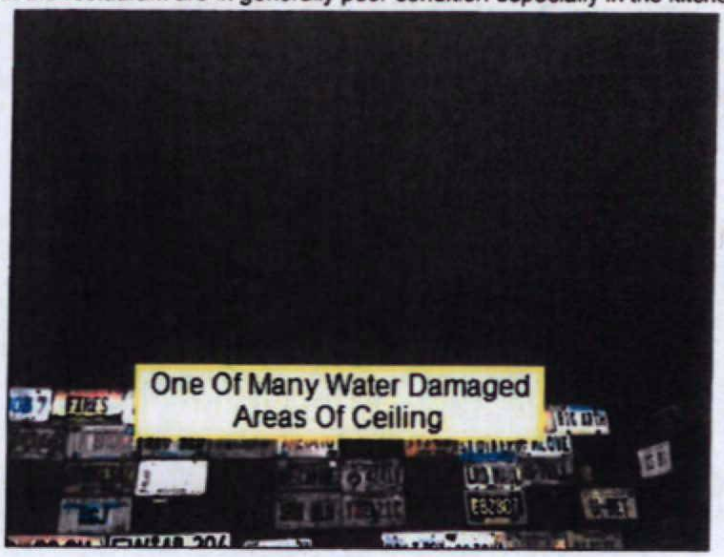
		IN	NI	NP	RR
5.0	Ceilings	X			X
5.1	Walls	X			
5.2	Floors	X			X
5.3	Doors (Representative Number)	X			
5.4	Windows (Representative Number)	X			X
5.5	Counters and a Representative Number of Cabinets	X			
5.6	Outlets and Wall Switches	X			
5.7	Steps, Stairways, Balconies and Railings			X	
5.8	Smoke Detectors	X			
5.9	Carbon Monoxide Detectors			X	

		IN	NI	NP	RR

IN=Inspected, NI=Not Inspected, NP=Not Present, RR=Repair or Replace

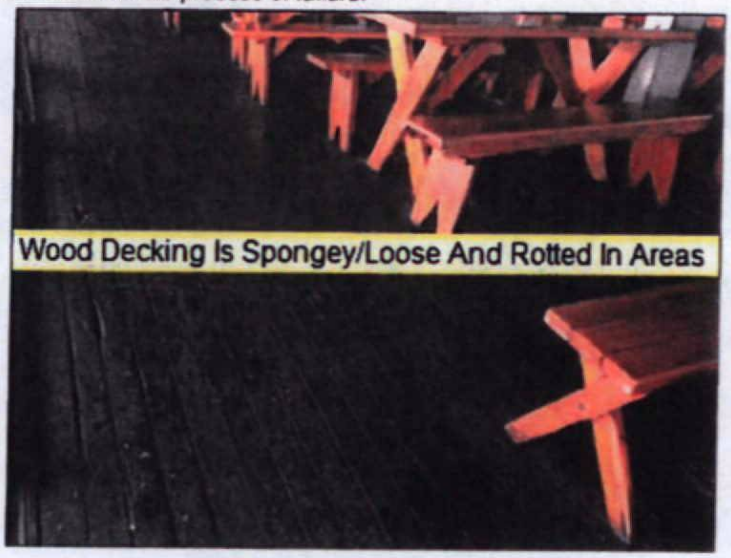
Comments:

5.0 The ceilings throughout the restaurant are in generally poor condition especially in the kitchen area..



5.0 Picture 1 Ceiling

5.2 The floors throughout the restaurant are obviously aged and stand in different degrees of condition. The areas of wood decking painted black are loose and in the process of failure.

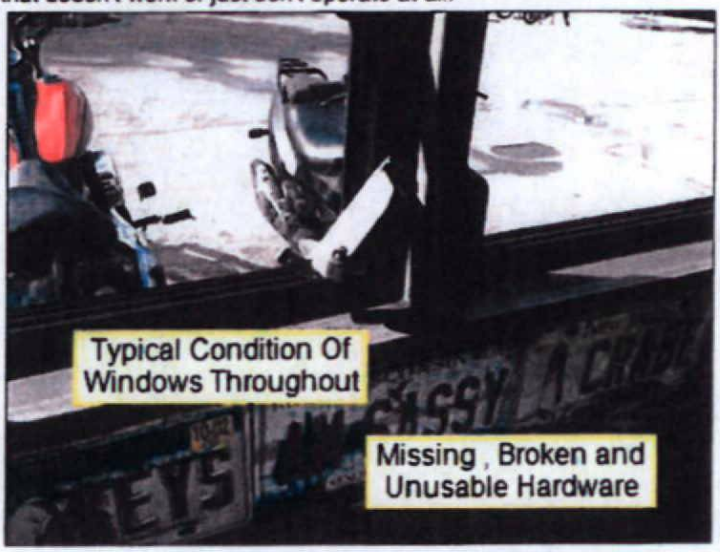


5.2 Picture 1 Black Wood Flooring

5.2 Picture 2 Entry

5.2 Picture 3 Trip Hazard

5.4 The windows throughout the restaurant are in extremely poor condition. a large percentage are either missing hardware, have hardware that doesn't work or just don't operate at all.



5.4 Picture 1 Windows

The heating and cooling system of this building was inspected and reported on with the above information. While the inspector makes every effort to find all areas of concern, some areas can go unnoticed. The inspection is not meant to be technically exhaustive. The inspection does not involve removal and inspection behind service door or dismantling that would otherwise reveal something only a licensed heat contractor would discover. Please be aware that the inspector has your best interest in mind. Any repair items mentioned in this report should be considered before purchase. It is recommended that qualified contractors be used in your further inspection or repair issues as it relates to the comments in this inspection report.

6. Kitchen

Styles & Materials

Exhaust/Range hood:
Unknown Brand

Range/Oven:
Unknown

Built in Microwave:
None

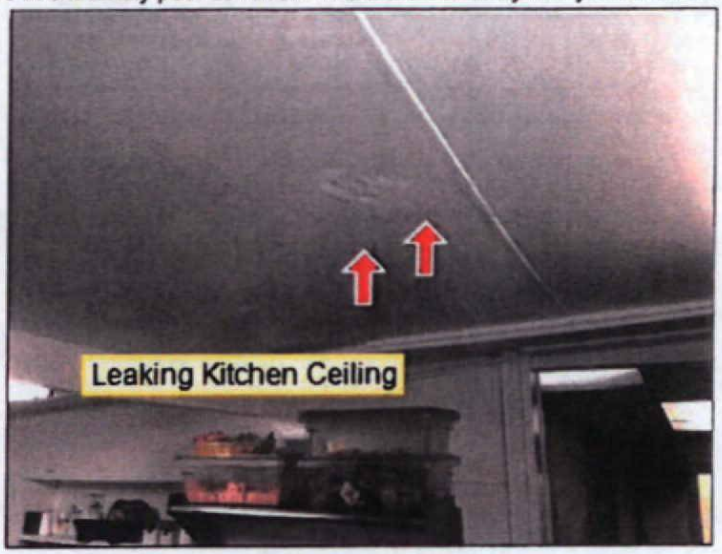
Trash Compactors:
None

		IN	NI	NP	RR
6.0	Ceilings	X			X
6.1	Walls	X			X
6.2	Floors	X			X
6.3	Doors (Representative Number)			X	
6.4	Windows (Representative Number)			X	
6.5	Counters and a Representative Number of Cabinets	X			
6.6	Plumbing Supply, Fixtures	X			X
6.7	Plumbing Drain, Waste and Vent Systems	X			X
6.8	Outlets and Wall Switches	X			
		IN	NI	NP	RR

IN=Inspected, NI=Not Inspected, NP=Not Present, RR=Repair or Replace

Comments:

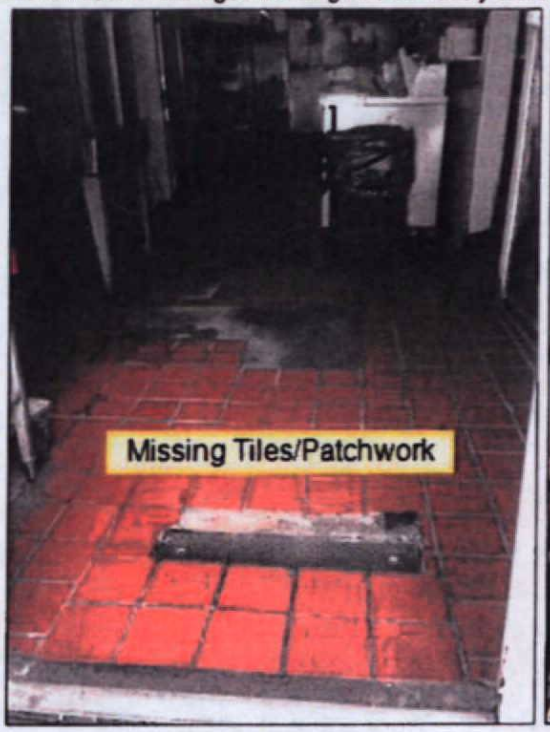
6.0 The kitchen ceilings are in extremely poor condition. There are obviously many areas that leak due to the faulty roof.



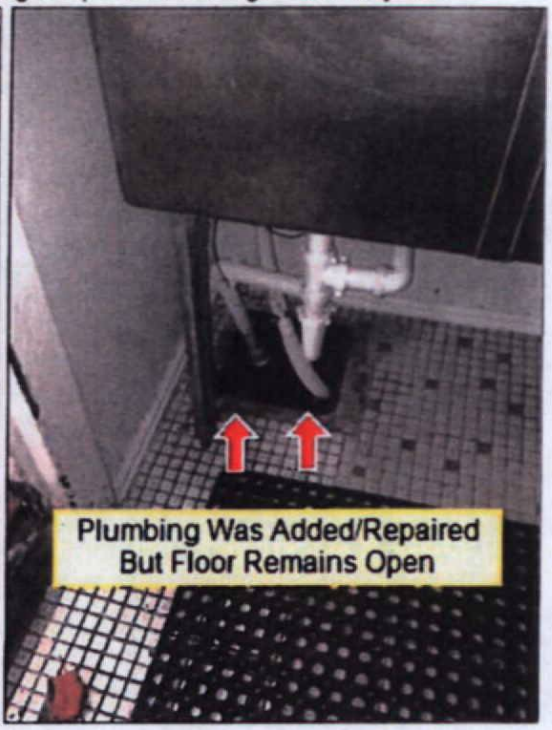
6.0 Picture 1 Ceiling

6.0 Picture 2 Kitchen Ceiling

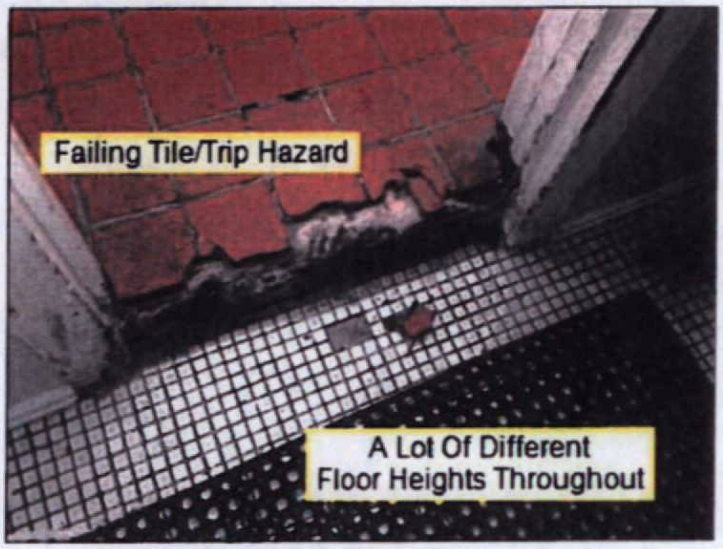
6.2 The kitchen floor in this aged building has obviously undergone quite a few changes over the years.



6.2 Picture 1 Kitchen Floor

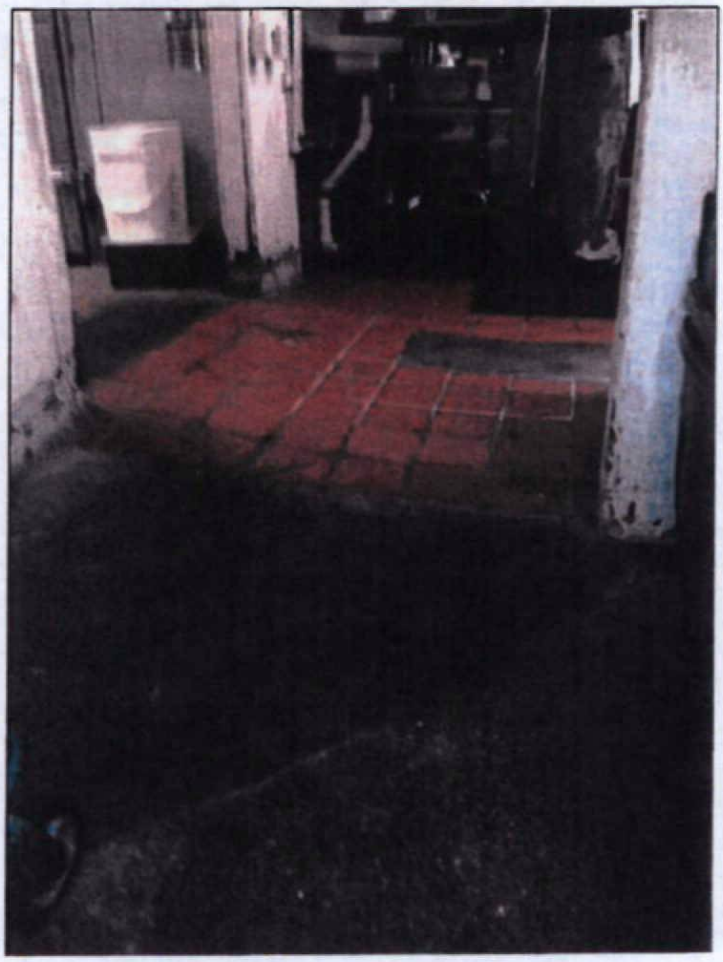


6.2 Picture 2 Kitchen Floor

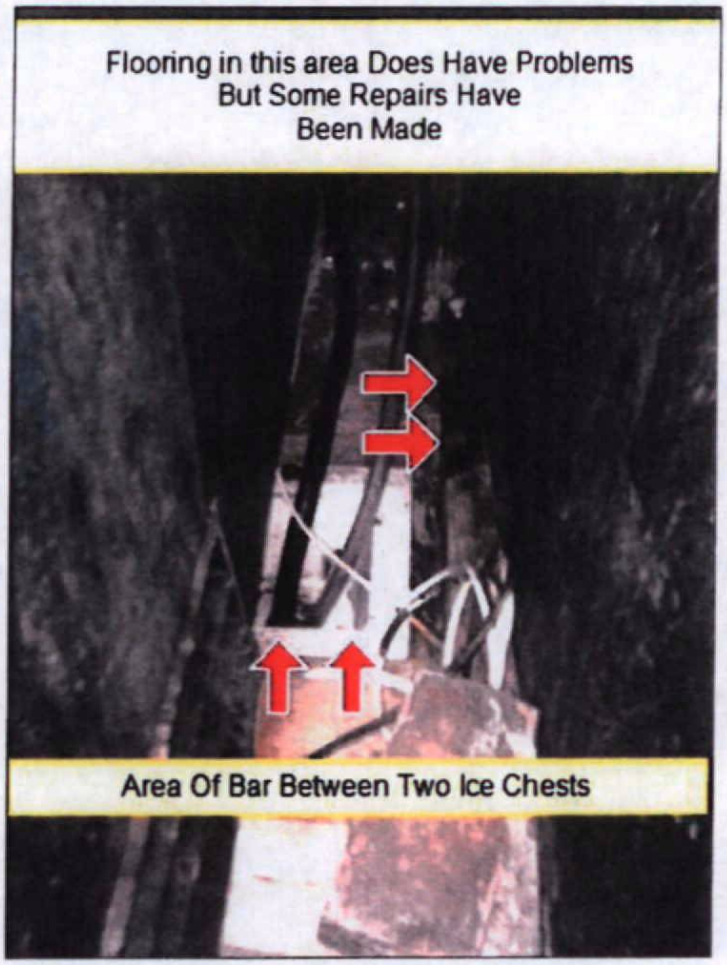


6.2 Picture 3 Flooring

6.2 Picture 4 Flooring

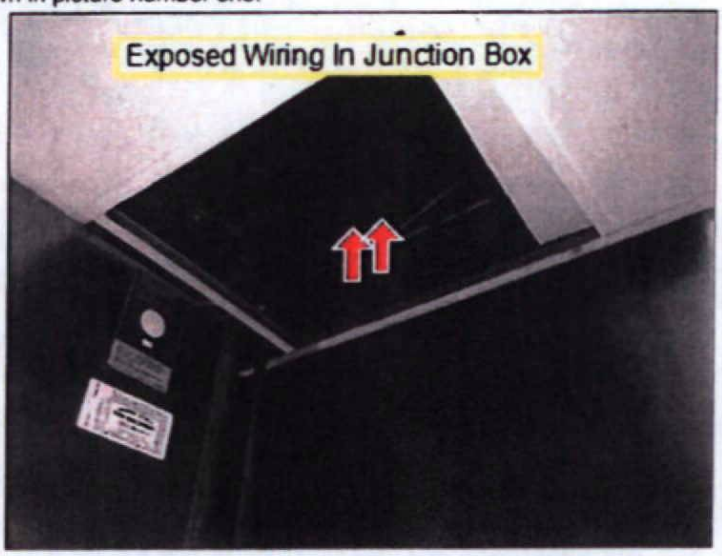


6.2 Picture 5 Typical Flooring Situation



6.2 Picture 6 Drain

6.8 The outlets and switches throughout the restaurant were in an aged condition and you will notice the exposed wiring in the kitchen ceiling as shown in picture number one.



6.8 Picture 1 Kitchen Ceiling

7. Rest Rooms / Other (duplicate using the Components bar)

Styles & Materials

Ceiling Materials:
Drywall

Wall Material:
Drywall

Floor Covering(s):
Tile

Bath Exhaust Fans:
Fan only

		IN	NI	NP	RR
7.0	Ceilings	X			
7.1	Walls	X			X
7.2	Floors	X			
7.3	Doors (Representative Number)	X			
7.4	Windows (Representative Number)			X	
7.5	Plumbing Supply, Fixtures	X			
7.6	Plumbing Drain, Waste and Vent Systems	X			
7.7	Outlets and Wall Switches	X			X
7.8	Venting Systems	X			
		IN	NI	NP	RR

IN=Inspected, NI=Not Inspected, NP=Not Present, RR=Repair or Replace

Comments:

7.1 Minor damage to the men's bathroom wall as it appears the picture was removed.

7.1 Picture 1 Mens Bathroom

7.5 The men's bathroom appears to have been recently renovated and was found in good working order with the exception of an open ground at the wall outlet.

7.5 Picture 1 Mens Bathroom

7.7 Again, there was an open ground found at the men's bathroom outlet.

7.7 Picture 1 Mens Bath

8. Electrical System for Building

The building inspector shall observe: Service entrance conductors, Service equipment, grounding equipment, main over current device, and main and distribution panels; Amperage and voltage ratings of the service; Branch circuit conductors, their over current devices, and the compatibility of their ampacities and voltages; The operation of a representative number of installed ceiling fans, lighting fixtures, switches and receptacles located inside the house, garage, and on the dwelling's exterior walls; The polarity and grounding of all receptacles within six feet of interior plumbing fixtures, and all receptacles in the garage or carport, and on the exterior of inspected structures; The operation of ground fault circuit interrupters; and Smoke detectors. The building inspector shall describe: Service amperage and voltage; Service entry conductor materials; Service type as being overhead or underground; and Location of main and distribution panels. The building inspector shall report any observed aluminum branch circuit wiring. The building inspector shall report on presence or absence of smoke detectors, and operate their test function, if accessible, except when detectors are part of a central system. The building inspector is not required to: Insert any tool, probe, or testing device inside the panels; Test or operate any over current device except ground fault circuit interrupters; Dismantle any electrical device or control other than to remove the covers of the main and auxiliary distribution panels; or Observe: Low voltage systems; Security system devices, heat detectors, or carbon monoxide detectors; Telephone, security, cable TV, intercoms, or other ancillary wiring that is not a part of the primary electrical distribution system; or Built-in vacuum equipment.

Styles & Materials

Electrical Service Conductors:
Below ground

Panel capacity:
200 AMP

Panel Type:
Circuit breakers

Branch wire 15 and 20 AMP:
Copper

Wiring Methods:
Romex

		IN	NI	NP	RR
8.0	Service Entrance Conductors	X			
8.1	Service and Grounding Equipment, Main Overcurrent Device, Main and Distribution Panels	X			X
8.2	Brand Circuit Conductors, Overcurrent Devices and Compatibility of Their Amperage and Voltage	X			X
8.3	Connected Devices and Fixtures (Observed from a representative number operation of ceiling fans, lighting fixtures, switches and receptacles located inside the house, garage, and on the dwelling's exterior walls)	X			X
8.4	Polarity and Grounding of Receptacles Within 6 Feet of Interior Plumbing Fixtures, and All Receptacles in Garage, Carport, Exterior Walls of Inspected Structure	X			X
8.5	Operation of GFCI (Ground Fault Circuit Interrupters)	X			X
8.6	Location of Main and Distribution Panels	X			
8.7	Smoke Detectors	X			
8.8	Carbon Monoxide Detectors			X	

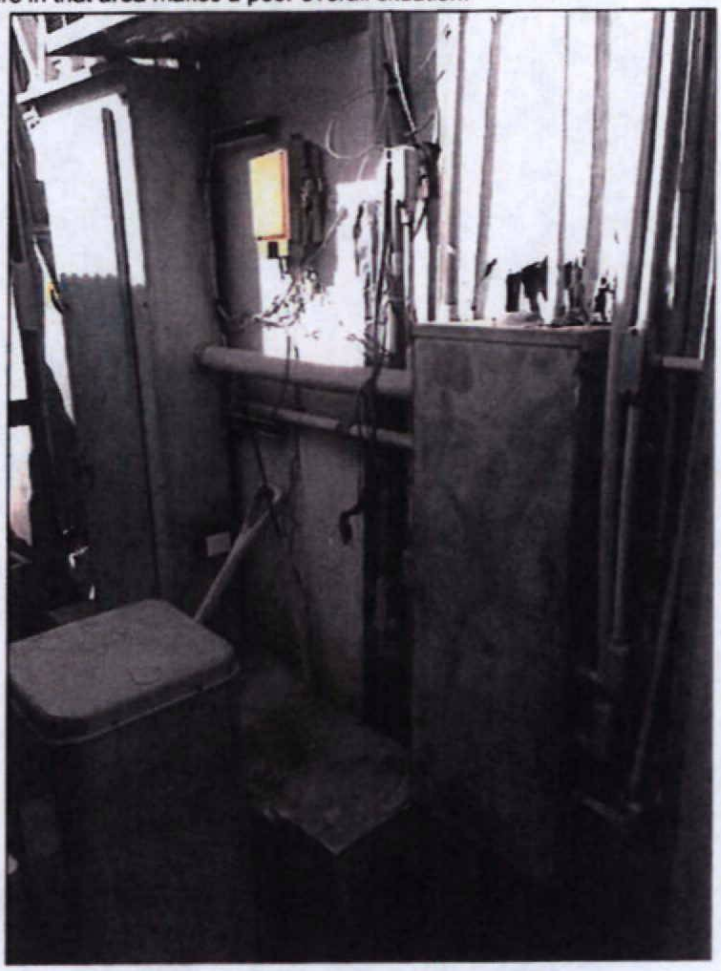
IN=Inspected, NI=Not Inspected, NP=Not Present, RR=Repair or Replace

Comments:

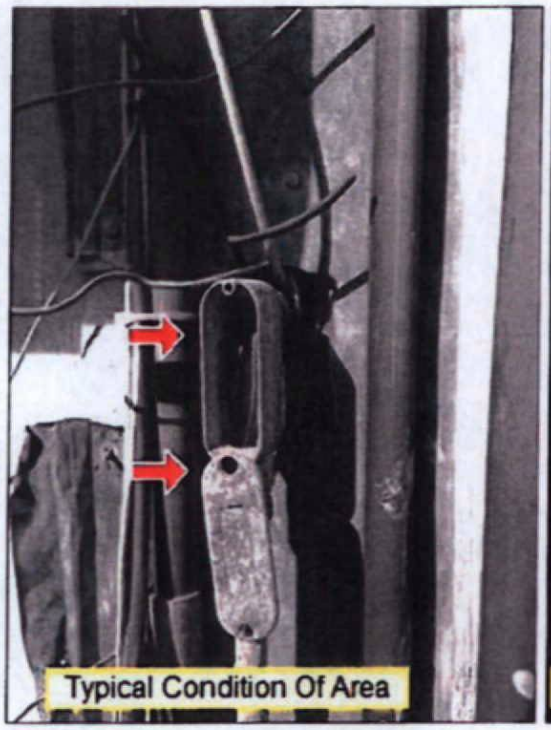
8.0 Again, the service entrance is in a poor cluttered , overloaded condition. Consulting a licensed electrical contractor for further evaluation and recommendation is suggested.

8.0 Picture 1 Service Entrance

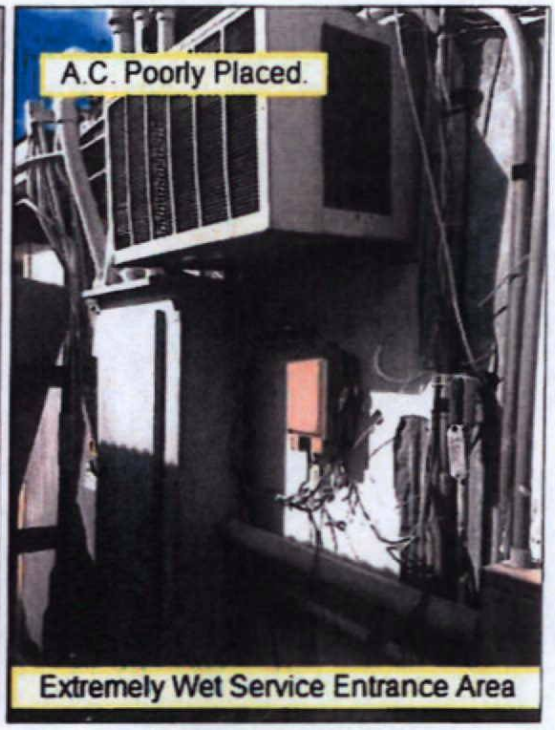
8.1 The service entrance as a whole was in poor condition. Loose panels, loose panel covers, overloaded circuits and an extreme amount of moisture in that area makes a poor overall situation.



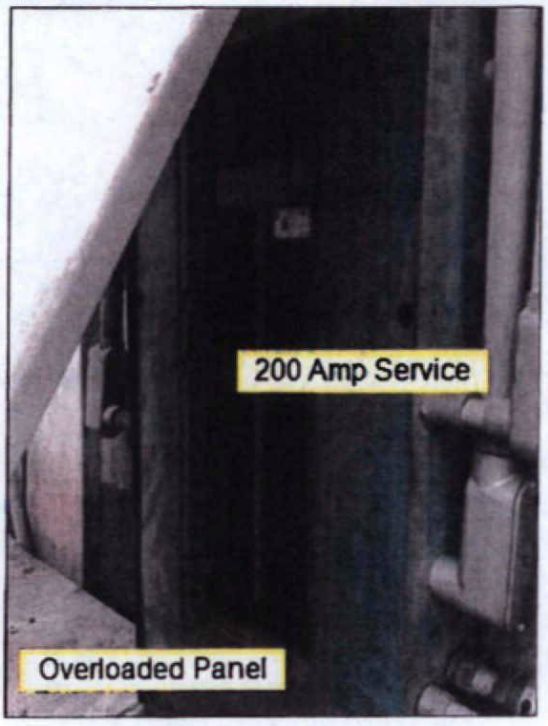
8.1 Picture 1 Underground Service Entrance



8.1 Picture 2 Exposed Wiring



8.1 Picture 3 Main Distribution Panel



8.1 Picture 4 Distribution Panel

8.3 This is an old building which made determining functional equipment as opposed to operational equipment very difficult. A lot of the existing conduit/PVC and wiring are obviously obsolete but just left behind. Picture number one shows a typical minor issue at the restaurant.

8.3 Picture 1 Maintenance Issues

8.4 The overhead front entry receptacle was not GFI rated.

8.4 Picture 1 Front Entry

The electrical system of the building was inspected and reported on with the above information. While the inspector makes every effort to find all areas of concern, some areas can go unnoticed. Outlets were not removed and the inspection was only visual. Any outlet not accessible (behind the refrigerator for example) was not inspected or accessible. Please be aware that the inspector has your best interest in mind. Any repair items mentioned in this report should be considered before purchase. It is recommended that qualified contractors be used in your further inspection or repair issues as it relates to the comments in this inspection report.

9. Heating / Cooling

Styles & Materials

Cooling Equipment Type:
Heat Pump Forced Air (also provides warm air)

Cooling Equipment Energy Source:
Electricity

Central Air Manufacturer:
CARRIER
TRANE

Number of AC Only Units:
Four

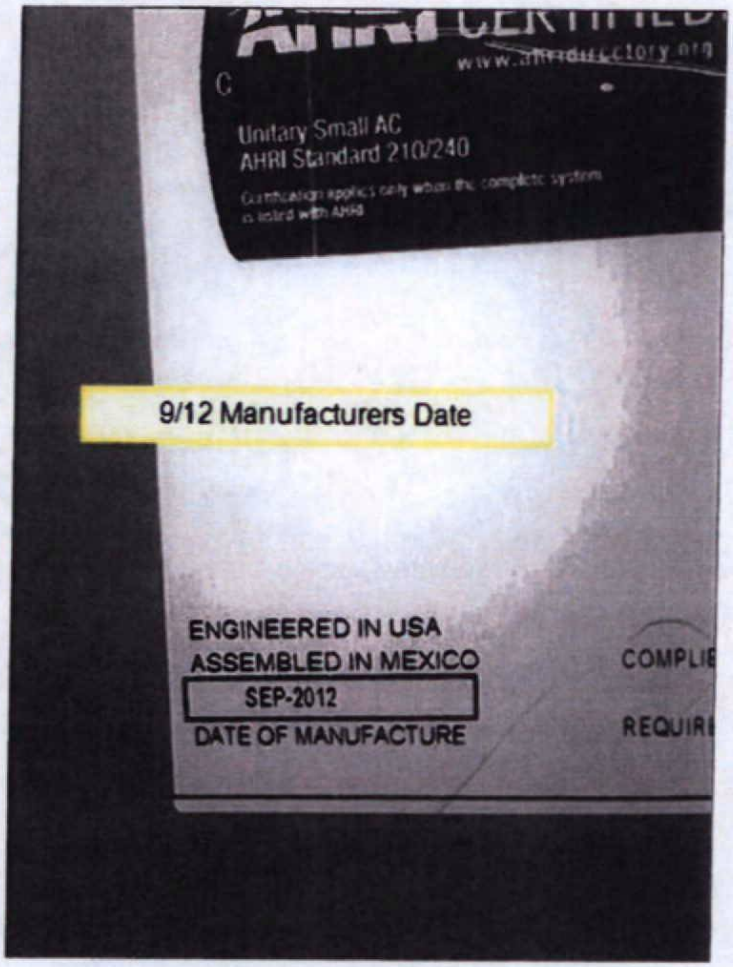
		IN	NI	NP	RR
9.0	Cooling and Air Handler Equipment	X			
9.1	Presence of Installed Cooling Source in Each Room	X			
9.2	Normal Operating Controls	X			
9.3	Automatic Safety Controls			X	
9.4	Distribution Systems (including fans, pumps, ducts and piping, with supports, insulation, air filters, registers, radiators, fan coil units and convectors)	X			
9.5	Chimneys, Flues and vents (for fireplaces, gas water heaters or heat systems)			X	
9.6	Solid Fuel Heating Devices (Fireplaces, Woodstove)			X	
9.7	Gas/LP Firelogs and Fireplaces			X	
		IN	NI	NP	RR

IN=Inspected, NI=Not Inspected, NP=Not Present, RR=Repair or Replace

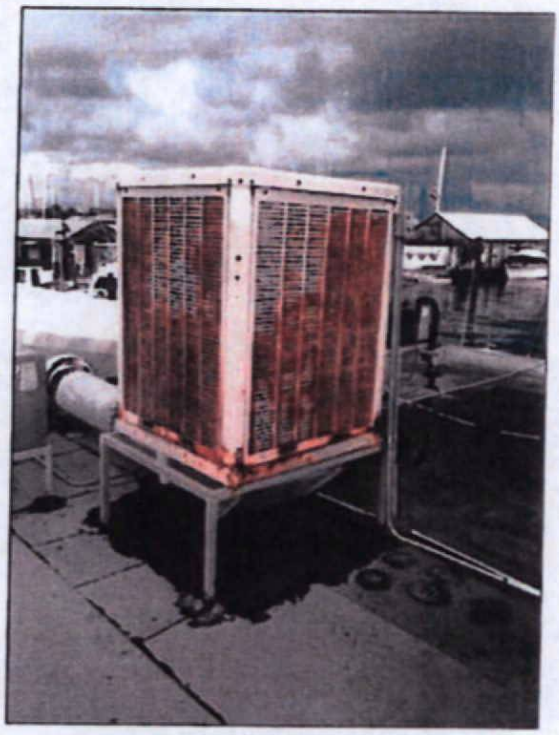
Comments:

9.0 A lot of the cooling equipment on the property is obsolete. A lot of cooling equipment is in good working order with manufacturer's information present , and a lot of cooling equipment on the property is functional yet no records of manufacturers information could be found.

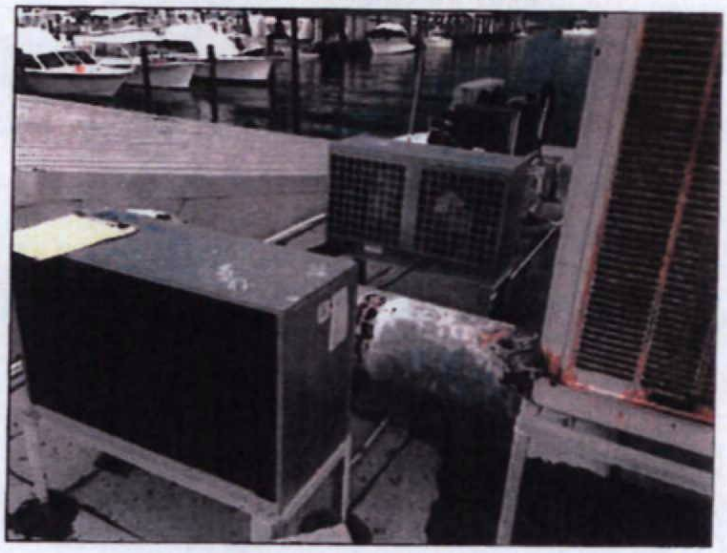
The appraiser's notes do show multiple air-conditioning projects over the years but specifics are lacking.



9.0 Picture 1 Roof Condenser

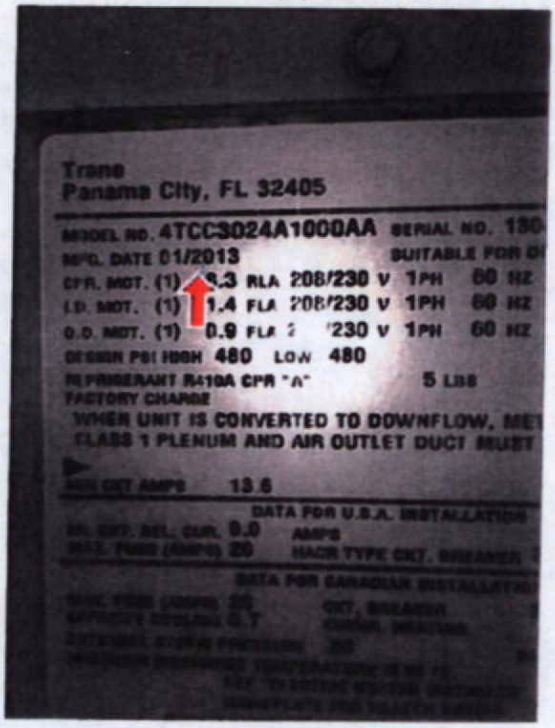


9.0 Picture 2 Deleted Condenser

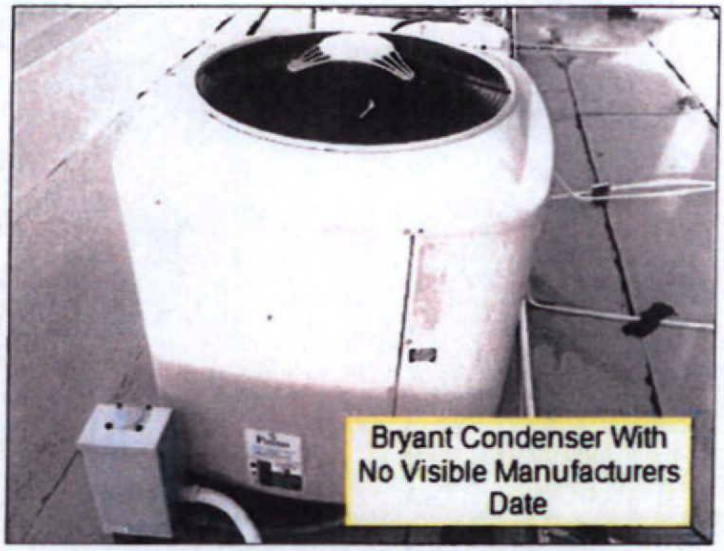


9.0 Picture 3 Mini Split Units

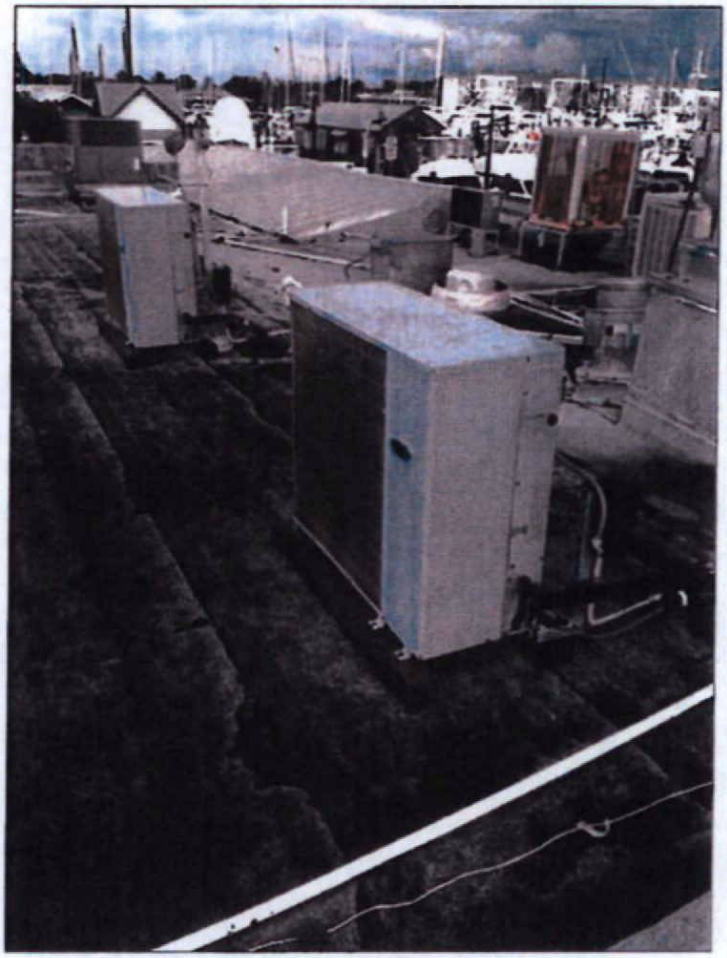
9.0 Picture 4 Equipment On Roof



9.0 Picture 5 Trane Condenser

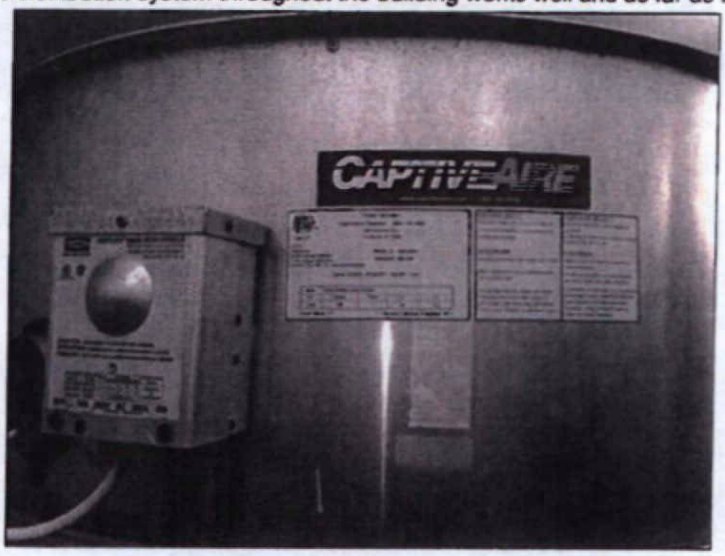


9.0 Picture 6 No Info



9.0 Picture 7 Roof Equipment

9.4 The staff maintains the distribution system throughout the building works well and as far as I can tell I agree.



9.4 Picture 1 Distribution Systyem

Conch Republic
Home Repair
&
Improvements

Conch Republic Home Repair Inc.

17043 Green Turtle Ln
Sugarloaf,Fl.
33042

Report Attachments

ATTENTION: This inspection report is incomplete without reading the information included herein at these links/attachments. Note If you received a printed version of this page and did not receive a copy of the report through the internet please contact your inspector for a printed copy of the attachments.

Appraisers Records

Exhibit "G"
City of Key West General Contract Conditions

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DEFINITIONS

Whenever in the Contract Documents the following terms are used, the intent and meaning shall be interpreted as follows:

1. **AS APPROVED**

   The words "as approved", unless otherwise qualified, shall be understood to be followed by the words "by the Engineer for conformance with the Contract Document".

2. **AS SHOWN, AND AS INDICATED**

   The words "as shown" and "as Indicated" shall be understood to be followed by the words "on the Drawings".

3. **BIDDER**

   The person or persons, partnership, firm, or corporation submitting a Bid for the work contemplated.

4. **CONTRACT DOCUMENTS**

   The "Contract Documents" consist of the Bid Requirements, Contract Forms, Conditions of the Contact, Specifications, Drawings, all modifications thereof incorporated into the Documents before their execution, Change Orders, and all other requirements incorporated by specific reference thereto. These form the Contract.

5. **CONTRACTOR**

   The person or persons, partnership, firm, or corporation who enters into the Contract awarded him by the Owner.

6. **CONTRACT COMPLETION**

   The "Contract Completion" is the date the Owner accepts the entire work as being in compliance with the Contract Documents, or formally waives nonconforming work to extent of nonconformity, and issues the final payment in accordance with the requirements set forth in Article, "Final Payment" of these General Conditions.

7. **DAYS**

   Unless otherwise specifically stated, the term "days" will be understood to mean calendar days. Business day or working day means any day other than Saturday, Sunday, or legal holiday.

8. **DRAWINGS**

   The term "Drawings" refers to the official Drawings, profiles, cross sections, elevations, details, and other working drawings and supplementary drawings, or reproductions thereof which shows the location, character, dimensions, and details of the work to be performed.

9. **ENGINEER**

The person or organization identified as such in the Contract Documents. The Term "Engineer" means the Owner's Engineer, Owner's contracted Engineer, or its authorized representative.

9(a). **PROJECT MANAGER**

The person or organization identified as such in the Contract Documents. The Term "Project Manager" means the Owner's authorized representative overseeing the project for the City.

10. **NOTICE**

The term "notice" or the requirement to notify, as used in the Contract Documents or applicable state or federal statutes, shall signify a written communication delivered in person or by registered mail to the individual, or to a member of the firm, or to an officer of the corporation for whom it is intended. Certified or registered mail shall be addressed to the last business address known to him who gives the notice.

11. **OR EQUAL**

The term "or equal" shall be understood to indicate that the "equal" product is equivalent to or better than the product named in function, performance, reliability, quality, and general configuration. The Engineer will make determination of equality in reference to the project design requirements. Such equal products shall not be purchased or installed by the Contractor without written authorization.

12. **OWNER**

The person, organization, or public body identified as such in the Contract Documents.

Wherever in these Documents the word "Owner" appears, it shall be understood to mean the City of Key West whose address is 3126 Flagler Ave., P.O. Box 1409, Key West, Florida 33041-1409.

13. **PLANS** (See Drawings)

14. **SPECIFICATIONS**

The term "Specifications" refers to those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards, and workmanship as applied to the work and certain administrative details applicable thereto. Where standard specifications, such as those of ASTM, AASHTO, etc., have been referred to, the applicable portions of such standard specifications shall become a part of these Contract Documents. If referenced specifications conflict with specifications contained herein, the requirements contained herein shall prevail.

FEDERAL, STATE, COUNTY, AND LOCAL STANDARD SPECIFICATIONS

Where portions of the work traverse or cross federal, state, county, or local highways, roads, or streets, and the agency in control of such property has established standard specifications governing items of work that differ from these Specifications, the most stringent requirements shall apply.

The Contractor shall comply with all regulations and requirements of the State Highway Department and the County Road Department wherever the work traverses or crosses state or county highways.

15. NOTICE TO PROCEED

A written notice given by the Owner to the Contractor (with a copy to the Engineer) fixing the date on which the Contract time will commence to run and on which the Contractor shall start to perform his obligation under the Contract Documents. The Owner will give the Notice to Proceed within thirty (30) calendar days following the execution of the Contract.

16. SUBSTANTIAL COMPLETION

"Substantial Completion" shall be that degree of completion of the project or a defined portion of the project, as evidenced by the Engineer's written notice of Substantial Completion, sufficient to provide the Owner, at his discretion, the full-time use of the project or defined portion of the project for the purposes for which it was intended. "Substantial Completion" of an operating facility shall be that degree of completion that has provided a minimum of seven (7) continuous days of successful, trouble-free, operation, which period shall begin after all performance and acceptance testing has been successfully demonstrated to the Engineer. All equipment contained in the work, plus all other components necessary to enable the Owner to operate the facility in a manner that was intended, shall be complete on the substantial completion date.

17. WORK

The word "work" within these Contract Documents shall include all material, labor, tools, and all appliances, machinery, transportation, and appurtenances necessary to perform and complete the Contract, and such additional items not specifically indicated or described which can be reasonably inferred as belonging to the item described or indicated and as required by good practice to provide a complete and satisfactory system or structure. As used herein, "provide" shall be understood to mean, "furnish and install, complete in-place ".

CONTRACT DOCUMENTS

18. INTENT OF CONTRACT DOCUMENTS

The Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all. The intent of the Documents is to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any work, materials, or equipment that may reasonably be inferred from the Contract Documents, as being required to produce the intended result shall be supplied

whether or not specifically called for. When words, which have a well-known technical or trade meaning, are used to describe work, materials, or equipment, such words shall be interpreted in accordance with that meaning.

Reference to standard specifications, manuals, or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect on the first published date of the Invitation to Bid, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of Owner, Contractor, or Engineer, or any of their consultants, agents, or employees from those set forth in the Contract Documents, nor shall it be effective to assign to Engineer, or any Engineer's consultants, agents, or employees, any duty or authority to supervise or direct the furnishing or performance of the work or any duty or authority to undertake responsibility contrary to the provisions of Article LIMITATIONS ON ENGINEER'S RESPONSIBILITIES.

19. DISCREPANCIES AND OMISSIONS

Any discrepancies or omissions found in the Contract Documents shall be reported to the Engineer immediately. The Engineer will clarify discrepancies or omissions, in writing, within a reasonable time.

In resolving inconsistencies among two or more sections of the Contract Documents, precedence shall be given in the following order:

A. CONTRACT

B. BID

C. CRITERION FOR KEY WEST BIGHT HARBOR WALK/DOCK AND PLAZA BOARD REPLACEMENT/INSTALLATION

D. SPECIAL CONDITIONS

E. SUPPLEMENTARY CONDITIONS

F. REQUEST FOR BIDS

G. INSTRUCTIONS TO BIDDERS

H. GENERAL CONDITIONS

I. SPECIFICATIONS

J. DRAWINGS

Addenda shall take precedence over all sections referenced therein. Figure dimensions on Drawings shall take precedence over scale dimensions. Detailed Drawings shall take precedence over general Drawings.

20. CHANGES IN THE WORK

The Owner, without notice to the Sureties and without invalidating the Contract, may order changes in the work within the general scope of the Contract by altering, adding to, or deducting from the work, the Contract being adjusted accordingly. All such work shall be executed under the conditions of the original Contract, except as specifically adjusted at the time of ordering such change.

In giving instructions, the Engineer may order minor changes in the work not involving extra cost and not inconsistent with the purposes of the project, but otherwise, except in an emergency endangering life and property, additions or deductions from the work shall be performed only in pursuance of an approved Change Order from the Owner, countersigned by the Engineer.

If the work is reduced by alterations, such action shall not constitute a claim for damages based on loss of anticipated profits.

21. EXAMINATIONS AND VERIFICATION OF CONTRACT DOCUMENTS

The Contractor shall thoroughly examine and become familiar with all of the various parts of these Contract Documents and determine the nature and location of the work, the general and local conditions, and all other matters, which can in any way affect the work under this Contract. Failure to make an examination necessary for this determination shall not release the Contractor from the obligations of this Contract. No verbal agreement or conversation with any officer, agent, or employee of the Owner, or with the Engineer either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained.

22. DOCUMENTS TO BE KEPT ON THE JOBSITE

The Contractor shall keep one copy of the Contract Documents on the job- site, in good order, available to the Engineer and to his/her representatives.

The Contractor shall maintain on a daily basis at the jobsite, and make available to the Engineer on request, one current record set of the Drawings which have been accurately marked to indicate all modifications in the completed work that differ from the design information shown on the Drawings. Upon Substantial completion of the work, the Contractor shall give the Engineer one (1) complete set of these marked up record Drawings.

23. ADDITIONAL CONTRACT DOCUMENTS

Copies of Contract Documents or Drawings may be obtained on request from the Engineer and by paying the actual cost of reproducing the Contract Documents or Drawings.

24. OWNERSHIP OF CONTRACT DOCUMENTS

All portions of the Contract Documents, and copies thereof furnished by the Engineer are instruments of service for this project. They are not to be used on other work and are to be returned to the Engineer on request at the completion of the work. Any reuse of these materials without specific written verification or adaptation by the Engineer will be at the risk of the user and without liability or legal expense to the Engineer. Such user shall hold

the Engineer harmless from any and all damages, including reasonable attorneys' fees, from any and all claims arising from any such reuse. Any such verification and adaptation shall entitle the Engineer to further compensation at rates to be agreed upon by the user and the Engineer.

THE ENGINEER

25. AUTHORITY OF THE ENGINEER

The Engineer will be the Owner's representative during the construction period. His/her authority and responsibility will be limited to the provisions set forth in these Contract Documents. The Engineer will have the Authority to reject work that does not conform to the Contract Documents. However, neither the Engineer's authority to act under this provision, nor any decision made by him/her in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Engineer to the Contractor, any Subcontractor, their respective Sureties, any of their agents or employees, or any other person performing any of the work.

26. DUTIES AND RESPONSIBILITIES OF THE ENGINEER

The Engineer will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the work and to determine, in general, if the work is proceeding in accordance with the intent of the Contract Documents. He/she will not make comprehensive or continuous review or observation to check quality or quantity of the work, and he/she will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work. Visits and observations made by the Engineer shall not relieve the Contractor of his/her obligation to conduct comprehensive inspections of the work and to furnish materials and perform acceptable work, and to provide adequate safety precautions, in conformance with the intent of the Contract.

The Engineer will make recommendations to the Owner, in writing, on all claims of the Owner or the Contractor arising from interpretation or execution of the Contract Documents. Such recommendations will be of factual and/or technical nature, and will not include the legal interpretation of the Contract Documents. The Owner will make any necessary legal interpretation of the Contract Document. Such recommendation shall be necessary before the Contractor can receive additional money under the terms of the Contract. Changes in work ordered by the Engineer shall be made in compliance with Article CHANGES IN THE WORK.

One or more project representatives may be assigned to observe the work. It is understood that such project representatives shall have the authority to issue notice of nonconformance and make decisions within the limitations of the authority of the Engineer. The Contractor shall furnish all reasonable assistance required by the Engineer or project representatives for proper observation of the work. The above-mentioned project representatives shall not relieve the Contractor of his/her obligations to conduct comprehensive inspections of the work and to furnish materials and perform acceptable work, and to provide adequate safety precautions, in conformance with the intent of the Contract.

27. LIMITATIONS ON ENGINEER'S RESPONSIBILITIES

Engineer will not be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, and Engineer will not be responsible for Contractor's failure to perform or furnish the work in accordance with the Contract Documents.

Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any supplier, or of any other person or organization performing or furnishing any of the work.

Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", "as approved", or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper", or "satisfactory", or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of Engineer as to the work, it is intended that such requirement, direction, review, or judgment will be solely to evaluate the work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to Engineer any duty or authority to supervise or direct the furnishing or performance of the work or any duty or authority to undertake responsibility contrary to the provisions of this Article.

28. REJECTED WORK

Any defective work or nonconforming materials or equipment that may be discovered at any time prior to expiration of the warranty period shall be removed and replaced by work which shall conform to the provisions of the Contract Documents. Any material condemned or rejected shall be removed at once from the project site.

Failure on the part of the Engineer to condemn or reject bad or inferior work or to note nonconforming materials or equipment on Contractor submittals shall not be construed to imply acceptance of such work. The Owner shall reserve and retain all of its rights and remedies at law against the Contractor and its Surety for correction of any and all latent defects discovered after the guarantee period.

29. LINES AND GRADES

Lines and grades shall be established as provided in the supplementary conditions. All stakes, marks, and other reference information shall be carefully preserved by the Contractor, and in case of their careless or unnecessary destruction or removal by him/her or his/her employees, such stakes, marks, and other information shall be replaced at the Contractor's expense.

It will be the Contractor's responsibility to layout the work and to transfer elevations from benchmarks. Where new construction connects to existing facilities, the Contractor shall check and establish the exact location prior to construction of the facilities.

The Contractor shall furnish all surveys, labor, and equipment, including setting all alignment and gradient, grade stakes, batter boards, and everything necessary to lay out his/her work. The Contractor shall be responsible for maintaining and re-establishing at

his expense, all control points. After completion of his construction, he shall reset all permanent monuments at their original locations and elevations.

The Engineer may check all layout work, and the Contractor shall furnish all necessary labor, equipment, and materials, and shall cooperate and assist the Engineer in making such checks.

The dimensions for lines and elevations for grades of the fuel system structures, appurtenances, and utilities will be shown on Drawings produced by the Contractor for the issuance of all required permits, together with other pertinent information required for laying out the work. If site conditions vary from those indicated, the Contractor shall notify the Engineer immediately, who will make any minor adjustments as required.

30. SUBMITTALS

After checking and verifying all field measurements and after complying with applicable procedures specified in Division I, GENERAL REQUIREMENTS, Contractor shall submit to Engineer, in accordance with the schedule for submittals for review, shop drawings, electrical diagrams, and catalog cuts for fabricated items and manufactured items (including mechanical and electrical equipment), which shall bear a stamp or specific written indication that Contractor has satisfied Contractor's responsibilities under the Contract Documents with respect to the review of the submittal. All submittals shall be identified as Engineer may require. The data shown shall be complete with respect to quantities, dimensions specified, performance and design criteria, materials, and similar data to enable Engineer to review the information. Contractor shall also submit to Engineer for review, with such promptness as to cause no delay in work, all samples required by the Contract Documents. All samples shall have been checked by and accompanied by a specific written indication that Contractor has satisfied Contractor's responsibilities under the Contract Documents with respect to the review of the submission and shall be identified clearly as to material, supplier, pertinent data such as catalog numbers and the use for which intended.

Before submission of each submittal, Contractor shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar data with respect thereto and reviewed or coordinated each submittal with other submittals and with the requirements of the work and the Contract Documents.

At the time of each submission, Contractor shall give Engineer specific written notice of each variation that the submittal may have from the requirements of the Contract Documents, and, in addition, shall cause a specific notation to be made on each shop drawing submitted to Engineer for review and approval of each variation.

Engineer will review submittals with reasonable promptness, but Engineer's review will be only for conformance with the design concept of the project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, techniques, sequences, or procedures of construction (except where a specific means, method, technique, sequence, or procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review of a separate item as such will not indicate review of the assembly in which the item

functions. Contractor shall make corrections required by Engineer, and shall return the required number of corrected copies of shop drawings and submit as required new samples for review. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

Engineer's review of submittals shall not relieve Contractor from the responsibility for any variation from the requirements of the Contract Documents unless Contractor has in writing called Engineer's attention to each such variation at the time of submission and Engineer has given written approval of each such variation by a specific written notation thereof incorporated therein or accompanying the shop drawing or sample approval; nor will any approval by Engineer relieve Contractor from responsibility for errors or omissions in the shop drawings or from responsibility for having complied with the provisions herein.

Where a shop drawing or sample is required by the specifications, any related work performed prior to Engineer's review and approval of the pertinent submission shall be at the sole expense and responsibility of the Contractor.

31. DETAIL DRAWINGS AND INSTRUCTIONS

The Engineer will furnish, with reasonable promptness, additional instructions by means of Drawings or otherwise, if, in the Engineer's opinion, such are required for the proper execution of the work. All such Drawings and instructions will be consistent with the Contract Documents, true developments thereof, and reasonably inferable there from.

THE CONTRACTOR AND HIS EMPLOYEES

32. CONTRACTOR, AN INDEPENDENT AGENT

The Contractor shall independently perform all work under this Contract and shall not be considered as an agent of the Owner or of the Engineer, nor shall the Contractor's Subcontractors or employees be subagents of the Owner or of the Engineer.

32. (a) ASSIGNMENT OF CONTRACT

Assignment of any part or the whole of this Contract shall be subject to review and approval of the City Commission.

33. SUBCONTRACTING

Unless modified in the Supplementary Conditions, within ten (10) calendar days after the execution of the Contract, the Contractor shall submit to the Engineer the names of all Subcontractors proposed for the work, including the names of any Subcontractors that were submitted with the Bid. The Contractor shall not employ any subcontractors to which the Owner may object to as lacking capability to properly perform work of the type and scope anticipated.

The Contractor is as fully responsible to the Owner for the acts and omissions of his Subcontractors and of persons either directly or indirectly employed by them as he is for the acts and omissions of persons directly employed by him.

Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and the Owner or Engineer.

34. INSURANCE AND LIABILITY

A. GENERAL

The Contractor shall provide (from insurance companies acceptable to the Owner) the insurance coverage designated hereinafter and pay all costs.

Before commencing work under this Contract, Contractor shall furnish the Owner with certificates of insurance specified herein showing the type, amount class of operations covered, effective dates, and date of expiration of policies, and containing substantially the following statement:

"The insurance covered by this certificate shall not be canceled or materially altered, except after 30 days' written notice has been received by the Owner."

In case of the breach of any provision of this Article, the Owner, at his option, may take out and maintain, at the expense of the Contractor, such insurance as the Owner may deem proper and may deduct the cost of such insurance from any monies which may be due or become due the Contractor under this Contract.

B. CONTRACTOR AND SUBCONTRACTOR INSURANCE

The Contractor shall not commence work under this Contract until he has obtained all the insurance required hereunder and such insurance has been reviewed by the Owner, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until insurance specified below has been obtained. Review of the insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder.

C. COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE

The Contractor shall maintain during the life of this Contract the statutory amount of Workmen's Compensation Insurance, in addition, Employer's Liability Insurance in an amount as specified in the Supplementary Conditions, for each occurrence, for all of his employees to be engaged in work on the project under this Contract. In case any such work is subcontracted, the Contractor shall require the Subcontractor to provide similar Workmen's Compensation and Employer's Liability Insurance for all of the Subcontractor's employees to be engaged in such work.

D. GENERAL LIABILITY INSURANCE (INCLUDING AUTOMOBILE)

The Contractor shall maintain during the life of this Contract such general liability, completed operations and products liability, and automobile liability insurance as will provide coverage for claims for damages for personal injury, including accidental death, as well as for claims for property damage, which may arise directly or indirectly from performance of the work under this Contract. The

general liability policy shall include contractual liability assumed by the Contractor under Article **INDEMNITY.** Coverage for property damage shall be on a "broad form" basis with no exclusions for "X, C & U". The amount of insurance to be provided shall be as specified in the Supplementary Conditions.

In the event a Subcontractor performs any work under this Contract, the Contractor shall be responsible for any liability directly or indirectly arising out of the work performed by the Subcontractor to the extent such liability is not covered by the Subcontractor's insurance.

The Owner and Engineer, their officers, agents, and employees shall be named as Additional Insureds on the Contractor's and any Subcontractor's general liability and automobile liability insurance policies for any claims arising out of work performed under this Contract.

E. BUILDERS RISK ALL RISK INSURANCE

Unless otherwise modified in the Supplementary Conditions, the Contractor shall secure and maintain during the life of this Contact, Builders Risk All Risk Insurance Coverage in an amount equal to the full value of the facilities under construction. Deductible shall be no greater then $5,000. Such insurance shall include coverage for earthquake, landslide, flood, collapse, loss due to the result of faulty workmanship or design, and all other normally covered risks, and shall provide losses to be paid to the Contractor, Owner, and Engineer as their interests may appear.

The Owner and Engineer, their officers, agents, and employees shall be named as additional insureds on the Contractor's and any subcontractors Builders Risk All Risk insurance policies for any claims arising out of work performed under this Contract.

This insurance shall include a waiver of subrogation as to the Engineer, the Owner, the Contractor, and their respective officers, agents, employees, and subcontractors.

F. NO PERSONAL LIABILITY OF PUBLIC OFFICIALS

In carrying out any of the provisions hereof in exercising any authority granted by the Contract, there will be no personal liability upon any public official.

G. SURETY AND INSURER QUALIFICATIONS

All bonds, insurance contracts, and certificates of insurance shall be either executed by or countersigned by a licensed resident agent of the Surety or insurance company, having his place of business in the State of Florida, and in all ways complying with the insurance laws of the State of Florida. Further, the said Surety or insurance company shall be duly licensed and qualified to do business in the State of Florida. If requested, Contractor shall provide proof of Florida Licensure for all insurance companies.

35. INDEMNITY

A. CONTRACTOR agrees to protect, defend, indemnify, save and hold harmless The City of Key West, all Departments, Agencies, Boards and Commissions, its officers, agents, servants and employees, including volunteers, from and against any and all claims, demands, expense and liability arising out of injury or death to any person or the damage, loss of destruction of any property which may occur or in any way grow out of any act or omission of the CONTRACTOR, its agents, servants, and employees, or any and all costs, expense and/or attorney fees incurred by the City as a result of any claim, demands, and/or causes of action except of those claims, demands, and/or causes of action arising out of the negligence of The City of Key West, all Departments, Agencies, Boards and Commissions, its officers, agents, servants and employees. The CONTRACTOR agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suit at its sole expense and agrees to bear all other costs and expenses related thereto, even if it (claims, etc.) is groundless, false or fraudulent.

Nothing in this indemnification is intended to act as a waiver of the City's sovereign immunity rights, including those provided under section 768.28, Florida Statues

B. This indemnification shall survive the expiration or termination of this Agreement. In the event that any action or proceeding is brought against the CITY by reason of such claim or demand, CONTRACTOR shall, upon written notice from the CITY, resist and defend such action or proceeding by counsel satisfactory to the CITY. The CONTRACTOR shall defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at the CITY's option, any and all claims of liability and all suits and actions of every name and description covered above which may be brought against the CITY whether performed by CONTRACTOR, or by persons employed or used by CONTRACTOR.

36. EXCLUSION OF CONTRACTOR CLAIMS

In performing its obligations, the Engineer and its consultants may cause expense for the Contractor or its subcontractors and equipment or material suppliers. However, those parties and their sureties shall maintain no direct action against the Engineer, its officers, employees, agents, and consultants for any claim arising out of, in connection with, or resulting from the engineering services performed or required to be performed.

37. TAXES AND CHARGES

The Contractor shall withbold and pay any and all sales and use taxes and all withholding taxes, whether State or Federal, and pay all Social Security charges and also all State Unemployment Compensation charges, and pay or cause to be withheld, as the case may be, any and all taxes, charges, or fees or sums whatsoever, which are now or may hereafter be required to be paid or withheld under any laws.

38. REQUIREMENTS OF STATE LAW FOR PUBLIC WORKS PROJECTS

When the Contract Documents concern public works of the state or any county, municipality, or political subdivision created by its laws, the applicable statutes shall apply. All parties to this Contract shall determine the contents of all applicable statutes and comply with their provisions throughout the performance of the Contract.

39. CODES, ORDINANCES, PERMITS, AND LICENSES

The Contractor shall keep himself fully informed of all local codes and ordinances, as well as state and federal laws, which in any manner affect the work herein specified. The Contractor shall at all times comply with said codes and ordinances, laws, and regulations, and protect and indemnify the Owner, the Engineer and their respective employees, and its officers and agents against any claim or liability arising from or based on the violation of any such laws, ordinances, or regulations. All permits, licenses and inspection fees necessary for prosecution and completion of the work shall be secured and paid for by the Contractor, unless otherwise specified.

A. PERMIT FOR WORK WITHIN LOCAL RIGHTS-OF-WAY

The Contractor shall obtain from the City of Key West the necessary permits for work within the rights-of-way. The Contractor shall aBide by all regulations and conditions, including maintenance of traffic, FDOT Standard.

B. NOISE ORDINANCE

The Contractor shall comply with the City of Key West Noise Ordinance.

C. LICENSES

BIDDER must represent that he holds all applicable state, county, and City of Key West licenses and permits required to do business as a contractor with respect to the work described in the Contract Documents before he may Bid on the project.

The following licenses and certificates are required as a minimum:

A. All licenses or certificates required by federal, state or local statutes or regulations.

B. A valid Business Tax Receipt issued by the City of Key West, if required.

C. A valid Certificate of Competency issued by the Building Official of the City of Key West which shall remain valid throughout the time period of the Contract, if required.

Further, the successful BIDDER must, within ten (10) calendar days of Notice of Award, furnish documentation showing that, as a minimum, he has complied with the provisions of Chapter 91 of the Code of Ordinances of the City of Key West

in order to enter into the Agreement contained in the Contract Documents.

40. SUPERINTENDENCE

The Contractor shall keep at the project site, competent supervisory personnel. The Contractor shall designate, in writing, before starting work, a project superintendent who shall be an employee of the Contractor and shall have complete authority to represent and to act for the Contractor. Engineer shall be notified in writing prior to any change in superintendent assignment. The Contractor shall give efficient supervision to the work, using his best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, and procedures, and for providing adequate safety precautions and coordinating all portions of the work under the Contract. It is specifically understood and agreed that the Engineer, its employees and agents, shall not have control or charge of and shall not be responsible for the construction means, methods, techniques, procedures, or for providing adequate safety precautions in connection with the work under Contract.

40(a). CONTRACTOR'S RESPONSIBILITIES:

A. The Contractor shall employ such superintendents, foremen, and workmen as are careful and competent. Whenever the Engineer shall determine that any person employed by the Contractor is in his opinion, incompetent, unfaithful, disorderly or insubordinate, such person shall, upon notice, be discharged from the work and shall not again be employed on it except with the written consent of the Engineer. Should the Contractor fail to remove such person or persons, or fail to furnish suitable or sufficient machinery, equipment or force for the proper prosecution of the work the Engineer may withhold all estimates which are, or may become due, or may suspend the work until such orders are complied with.

B. The Contractor shall provide qualified personnel to assist the Engineer in making field checks, measurements, asbuilt checks, inspection, test runs, and the necessary quality check work related to the project work. An english speaking superintendent or foreman shall be onsight at all times.

C. The Contractor shall provide and maintain at his own expense, in a sanitary condition, such accommodations for the use of his employees as is necessary to comply with the requirements and regulations of the State and County Boards of Health. He shall commit no public nuisance.

D. The Contractor shall conduct the work so as to insure the least obstruction to traffic practicable, and shall provide for the convenience of the general public and of the residents along and adjacent to the work in a manner satisfactory to the Engineer. Materials and equipment stored on the work site shall be placed so as to cause as little obstruction to the public as possible and shall be lighted and barricaded as hereinafter provided. Keep driveways and entrances serving the premises clear and available to the Owner and the Owner's employees at all times. Do not use these areas for parking or storage of materials and equipment on site.

E. Unless otherwise expressly stipulated herein, the use of explosives is not

contemplated in the prosecution of the Contract, and in no case will their use be permitted within a municipality without the written permission of the City Engineer and a permit issued by the Chief of the Fire Department. Where such permission for the use of explosives is obtained, the Contractor shall use the utmost care so as not to endanger life or property, and whenever directed the size and number of charges shall be reduced. All explosives shall be stored in a secure manner, and all such storage places shall be marked clearly, "DANGEROUS EXPLOSIVES", and shall be in care of competent watchmen

41. RECEPTION OF ENGINEER'S COMMUNICATIONS

The superintendent shall receive for the Contractor all communications from the Engineer. Communications of major importance will be confirmed in writing upon request from the Contractor.

The Engineer may schedule project meetings for the purposes of discussing and resolving matters concerning the various elements of the work. The Engineer shall determine the time and place for these meetings, and the names of persons required being present. The Contractor shall comply with these attendance requirements and shall also require his/her Subcontractors to comply.

42. SAFETY

The Contractor shall be solely and completely responsible for conditions of the jobsite, including safety of all persons (including employees) and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to U.S. Department of Labor (OSHA), and all other applicable federal, state, county, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the more stringent requirement shall be followed. The Contractor's failure to thoroughly familiarize himself/herself with the aforementioned safety provisions shall not relieve him from compliance with the obligations and penalties set forth therein.

The Contractor shall develop and maintain for the duration of this Contract, a safety program that will effectively incorporate and implement all required safety provisions. The Contractor shall appoint an employee who is qualified and authorized to supervise and enforce compliance with the safety program.

The duty of the Engineer to conduct construction review of the work does not include review or approval of the adequacy of the Contractor's safety program, safety supervisor, or any safety measures taken in, on, or near the construction site.

The Contractor, as a part of his safety program, shall maintain at hi/hers office or other well-known place at the jobsite, safety equipment applicable to the work as prescribed by the aforementioned authorities, all articles necessary for giving first-aid to the injured, and shall establish the procedure for the immediate removal to a hospital or a doctor's care of persons (including employees) who may be injured on the jobsite.

If death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to both the Engineer and the Owner. In addition,

the Contractor must promptly report in writing to the Engineer all accidents whatsoever arising out of, or in connection with, the performance of the work whether on, or adjacent to, the site, giving full details and statements of witnesses.

If a claim is made by anyone against the Contractor or any Subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the Engineer, giving full details of the claim.

A. OWNER'S RIGHT TO STOP WORK

If the Contractor or Subcontractor fails to provide adequate safety provisions as required by the Contract Documents the Owner has the right to stop all construction work at the location with inadequate safety provisions until adequate provisions are in place. The Owner shall not be liable for any delays caused by the Contractor's failure to provide and maintain required safety provisions.

B. CLEANUP PROCEDURES FOR HURRICANE WARNINGS AND HURRICANE WATCH

In the event the National Oceanographic and Atmospheric Administration (NOAA) issues a Tropical Storm Watch or a Hurricane Watch for the Keys the Engineer will Contact the Contractor informing him that the Watch has been established. Within four (4) hours of the notice the Contractor shall provide the Engineer with a written plan and schedule describing how and when the Contractor will remove all unnecessary items from the work area and tie down all necessary supplies and barricades in the event a Tropical Storm Warning or a Hurricane Warning is issued. The Contractor shall remove all unnecessary items from work areas and shall tie down all movable objects (under 200 lbs.) The Engineer will determine "necessary" items. The Owner shall not be liable for any financial hardship or delays caused as a result of demobilization or remobilization of work due to the above.

C. OCCUPATIONAL SAFETY AND HEALTH

The Contractor shall observe and comply with all applicable local, state, and federal occupational safety and health regulations during the prosecution of work under this Contract. In addition, full compliance by the Contractor with the U.S. Department of Labor's Occupational Safety and Health Standards, as established in Public Law 91-596, will be required under the terms of this Contract.

43. PROTECTION OF WORK AND PROPERTY

The Contractor shall at all times safely guard and protect from damage the Owner's property, adjacent property, and his/her own work from injury or loss in connection with this Contract. All facilities required for protection by federal, state, or municipal laws and regulations and local conditions must be provided and maintained.

The Contractor shall protect his/her work and materials from damage due to the nature of the work, the elements, carelessness of other contractors, or from any cause whatever until the completion and acceptance of the work. All loss or damages arising out of the nature of

the work to be done under these Contract Documents, or from any unforeseen obstruction or defects which may be encountered in the prosecution of the work, or from the action of the elements, shall be sustained by the Contractor.

43(a). HISTORIC PRESERVATION

The Contractor shall comply with Florida Historical Resources Act (Florida Statutes, Chapter 267) and the regulations of the local historic preservation board as applicable and protect against the potential loss or destruction of significant historical or archaeological data, sites, and properties in connection with the project.

44. RESPONSIBILITY OF CONTRACTOR TO ACT IN AN EMERGENCY

In case of an emergency that threatens loss or injury of property, and/or safety of life, the Contractor shall act, without previous instructions from the Owner or Engineer, as the situation may warrant. The Contractor shall notify the Engineer thereof immediately thereafter. Any claim for compensation by the Contractor, together with substantiating documents in regard to expense, shall be submitted to the Owner through the Engineer and the amount of compensation shall be determined by agreement.

45. MATERIALS AND APPLIANCES

Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, water, tools, equipment, heat, light, fuel, power, transportation, construction equipment and machinery, appliances, telephone, sanitary facilities, temporary facilities and other facilities and incidentals necessary for the execution and completion of the work.

Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of good quality. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

In selecting and/or approving equipment for installation in the project, the Owner and Engineer assume no responsibility for injury or claims resulting from failure of the equipment to comply with applicable federal, state, and local safety codes or requirements, or the safety requirements of a recognized agency, or failure due to faulty design concepts, or defective workmanship and materials.

46. CONTRACTORS' AND MANUFACTURERS' COMPLIANCE WITH STATE SAFETY, OSHA, AND OTHER CODE REQUIREMENTS

The completed work shall include all necessary permanent safety devices, such as machinery guards and similar ordinary safety items required by the state and federal (OSHA) industrial authorities and applicable local and national codes. Further, any features of the work subject to such safety regulations shall be fabricated, furnished, and installed (including Owner-furnished equipment) in compliance with these requirements. Contractors and manufacturers of equipment shall be held responsible for compliance with the requirements included herein. Contractors shall notify all equipment suppliers and Subcontractors of the provisions of this Article.

47. SUBSTITUTION OF MATERIALS

Except for Owner-selected equipment items, and items where no substitution is clearly specified, whenever any material, article, device, product, fixture, form, type of construction, or process is indicated or specified by patent or proprietary name, by name of manufacturer, or by catalog number, such specifications shall be deemed to be used for the purpose of establishing a standard of quality and facilitating the description of the material or process desired. This procedure is not to be construed as eliminating from competition other products of equal or better quality by other manufacturers where fully suitable in design, and shall be deemed to be followed by the words "or equal". The Contractor may, in such cases, submit complete data to the Engineer for consideration of another material, type, or process, which shall be substantially equal in every respect to that so indicated or specified. Substitute materials shall not be used unless approved in writing. The Engineer will be the sole judge of the substituted article or material.

48. TESTS, SAMPLES, AND OBSERVATIONS

The Contractor shall furnish, without extra charge, the necessary test pieces and samples, including facilities and labor for obtaining the same, as requested by the Engineer. When required, the Contractor shall furnish certificates of tests of materials and equipment made at the point of manufacture by a recognized testing laboratory.

The Owner, Engineer, and authorized government agents, and their representatives shall at all times be provided safe access to the work wherever it is in preparation or progress, and the Contractor shall provide facilities for such access and for observations, including maintenance of temporary and permanent access.

If the Specifications, laws, ordinances, or any public authority require any work, to be specially tested or approved, the Contractor shall give timely notice of its readiness for observations. If any work should be covered up without approval or consent of the Engineer, it shall, if required by the Engineer, be uncovered for examination at the Contractor's expense.

The Engineer may order re-examination of questioned work, and, if so ordered, the Contractor shall uncover the work. If such work is found to be in accordance with the Contract Documents, the Owner will pay the cost of uncovering, exposure, observation, inspection, testing and reconstruction. If such work is found to be not in accordance with the Contract Documents, the Contractor shall correct the defective work, and the cost of reexamination and correction of the defective work shall be paid by the Contractor.

49. ROYALTIES AND PATENTS

The Contractor shall pay all royalty and licenses fees, unless otherwise specified. The Contractor shall defend all suits or claims for infringement of any patent rights and shall save the Owner and the Engineer harmless from any and all loss, including reasonable attorneys' fees, on account thereof.

50. CONTRACTOR'S RIGHT TO TERMINATE CONTRACT

If the work should be stopped under an order of any court or other public authority for a period of more than three (3) months, through no act or fault of the Contractor, its

Subcontractors, or respective employees or if the Engineer should fail to make recommendation for payment to the Owner or return payment request to Contractor for revision within thirty (30) calendar days after it is due, or if the Owner should fail to pay the Contractor within thirty (30) calendar days after time specified in Article PARTIAL PAYMENTS, any sum recommended by the Engineer, then the Contractor may, upon 15 days' written notice to the Owner and the Engineer, stop work or terminate this Contract and recover from the Owner payment for all acceptable work performed and reasonable termination expenses, unless said default has been remedied.

51. CORRECTION OF DEFECTIVE WORK DURING WARRANTY PERIOD

The Contractor hereby agrees to make, at his own expense, all repairs or replacements necessitated by defects in materials or workmanship, provided under terms of this Contract, and pay for any damage to other works resulting from such defects, which become evident within two (2) year after the date of final acceptance of the work or within two (2) year after the date of substantial completion established by the Engineer for specified items of equipment, or within such longer period as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents. Un-remedied defects identified for correction during the warranty period but remaining after its expiration shall be considered as part of the obligations of the warranty. Defects in material, workmanship, or equipment, which are remedied as a result of obligations of the warranty, shall subject the remedied portion of the work to an extended warranty period of two (2) year after the defect has been remedied.

The Contractor further assumes responsibility for a similar guarantee for all work and materials provided by Subcontractors or manufacturers of packaged equipment components. The effective date for the start of the guarantee or warranty period for equipment qualifying as substantially complete is defined in Article SUBSTANTIAL COMPLETION, AND Article SUBSTANTIAL COMPLETION DATE, in these General Conditions.

The Contractor also agrees to hold the Owner and the Engineer harmless from liability of any kind arising from damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written order for same from the Owner. If the Contractor fails to make the repairs and replacements promptly, or in an emergency where delay would cause serious risk, or loss, or damage, the Owner may have the defective work corrected or the rejected work removed and replaced, and the Contractor and his Surety shall be liable for the cost thereof.

PROGRESS OF THE WORK

52. BEGINNING OF THE WORK

Following execution of the Contract, the Contractor shall meet with the Owner and Engineer relative to his arrangements for prosecuting the work.

53. SCHEDULES AND PROGRESS REPORTS

Prior to starting the construction, the Contractor shall prepare and submit to the Engineer, a

progress schedule showing the dates on which each part or division of the work is expected to be started and finished, and a preliminary schedule for submittals. The progress schedule for submittals shall be brought up to date and submitted to the Engineer at the end of each month or at such other times the Engineer may request.

The Contractor shall forward to the Engineer, at the end of each month, an itemized report of the delivery status of major and critical items of purchased equipment and material, including shop drawings and the status of shop and field fabricated work. These progress reports shall indicate the date of the purchase order, the current percentage of completion, estimated delivery, and cause of delay, if any.

If the completion of any part of the work or the delivery of materials is behind the submitted progress schedule, the Contractor shall submit in writing a plan acceptable to the Owner and Engineer for bringing the work up to schedule.

The Owner shall have the right to withhold progress payments for the work if the Contractor fails to update and submit the progress schedule and reports as specified.

Unless specifically authorized by the Engineer, work shall not be performed during the Goombay Festival, Fantasy Fest, Thanksgiving, or Christmas.

54. PROSECUTION OF THE WORK

It is expressly understood and agreed that the time of beginning, rate of progress, and time of completion of the work are the essence of this Contract. The work shall be prosecuted at such time, and in or on such part or parts of the project as may be required, to complete the project as contemplated in the Contract Documents and the progress schedule.

If the Contractor desires to carry on work at night or outside the regular hours, he shall give timely notice to the Engineer to allow satisfactory arrangements to be made for observing the work in progress.

55. OWNER'S RIGHT TO RETAIN IMPERFECT WORK

If any part or portion of the work completed under this Contract shall prove defective and not in accordance with the Drawings and Specifications, and if the imperfection in the same shall not be of sufficient magnitude or importance as to make the work dangerous or unsuitable, or if the removal of such work will create conditions which are dangerous or undesirable, the Owner shall have the right and authority to retain such work but will make such deductions in the final payment therefore as may be just and reasonable.

55(a). OWNER'S RIGHT TO STOP WORK

If the Contractor or any subcontractor should fail to provide adequate safety provisions required by the Contract Documents, including but not limited to maintenance of traffic, trench safety devices and procedures, safety fencing, barricading, signage or unsafe work practices, the Owner has the right to issue a Stop Work Notice and stop all construction work at the location with the inadequate safety provisions until such time that adequate safety provisions are in place. The Owner shall not be liable for delays caused by the Contractor's failure to provide and maintain required safety provisions. No extension of

time will be granted to the Contractor for delays occurring due to a Stop Work Notice.

56. OWNER'S RIGHT TO DO WORK

Should the Contractor neglect to prosecute the work in conformance with the Contract Documents or neglect or refuse at his own cost to remove and replace work rejected by the Engineer, then the Owner may notify the Surety of the condition, and after ten (10) calendar days' written notice to the Contractor and the Surety, or without notice if an emergency or danger to the work or public exists, and without prejudice to any other right which the Owner may have under Contract, or otherwise, take over that portion of the work which has been improperly or non timely executed, and make good the deficiencies and deduct the cost thereof from the payments then or thereafter due the Contractor.

57. OWNER'S RIGHT TO TRANSFER EMPLOYMENT

If the Contractor should abandon the work or if he should persistently or repeatedly refuse or should fail to make prompt payment to Subcontractors for material or labor, or to persistently disregard laws, ordinances, or to prosecute the work in conformance with the Contract Documents, or otherwise be guilty of a substantial violation of any provision of the Contract or any laws or ordinance, then the Owner may, without prejudice to any other right or remedy, and after giving the Contractor and Surety 10 days' written notice, transfer the employment for said work from the Contractor to the Surety. Upon receipt of such notice, such Surety shall enter upon the premises and take possession of all materials, tools, and appliances thereon for the purpose of completing the work included under this Contract and employ by Contract or otherwise, any qualified person or persons to finish the work and provide the materials therefore, in accordance with the Contract Documents, without termination of the continuing full force and effect of this Contract. In case of such transfer of employment to such Surety, the Surety shall be paid in its own name on estimates according to the terms hereof without any right of the Contractor to make any claim for the same or any part thereof.

If, after the furnishing of said written notice to the Surety, the Contractor and the Surety still fail to make reasonable progress on the performance of the work, the Owner may terminate the employment of the Contractor and take possession of the premises and of all materials, tools, and appliances thereon and finish the work by whatever method he may deem expedient and charge the cost thereof to the Contractor and the Surety. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the expense of completing the Contract, including compensation for additional managerial and administrative services, shall exceed such unpaid balance, the Contractor and the Surety shall pay the difference to the Owner.

58. DELAYS AND EXTENSION OF TIME

If the Contractor is delayed in the progress of the work by any act or neglect of the Owner or the Engineer, or by any separate Contractor employed by the Owner, or by strikes, lockouts, fire, adverse weather conditions not reasonably anticipated, or acts of Nature, and if the Contractor, within forty-eight (48) hours of the start of the occurrence, gives written notice to the Owner of the cause of the potential delay and estimate of the possible time extension involved, and within ten (10) calendar days after the cause of the delay has been remedied, the Contractor gives written notice to the Owner of any actual time extension requested as a result of the aforementioned occurrence, then the Contract time may be

extended by change order for such reasonable time as the Engineer determines. It is agreed that no claim shall be made or allowed for any damages, loss, or expense which may arise out of any delay caused by the above referenced acts or occurrences other than claims for the appropriate extension of time.

No extension of time will be granted to the Contractor for delays occurring to parts of the work that have no measurable impact on the completion of the total work under this Contract. No extension of time will be considered for weather conditions reasonably anticipated for the area in which the work is being performed. Reasonably anticipated weather conditions will be based on official records of monthly precipitation and other historical data. Adverse weather conditions, if determined to be of a severity that would impact progress of the work, may be considered as cause for an extension of Contract completion time.

Delays in delivery of equipment or material purchased by the Contractor or his Subcontractors, including Owner-selected equipment shall not be considered as a just cause for delay, unless the Owner determines that for good cause the delay is beyond the control of the Contractor. The Contractor shall be fully responsible for the timely ordering, scheduling, expediting, delivery, and installation of all equipment and materials.

Within a reasonable period after the Contractor submits to the Owner a written request for an extension of time, the Engineer will present his written opinion to the Owner as to whether an extension of time is justified, and, if so, his recommendation as to the number of days for time extension. The Owner will make the final decision on all requests for extension of time.

59. DIFFERING SITE CONDITIONS

The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Owner and Engineer of:

A. Subsurface or latent physical conditions at the site which differ materially from those indicated in this contract,

B. Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

The Engineer will investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this Contract, whether or not changed as a result of the conditions, and equitable adjustment shall be made under this Article and the Contract modified in writing accordingly.

No request by the Contractor for an equitable adjustment to the Contract under this Article will be allowed, unless the Contractor has given the written notice required; provided that the time prescribed above for giving written notice may be extended by the Owner.

No request by the Contractor for an equitable adjustment to the Contract for differing site conditions will be allowed if made after final payment under this Contract.

60. LIQUIDATED DAMAGES

Should the Contractor fail to complete the work, or any part thereof in the time agreed upon in each Work Order or within such extra time as may have been allowed for delays by extensions granted as provided in the Contract, the Contractor shall reimburse the Owner for the additional expense and damage for each calendar day, Sundays, and legal holidays included, that project outlined in each Work Order remains uncompleted after the Work Order completion date. Liquidated damages shall be assessed individually against each Work Order. It is agreed that the amount of such additional expense and damage incurred by reason of failure to complete the work is the per diem rate, as stipulated in the Bid. The said amount is hereby agreed upon as a reasonable estimate of the costs that may be accrued by the Owner after the expiration of the time of completion. It is expressly understood and agreed that this amount is not to be considered in the nature of a penalty, but as liquidated damages that have accrued against the Contractor. The Owner shall have the right to deduct such damages from any amount due, or that may become due the Contractor, or the amount of such damages shall be due and collectible from the Contractor or Surety.

61. OTHER CONTRACTS

The Owner reserves the right to let other Contracts in connection with the work. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate his work with theirs.

If any part of the work under this Contract depends for proper execution or results upon the work of any other Contractor, utility service company or Owner, the Contractor shall inspect and promptly report to the Engineer in writing any patent or apparent defects to deficiencies in such work that render it unsuitable for such proper execution and results. The Contractor's failure to so report shall constitute and acceptance of the work by others as being fit and proper for integration with work under this Contract, except for latent or non apparent defects and deficiencies in the work.

62. USE OF PREMISES

The Contractor shall confine his equipment, the storage of materials and the operation of his workers to limits shown on the Drawings or indicated by law, ordinances, permits, or directions of the Engineer, and shall not unreasonably encumber the premises with his materials. The Contractor shall provide, at his own expense, the necessary rights-of-way, and access to the work, which may be required outside the limits of the Owner's property and shall furnish the Engineer copies of permits and agreements for use of the property outside that provided by the Owner.

The Contractor shall not load nor permit any part of the structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the work or adjacent property to stresses or pressures that will endanger it.

63. SUBSTANTIAL COMPLETION DATE

The Engineer may issue a written notice of substantial completion for the purpose of establishing the starting date for specific equipment guarantees, and to establish the date

that the Owner will assume the responsibility for the cost of operating such equipment. Said notice shall not be considered as final acceptance of any portion of the work or relieve the Contractor from completing the remaining work within the specified time and in full compliance with the Contract Documents. See SUBSTANTIAL COMPLETION under DEFINITIONS of these General Conditions.

64. PERFORMANCE TESTING

Operating equipment and systems shall be performance tested in the presence of the Engineer to demonstrate compliance with the specified requirements. Performance testing shall be conducted under the specified design operating conditions or under such simulated operating conditions as recommended or approved by the Engineer. Such testing will be scheduled with the Engineer at least one week in advance of the planned date for testing.

65. OWNER'S USE OF PORTIONS OF THE WORK

Following issuance of the written notice of Substantial Completion, the Owner may initiate operation of the facility. Such use shall not be considered as final acceptance of any portion of the work, nor shall such use be considered as cause for an extension of the Contract completion time, unless authorized by a Change Order issued by the Owner.

66. CUTTING AND PATCHING

The Contractor shall do all cutting, fitting, or patching of his work that may be required to make its several parts come together properly and fit it to receive or be received by work of other Contractors shown upon or reasonably implied by the Drawings.

67. CLEANING UP

The Contractor shall, at all times, keep property on which work is in progress and the adjacent property free from accumulations of waste material or rubbish caused by employees or by the work. Upon completion of the construction, the Contractor shall remove all temporary structures, rubbish, and waste materials resulting from his operations.

PAYMENT

68. PAYMENT FOR CHANGE ORDERS

The Owner's request for quotations on alterations to the work shall not be considered authorization to proceed with the work prior to the issuance of a formal Change Order, nor shall such request justify any delay in existing work. Quotations for alterations to the work shall include substantiating documentation with an itemized breakdown of Contractor and Subcontractor costs, including labor, material, rentals, approved services, overhead, and profit. Owner may require detailed cost data in order to substantiate the reasonableness of the proposed costs.

Any compensation paid in conjunction with the terms of a Change Order shall comprise total compensation due the Contractor for the work or alteration defined in the Change Order. By signing the Change Order, the Contractor acknowledges that the stipulated compensation includes payment for the work or alteration plus all payment for the

interruption of schedules, extended overhead, delay, or any other impact claim or ripple effect, and by such signing specifically waives any reservation or claim for additional compensation in respect to the subject Change Order.

At the Owner's option, payment or credit for any alterations covered by a Change Order shall be determined by one or a combination of the methods set forth in A, B, or C below, as applicable:

A. UNIT PRICES

Those unit prices stipulated in the Bid shall be utilized where they are applicable. In the event the Change Order results in a change in the original quantity that is materially and significantly different from the original Bid quantity, a new unit price shall be negotiated upon demand of either party. Unit prices for new items included in the Change Order shall be negotiated and mutually agreed upon.

B. LUMP SUM

A total lump sum for the work negotiated and mutually acceptable to the Contractor and the Owner.

Lump sum quotations for modifications to the work shall include substantiating documentation with an itemized breakdown of Contractor and Subcontractor costs, including labor, material, rentals, approved services, overhead, and profit, all calculated as specified under "C" below.

C. COST REIMBURSEMENT WORK

The term "cost reimbursement" shall be understood to mean that payment for the work will be made on a time and expense basis, that is, on an accounting of the Contractor's forces, materials, equipment, and other items of cost as required and used to do the work.

If the method of payment cannot be agreed upon prior to the beginning of the work, and the Owner directs by written Change Order that the work be done on a cost reimbursement basis, then the Contractor shall furnish labor, and furnish and install equipment and materials necessary to complete the work in a satisfactory manner and within a reasonable period of time. For the work performed, payment will be made for the documented actual cost of the following:

1. Labor including foremen for those hours they are assigned and participating in the cost reimbursement work (actual payroll cost, including wages, fringe benefits as established by negotiated labor agreements, labor insurance, and labor taxes as established by law). No other fixed labor burdens will be considered, unless approved in writing by the Owner.

2. Material delivered and used on the designated work, including sales tax, if paid by the Contractor or his Subcontractor.

3. Rental, or equivalent rental cost of equipment, including necessary transportation for items having a value in excess of one hundred (100) dollars.

   Rental or equivalent rental cost will be allowed for only those days or hours

during which the equipment is in actual use. Rental and transportation allowances shall not exceed the current rental rates prevailing in the locality. The rentals allowed for equipment will, in all cases, be understood to cover all fuel, supplies, repairs, and renewals, and no further allowances will be made for those items, unless specific agreement to that effect is made.

4. Additional bond, as required and approved by the owner.

5. Additional insurance (other than labor insurance) as required and approved by the Owner.

In addition to items 1 through 5 above, an added fixed fee for general overhead and profit shall be negotiated and allowed for the Contractor (or approved Subcontractor) actually executing the Cost Reimbursement work.

An additional fixed fee shall be negotiated and allowed the Contractor for the administrative handling of portions of the work that are executed by an approved Subcontractor. No additional fixed fee will be allowed for the administrative handling of work executed by a Subcontractor of a Subcontractor, unless by written permission from the Owner.

The added fixed fees shall be considered to be full compensation, covering the cost of general supervision, overhead, profit, and any other general expense. The Contractor's records shall make clear distinction between the direct costs of work paid for on a cost reimbursement basis and the costs of other work. The Contractor shall furnish the Engineer report sheets in duplicate of each day's cost reimbursement work no later than the working day following the performance of said work. The daily report sheets shall itemize the materials used, and shall cover the direct cost of labor and the charges for equipment rental, whether furnished by the Contractor, Subcontractor or other forces. The daily report sheets shall provide names or identifications and classifications of workers, the hourly rate of pay and hours worked, and also the size, type, and identification number of equipment and hours operated.

Valid copies of vendors' invoices shall substantiate material charges. Such invoices shall be submitted with the daily report sheets, or, if not available, they shall be submitted with subsequent daily report sheets. Said daily report sheets shall be signed by the Contractor or his authorized agent.

The Owner reserves the right to furnish such materials and equipment as he deems expedient and the Contractor shall have no claim for profit or added fees on the cost of such materials and equipment. To receive partial payments and final payment for cost reimbursement work, the Contractor shall submit to the Engineer, detailed and complete documented verification of the Contractor's and any of his Subcontractors' actual costs involved in the cost reimbursement work. Such costs shall be submitted within 30 days after said work has been performed.

69. PARTIAL PAYMENTS

A. GENERAL

Nothing in this Article shall be construed to affect the right, hereby reserved, to reject the whole or any part of the aforesaid work, should such work be later found not to comply with the provisions of the Contract Documents. All estimated quantities of work for which partial payments have been made are subject to review and correction on the final estimate. Payment by the Owner and acceptance by the Contractor of partial payments based on periodic estimates of quantities of work performed shall not, in any way, constitute acceptance of the estimated quantities used as a basis for computing the amounts of the partial payments.

B. ESTIMATE

No more than once each month, the Contractor shall submit to the Engineer a detailed estimate of the amount earned during the preceding month for the separate portions of the work, and request payment. As used in this Article, the words "amount earned" means the value, on the date of the estimate for partial payment, of the work completed in accordance with the Contract Documents, and the value of approved materials delivered to the project site suitably stored and protected prior to incorporation into the work.

The Owner will make payment to the Contractor within forty five (45) calendar days upon receipt of the written recommendation of payment from the Engineer.

The Engineer will, within seven (7) calendar days after receipt of each request for payment, both indicate in writing a recommendation of payment and present the request to Owner, or return the request to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may, within seven (7) calendar days, make the necessary corrections and resubmit the request.

Engineer may refuse to recommend the whole or any part of any payment if, in his opinion, it would be incorrect to make such representations to Owner. Engineer may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended to such an extent as may be necessary in Engineer's opinion to protect the Owner from loss because:

1. The work is defective, or completed work has been damaged requiring correction or replacement.

2. Written claims have been made against Owner or Liens have been filed in connection with the work.

3. The Contract Price has been reduced because of Change Orders.

4. Owner has been required to correct defective work or complete the work in accordance with Article OWNER'S RIGHT TO DO WORK;

5. Of Contractor's unsatisfactory prosecution of the work in accordance with the Contract Documents; or

6. Contractor's failure to make payment to Subcontractors or for labor, materials, or equipment.

C. DEDUCTION FROM ESTIMATE

Unless modified in the Supplementary Conditions, deductions from the estimate will be as described below:

1. The Owner will deduct from the estimate, and retain as part security, ten (10) percent of the amount earned for work satisfactorily completed. A deduction and retainage of ten (10) percent will be made on the estimated amount earned for approved items of material delivered to and properly stored at the jobsite but not incorporated into the work. When the work is fifty (50) percent complete, the Owner may reduce the retainage to five (5) percent of the dollar value of all work satisfactorily completed to date provided the Contractor is making satisfactory progress and there is no specific cause for a greater retainage. The Owner may reinstate the retainage up to ten (10) percent if the Owner determines, at his discretion, that the Contractor is not making satisfactory progress or where there is other specific cause for such withholding.

D. QUALIFICATION FOR PARTIAL PAYMENT FOR MATERIALS DELIVERED

Unless modified in the Supplementary Conditions, qualification for partial payment for materials delivered but not yet incorporated into the work shall be as described below:

1. Materials, as used herein, shall be considered to be those items that are fabricated and manufactured material and equipment. No consideration shall be given to individual purchases of less than two hundred (200) dollars for any one item.

2. To receive partial payment for materials delivered to the site, but not incorporated in the work, it shall be necessary for the Contractor to include a list of such materials on the Partial Payment Request. At his sole discretion, the Engineer may approve items for which partial payment is to be made. Partial payment shall be based on the Contractor's actual cost for the materials as evidenced by invoices from the supplier. Proper storage and protection shall be provided by the Contractor, and as approved by the Engineer. Final payment shall be made only for materials actually incorporated in the work and, upon acceptance of the work, all materials remaining for which advance payments had been made shall revert to the Contractor, unless otherwise agreed, and partial payments made for these items shall be deducted from the final payment for the work.

3. Contractor warrants and guarantees that title to all work, materials, and equipment covered by any Application for Payment, whether incorporated in the project or not, will pass to Owner at the time of payment free and clear of all liens, claims, security interests, and encumbrances.

4. If requested by the Engineer, the Contractor shall provide, with subsequent pay requests, invoices receipted by the supplier showing payment in full has been made.

E. PAYMENT

After deducting the retainage and the amount of all previous partial payments made to the Contractor from the amount earned, the amount due will be made payable to the Contractor. Recommendations for payment received by the Owner less than forty five (45) calendar days prior to the scheduled day for payment will not be processed or paid until the following month.

70. CLAIMS FOR EXTRA WORK

In any case where the Contractor deems additional time or compensation will become due him under this Contract for circumstances other than those defined in Article DELAYS AND EXTENSION OF TIME, the Contractor shall notify the Engineer, in writing, of his intention to make claim for such time or compensation before he begins the work on which he bases the claim, in order that such matters may be settled, if possible, or other appropriate action taken. The notice of claim shall be in duplicate, in writing, and shall state the circumstances and the reasons for the claim, but need not state the amount. If such notification is not given, or if the Engineer is not afforded proper facilities by the Contractor for keeping strict account of actual costs, then the Contractor hereby agrees to waive the claim for such additional time or compensation. Such notice by the Contractor, and fact that the Engineer has kept account of the cost as aforesaid, shall not in any way be construed as proving the validity of the claim.

No extension of time will be granted to the Contractor for delays resulting from extra work that have no measurable impact on the completion of the total Work under this Contract. Claims for additional time or compensation shall be made in itemized detail and submitted, in writing, to the Owner and Engineer within ten (10) calendar days following completion of that portion of the work for which the Contractor bases his claim. Failure to make the claim for additional compensation in the manner and within the time specified above shall constitute waiver of that claim. In case the claim is found to be just, it shall be allowed and paid for as provided in Article PAYMENT FOR CHANGE ORDERS.

71. RELEASE OF LIENS OR CLAIMS

The Contractor shall indemnify and hold harmless the Owner from all claims for labor and materials furnished under this Contract. Prior to the final payment, the Contractor shall furnish to the Owner, as part of his final payment request, a certification that all of the Contractor's obligations on the project have been satisfied and that all monetary claims and indebtedness have been paid. The Contractor shall furnish complete and legal effective releases or waivers, satisfactory to the Owner, of all liens arising out of or filed in connection with the work.

72. FINAL PAYMENT

Upon completion of the work, the Contractor shall notify the Engineer, in writing, that he

has completed it and shall request final payment for that Work Performed. The Contractor shall be responsible for keeping an accurate and detailed record of his actual construction. Upon completion of construction and before final acceptance and payment, the Contractor shall furnish the Engineer record drawings (if applicable) of his construction. Upon receipt of a request for final payment and the record drawings, the Engineer will inspect and, if acceptable, submit to the Owner his recommendation as to acceptance of the completed work and as to the final estimate of the amount due the Contractor. Upon approval of this final estimate by the Owner and compliance by the Contractor with provisions in Article 71. RELEASE OF LIENS OR CLAIMS, and other provisions as may be applicable, the Owner shall pay to the Contractor all monies due him under the provisions of these Contract Documents.

73. NO WAIVER OF RIGHTS

Neither the inspection by the Owner, through the Engineer or any of his employees, nor any order by the Owner for payment of money, nor any payment for, or acceptance of, the whole or any part of the work by the Owner or Engineer, nor any extension of time, nor any possession taken by the owner or its employees, shall operate as a waiver of any provision of this Contract, or any power herein reserved to the Owner, or any right to damages herein provided, nor shall any waiver of any breach in this Contract be held to be a waiver of any other or subsequent breach. Acceptance or final payment shall not be final and conclusive with regards to latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Owner's rights under the warranty.

74. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

The acceptance by the Contractor of the final payment shall release the Owner and the Engineer, as representatives of the Owner, from all claims and all liability to the Contractor for all things done or furnished in connection with the work, and every act of the Owner and others relating to or arising out of the work except claims previously made in writing and still unsettled. No payment, however, final or otherwise, shall operate to release the Contractor or his Sureties from obligations under this Contract and the Performance Bond, Payment Bond, and other bonds and warranties, as herein provided.

SUPPLEMENTARY CONDITIONS

REVISIONS AND ADDITIONS TO THE GENERAL CONDITIONS
The General Conditions are hereby revised as follows:

ARTICLE 9 "ENGINEER"

Add the following:

Wherever in these Documents the word "Engineer" appears, it shall be understood to mean the Owner's representative overseeing the project for the City.

ARTICLE 34 **INSURANCE & INDEMNIFICATION:**

Before commencing work as specified in the contract Contractor shall obtain at its own cost and expense the following insurance in insurance companies authorized in the State of Florida, with an A.M. Best rating of A-:VI or higher and shall provide evidence of such insurance to the City. The policies or certificates shall provide thirty (30) days prior to cancellation notices of same shall be given to the City by registered mail, return receipt requested, for all of the required insurance policies stated below. All notices shall name the Contractor and identify the agreement or contract number. The City of Key West, all Departments, Agencies, Boards and Commissions, its officers, agents, servants and employees are to be added as "Additional Insured" as respects liability arising out of activities performed by or on behalf of the Contractor.

Contractor shall maintain limits no less than those stated below:

A. **Worker's Compensation**: Statutory – in compliance with the Workers' Compensation law of the State of Florida. The coverage must include Employer's Liability with a limit of $1,000,000 each accident.

B. **Commercial General Liability:** Insurance with a minimum limit of liability per occurrence of One Million ($1,000,000.00) Dollars including but not limited to bodily injury, property damage, contractual liability, products and completed operations (without limitation) premises-operations and personal injury liability.

C. **Business Automobile Liability:** Insurance with a minimum limit of liability per occurrence of One Million ($1,000,000.00) Dollars for bodily injury and property damage. This insurance shall include for bodily injury and property damage the following coverage:
   - Owned automobiles
   - Hired automobiles
   - Non-owned automobiles

   Location of operation shall be "All Locations."

D. **Builder's Risk Insurance**: Builder's Risk Insurance is not required as part of this contract.

E. All insurance required by this contract shall include a waiver of subrogation as to the Owner, Consultant, Contractor and their respective officers, agents, employees and sub-contractors.

F. It shall be the responsibility of the Contractor to ensure that all subcontractors comply with the same insurance requirements as is required of Contractor.

G. Certificates of Insurance meeting the required insurance provisions include in Article 34; Supplementary Conditions, shall be forwarded to Engineer, Owner's and Risk Management.

GUARANTY

This Guaranty is made this 28 day of Feb, 2015 in accordance with the Lease Agreement (hereinafter Agreement) dated _____, 2015 by and between the City of Key West Caroline Street Corridor and Bahama Village Community Redevelopment Agency (hereinafter City) and Moro Management, Inc. (hereinafter Tenant) and Pasquale W. Croce (hereinafter Guarantor) for the Demised Premises (hereinafter Premises) located at 231 Margaret Street, Key West, Florida.

In consideration of granting the use of the Premises to Tenant, and other good and valuable consideration, Guarantor does hereby covenant and agree that:

(a) The Guarantor does hereby absolutely, unconditionally and irrevocably guarantee to the City the full and complete performance of all of Tenant's covenants and obligations under the Agreement and full payment by Tenant of all rentals, additional charges and other charges and amounts required to be paid hereunder during the entire term. Guarantor's obligations hereunder shall be primary and not secondary and are independent of the obligations of the Tenant.

(b) A separate action or actions may be brought and prosecuted against Guarantor, whether or not action is brought against Tenant or whether Tenant shall be joined in any such action or actions. At the City's option, the Guarantor may be joined in any action or proceeding commenced by the City against Tenant in connection with and based upon any covenants and obligations under the Agreement, and the Guarantor hereby waives any demand by City and/or prior action by City of any nature whatsoever against Tenant.

(c) The Guarantor consents to forbearance, indulgences and extensions of time on the part of the City being afforded to Tenant, the waiver from time to time by City of any right or remedy on its part as against Tenant. The Guarantor hereby agrees that no act or omission on the part of the City shall affect or modify the obligation and liability of the Guarantor hereunder.

(d) This Guaranty shall remain and continue in full force and effect, notwithstanding (i) any alteration of the Agreement by parties thereto, whether prior or subsequent to the execution hereof, (ii) any renewal, extension, modification or amendment of the Agreement, (iii) any subletting of the Demised Premises or assignment of Tenant's interest in the Agreement.

(e) The Guarantor's obligations hereunder shall remain fully binding although City may have waived one or more defaults by Tenant, extended the time of performance by Tenant, released, returned, or misapplied other collateral given later as additional security (including other guarantees) and released Tenant from the performance of its obligations under the Agreement.

(f) In the event any action or proceeding be brought by City to enforce this Guaranty, or City appears in any action or proceeding in any way connected with or growing out of this Guaranty, then and in any such event, the Guarantor shall pay to City reasonable attorney's fees, but only if City is the prevailing party. The Guarantor in any suit brought

under this Guaranty does hereby submit to the jurisdiction of the courts of the State of Florida and to the venue in the circuit court of Monroe County, Florida.

(g) This Guaranty shall remain in full force and effect notwithstanding the institution by or against Tenant or bankruptcy, reorganization, readjustment, receivership or insolvency proceedings of any nature, or in the disaffirmance of the Agreement an any such proceedings or otherwise.

(h) This Guaranty shall be applicable to and binding upon the heirs, representatives, successors and assigns of City, Tenant and the Guarantor.

IN WITNESS WHEREOF, the Guarantor has caused the foregoing Guaranty to be executed on this 28th day of Feb 2015.

Witness:
By: _____
Name: ERICA H. STERLING
Date: 2/28/15

Guarantor: Pasquale W. Croce
_____
Name: PASQUALE W. CROCE
Date: 2/28/15

State of Florida }
County of Monroe }

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgements, Pasquale W. Croce, to me personally known or who provided _____ as photo identification, and who executed the foregoing instrument and he/she acknowledged before me that he/she executed the same individually and for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State last aforesaid, this 28th day of February, 2015.

_____
Notary Public, State of Florida

My Commission Expires:

DIANE T. CASTILLO
Commission # FF 042498
Expires December 3, 2017
Bonded Thru Troy Fain Insurance 800-385-7019