



FLORIDA DEPARTMENT OF Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, FL 32399

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

07/02/2024

City of Key West
201 William Street
Key West, FL 33040

Instrument No. 440769265
Lessee: City of Key West

Dear City of Key West,

Enclosed is a fully executed original Lease Agreement for your records. The original Lease Agreement, at your discretion, may be recorded in the official records of the county where the site is located.

If the billing agent, phone number, or fax number change, or there is a change in tax status, please notify the DIVISION OF STATE LANDS, REVENUE SECTION in writing within 30 days of the date of any change.

Thank you for your assistance and cooperation in this matter. Should you have any questions, please contact me at (850) 245-2730 or Ramsey.L.Jones@FloridaDEP.gov.

Sincerely,

Ramsey Jones

Ramsey Jones
Bureau of Public Land Administration
Division of State Lands
State of Florida Department of Environmental Protection

Enclosures

Cc: File

This Instrument Prepared By:
Ramsey Jones
Action No. 49215
Bureau of Public Land Administration
3900 Commonwealth Boulevard
Mail Station No. 125
Tallahassee, Florida 32399

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
OF THE STATE OF FLORIDA

SOVEREIGNTY SUBMERGED LANDS FEE WAIVED LEASE RENEWAL

BOT FILE NO. 440769265

THIS LEASE is hereby issued by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Lessor.

WITNESSETH: That for and in consideration of the faithful and timely performance of and compliance with all terms and conditions stated herein, the Lessor does hereby lease to City of Key West, Florida, hereinafter referred to as the Lessee, the sovereignty lands as defined in 18-21.003, Florida Administrative Code, contained within the following legal description:

A parcel of sovereignty submerged land in Section 31,
Township 67 South, Range 25 East, and Section 06,
Township 68 South, Range 25 East, in Key West Harbor,
Monroe County, Florida, containing 115,663 square feet, more or less,
as is more particularly described and shown on Attachment A, dated March 14, 2024.

TO HAVE THE USE OF the hereinabove described premises from August 8, 2019, the effective date of this lease renewal, through August 8, 2024, the expiration date of this lease renewal. The terms and conditions on and for which this lease is granted are as follows:

1. USE OF PROPERTY: The Lessee is hereby authorized to operate a port facility, one commercial dock, and a recreational area to be used exclusively for temporary mooring of commercial vessels for delivery of exhibits to the city aquarium in conjunction with an upland city port, without fueling facilities, with a sewage pumpout facility if it meets the regulatory requirements of the State of Florida Department of Environmental Protection or State of Florida Department of Health, whichever agency has jurisdiction, and without liveaboards as defined in paragraph 25, as shown and conditioned in Attachment A, and the State of Florida Department of Environmental Protection Environmental Resource Permit No. 44-0142061-002, dated November 20, 2000, incorporated herein and made a part of this lease by reference. All of the foregoing subject to the remaining conditions of this lease.

2. AGREEMENT TO EXTENT OF USE: This lease is given to the Lessee to use or occupy the leased premises only for those activities specified herein and as conditioned by the permit(s) referenced in paragraph 1 of this lease. The Lessee shall not (i) change or add to the approved use of the leased premises as defined herein (e.g., from commercial to multi-family residential, from temporary mooring to rental of wet slips, from rental of wet slips to contractual agreement with third party for docking of cruise ships, from rental of recreational pleasure craft to rental or temporary mooring of charter/tour boats, from loading/offloading commercial to rental of wet slips, etc.); (ii) change activities in any manner that may have an environmental impact that was not considered in the original authorization or regulatory permit; or (iii) change the type of use of the riparian uplands or as permitted by the Lessee's interest in the riparian upland property that is more particularly described in Attachment B without first obtaining a regulatory permit/modified permit, if applicable, the Lessor's written authorization in the form of a modified lease, the payment of additional fees, if applicable, and, if applicable, the removal of any structures which may no longer qualify for authorization under the modified lease. If at any time during the lease term this lease no longer satisfies the requirements of subparagraph 18-21.011(1)(b)7., Florida Administrative Code, for a fee waived lease, the Lessee shall be required to pay an annual lease fee in accordance with Rule 18-21.011, Florida Administrative Code, and if applicable, remove any structures which may no longer qualify for authorization under this lease.

3. SUBMITTING ANNUAL CERTIFIED FINANCIAL RECORDS: Within 30 days after each anniversary of the effective date of this lease, the Lessee shall submit annual certified financial records of income and expenses to the State of Florida Department of Environmental Protection, Division of State Lands, Bureau of Public Land Administration, 3900 Commonwealth Blvd, MS 130, Tallahassee, FL 32399. "Income" is defined in subsection 18-21.003(32), Florida Administrative Code. The submitted financial records shall be certified by a certified public accountant.

4. EXAMINATION OF LESSEE'S RECORDS: For purposes of this lease, the Lessor is hereby specifically authorized and empowered to examine, for the term of this lease including any extensions thereto plus three (3) additional years, at all reasonable hours, the books, records, contracts, and other documents confirming and pertaining to the computation of annual lease payments as specified in paragraph two (2) above.

5. MAINTENANCE OF LESSEE'S RECORDS: The Lessee shall maintain separate accounting records for: (i) the gross revenue derived directly from the use of the leased premises, (ii) the gross revenue derived indirectly from the use of the leased premises, and (iii) all other gross revenue derived from the Lessee's operations on the riparian upland property. The Lessee shall secure, maintain and keep all records for the entire term of this lease plus three (3) additional years. This period shall be extended for an additional two (2) years upon request for examination of all records and accounts for lease verification purposes by the Lessor.

6. PROPERTY RIGHTS: The Lessee shall make no claim of title or interest to said lands hereinbefore described by reason of the occupancy or use thereof, and all title and interest to said land hereinbefore described is vested in the Lessor. The Lessee is prohibited from including, or making any claim that purports to include, said lands described or the Lessee's leasehold interest in said lands into any form of private ownership, including but not limited to any form of condominium or cooperative ownership. The Lessee is further prohibited from making any claim, including any advertisement, that said land, or the use thereof, may be purchased, sold, or re-sold.

7. INTEREST IN RIPARIAN UPLAND PROPERTY: During the term of this lease, the Lessee shall maintain satisfactory evidence of sufficient upland interest as required by paragraph 18-21.004(3)(b), Florida Administrative Code, in the riparian upland property that is more particularly described in Attachment B and by reference made a part hereof together with the riparian rights appurtenant thereto. If such interest is terminated or the Lessor determines that such interest did not exist on the effective date of this lease, this lease may be terminated at the option of the Lessor. If the Lessor terminates this lease, the Lessee agrees not to assert a claim or defense against the Lessor arising out of this lease. Prior to sale and/or termination of the Lessee's interest in the riparian upland property, the Lessee shall inform any potential buyer or transferee of the Lessee's interest in the riparian upland property and the existence of this lease and all its terms and conditions and shall complete and execute any documents required by the Lessor to effect an assignment of this lease, if consented to by the Lessor. Failure to do so will not relieve the Lessee from responsibility for full compliance with the terms and conditions of this lease which include, but are not limited to, payment of all fees and/or penalty assessments incurred prior to such act.

8. ASSIGNMENT OF LEASE: This lease shall not be assigned or otherwise transferred without prior written consent of the Lessor or its duly authorized agent. Such assignment or other transfer shall be subject to the terms, conditions and provisions of this lease, current management standards and applicable laws, rules and regulations in effect at that time. Any assignment or other transfer without prior written consent of the Lessor shall be null and void and without legal effect.

9. LIABILITY/INVESTIGATION OF ALL CLAIMS: The Lessee shall investigate all claims of every nature at its expense. Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees and agents thereof. Nothing herein shall be construed as an indemnity or a waiver of sovereign immunity enjoyed by any party hereto, as provided in Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims.

10. NOTICES/COMPLIANCE/TERMINATION: The Lessee binds itself, its successors and assigns, to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Lessee, its successors and assigns. In the event the Lessee fails or refuses to comply with the provisions and conditions herein set forth, or in the event the Lessee violates any of the provisions and conditions herein set forth, and the Lessee fails or refuses to comply with any of said provisions or conditions within twenty (20) days of receipt of the Lessor's notice to correct, this lease may be terminated by the Lessor upon thirty (30) days written notice to the Lessee. If canceled, all of the above-described parcel of land shall revert to the Lessor. All notices required to be given to the Lessee by this lease or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

City of Key West Florida
201 William Street
Key West, Florida 33040

The Lessee shall notify the Lessor by certified mail of any change to this address at least ten (10) days before the change is effective.

11. TAXES AND ASSESSMENTS: The Lessee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this lease.

12. NUISANCES OR ILLEGAL OPERATIONS: The Lessee shall not permit the leased premises or any part thereof to be used or occupied for any purpose or business other than herein specified unless such proposed use and occupancy are consented to by the Lessor and the lease is modified accordingly, nor shall Lessee knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises.

13. MAINTENANCE OF FACILITY/RIGHT TO INSPECT: The Lessee shall maintain the leased premises in good condition, keeping the structures and equipment located thereon in a good state of repair in the interests of public health, safety and welfare. No dock or pier shall be constructed in any manner that would cause harm to wildlife. The leased premises shall be subject to inspection by the Lessor or its designated agent at any reasonable time.

14. NON-DISCRIMINATION: The Lessee shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within the area subject to this lease or upon lands adjacent to and used as an adjunct of the leased area.

15. ENFORCEMENT OF PROVISIONS: No failure, or successive failures, on the part of the Lessor to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the Lessor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

16. PERMISSION GRANTED: Upon expiration or cancellation of this lease all permission granted hereunder shall cease and terminate.

17. RENEWAL PROVISIONS: Renewal of this lease shall be at the sole option of the Lessor. Such renewal shall be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. In the event that the Lessee is in full compliance with the terms of this lease, the Lessor will begin the renewal process. The term of any renewal granted by the Lessor shall commence on the last day of the previous lease term. In the event the Lessor does not grant a renewal, the Lessee shall vacate the leased premises and remove all structures and equipment occupying and erected thereon at its expense. The obligation to remove all structures authorized herein upon termination of this lease shall constitute an affirmative covenant upon the Lessee's interest in the riparian upland property more particularly described in Attachment B which shall run with the title to the Lessee's interest in said riparian upland property and shall be binding upon the Lessee and the Lessee's successors in title or successors in interest.

18. REMOVAL OF STRUCTURES/ADMINISTRATIVE FINES: If the Lessee does not remove said structures and equipment occupying and erected upon the leased premises after expiration or cancellation of this lease, such structures and equipment will be deemed forfeited to the Lessor, and the Lessor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the Lessee at the address specified in Paragraph 12 or at such address on record as provided to the Lessor by the Lessee. However, such remedy shall be in addition to all other remedies available to the Lessor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.

19. REMOVAL COSTS/LIEN ON RIPARIAN UPLAND PROPERTY: Subject to the noticing provisions of Paragraph 20 of this lease, any costs incurred by the Lessor in removal of any structures and equipment constructed or maintained on state lands shall be paid by Lessee and any unpaid costs and expenses shall constitute a lien upon the Lessee's interest in the riparian upland property that is more particularly described in Attachment B. This lien on the Lessee's interest in the riparian upland property shall be enforceable in summary proceedings as provided by law.

20. RIPARIAN RIGHTS/FINAL ADJUDICATION: In the event that any part of any structure authorized hereunder is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent riparian rights, Lessee agrees to either obtain written consent for the offending structure from the affected riparian owner or to remove the interference or encroachment within 60 days from the date of the adjudication. Failure to comply with this paragraph shall constitute a material breach of this lease agreement and shall be grounds for immediate termination of this lease agreement at the option of the Lessor.

21. AMENDMENTS/MODIFICATIONS: This lease is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this lease must be in writing, must be accepted, acknowledged and executed by the Lessee and Lessor, and must comply with the rules and statutes in existence at the time of the execution of the modification or amendment. Notwithstanding the provisions of this paragraph, if mooring is authorized by this lease, the Lessee may install boatlifts within the leased premises without formal modification of the lease provided that (a) the Lessee obtains any state or local regulatory permit that may be required; and (b) the location or size of the lift does not increase the mooring capacity of the docking facility.

22. ADVERTISEMENT/SIGNS/NON-WATER DEPENDENT ACTIVITIES/ADDITIONAL ACTIVITIES/MINOR STRUCTURAL REPAIRS: No permanent or temporary signs directed to the boating public advertising the sale of alcoholic beverages shall be erected or placed within the leased premises. No restaurant or dining activities are to occur within the leased premises. The Lessee shall ensure that no permanent, temporary or floating structures, fences, docks, pilings or any structures whose use is not water-dependent shall be erected or conducted over sovereignty submerged lands without prior written consent from the Lessor. No additional structures and/or activities including dredging, relocation/realignment or major repairs or renovations to authorized structures, shall be erected or conducted on or over sovereignty, submerged lands without prior written consent from the Lessor. Unless specifically authorized in writing by the Lessor, such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Lessee to administrative fines under Chapter 18-14, Florida Administrative Code. This condition does not apply to minor structural repairs required to maintain the authorized structures in a good state of repair in the interests of public health, safety or welfare; provided, however, that such activities shall not exceed the activities authorized by this lease.

23. USACE AUTHORIZATION: Prior to commencement of construction and/or activities authorized herein, the Lessee shall obtain the U.S. Army Corps of Engineers (USACE) permit if it is required by the USACE. Any modifications to the construction and/or activities authorized herein that may be required by the USACE shall require consideration by and the prior written approval of the Lessor prior to the commencement of construction and/or any activities on sovereign, submerged lands.

24. COMPLIANCE WITH FLORIDA LAWS: On or in conjunction with the use of the leased premises, the Lessee shall at all times comply with all Florida Statutes and all administrative rules promulgated thereunder. Any unlawful activity which occurs on the leased premises or in conjunction with the use of the leased premises shall be grounds for the termination of this lease by the Lessor.

25. LIVEABOARDS: The term "liveaboard" is defined as a vessel docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period. If liveaboards are authorized by paragraph one (1) of this lease, in no event shall such "liveaboard" status exceed six (6) months within any twelve (12) month period, nor shall any such vessel constitute a legal or primary residence.

26. GAMBLING VESSELS: During the term of this lease and any renewals, extensions, modifications or assignments thereof, Lessee shall prohibit the operation of or entry onto the leased premises of gambling cruise ships, or vessels that are used principally for the purpose of gambling, when these vessels are engaged in "cruises to nowhere," where the ships leave and return to the state of Florida without an intervening stop within another state or foreign country or waters within the jurisdiction of another state or foreign country, and any watercraft used to carry passengers to and from such gambling cruise ships.

27. SPECIAL LEASE CONDITION(S):

A. During the term of this lease and all subsequent renewal terms, Lessee shall maintain permanent manatee educational signs that provide information on the mannerisms of manatees and the potential threat to this endangered species from boat operation and shall be required to replace the signs in the event they become faded, damaged or outdated. Lessee shall ensure that the view of the signs is not obstructed by vegetation or structures. The number, type, and procedure for installation of these signs shall be in accordance with the handout, "Manatee Educational Signs," which can be obtained from the Florida Fish and Wildlife Conservation Commission, Imperiled Species Management Section, 620 S. Meridian Street - 6A, Tallahassee, Florida 32399-1600 (Phone 850-922-4330).

B. Any vessel moored at the docking facility, on either a temporary or permanent basis, shall be wholly located within its designated wet slip as depicted on Attachment A and no portion of a vessel may extend beyond the leased premises. Vessel length shall be measured as overall length including all parts and accessories such as outboard motors, bow pulpits, and swim platforms.

C. The city shall supply a list of all vessels to be docked at the docking facility and their lengths. Vessel's length shall be measured as overall length including all parts and accessories such as outboard motors, bow pulpits, and swim platforms.

D. The Lessor hereby agrees to allow the use of the docking facility for ancillary community sponsored cultural function such as the "Sunset Celebration" and sports activities. However, the Lessee shall ensure that no ancillary activity will be conducted for a continuous period of time longer than 24 hours and that no additional structures will be erected on the existing docking facility on either a permanent or temporary basis without the prior written consent of the State of Florida Department of Environmental Protections, as agent for the Lessor.

E. The Lessee shall ensure that (a) no vessel shall be moored at the dock 45 minutes before or 45 minutes after daily estimated time of sunset as stipulated by the Dock Master; (b) no vessel using the docking facility shall operate in any manner which infringes upon the view of the horizon within this time period; (c) the Sunset Celebration activities on the Mallory dock shall be allowed to continue until and unless an agreement has been reached between the Lessor and Lessee to move the Sunset Celebration activities to a different site; and (d) no more than twelve one-night variances per calendar year are allowed. Within 14 days after each variance, the Lessee shall provide the Lessor's authorized agent an affidavit signed by the Lessee's authorized agent documenting the date of the occurrence of the variance. The affidavit shall be provided to the State of Florida Department of Environmental Protection South District Branch Office at 2796 Overseas Highway, Suite 221, Marathon, Florida 33050-4276 (305-289-2310)

IN WITNESS WHEREOF, the Lessor and the Lessee have executed this instrument on the day and year first above written.

WITNESSES:

Celeda A. Wallace
Original Signature

Celeda A. Wallace
Print/Type Name of Witness
3800 Commonwealth Blvd.
Tallahassee, FL, 32399

Raulerson
Original Signature

Lisa-Marie Raulerson
Print/Type Name of Witness
3800 Commonwealth Blvd
Tallahassee, FL 32399

STATE OF FLORIDA
COUNTY OF LEON

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE STATE
OF FLORIDA

BY:

[Signature]
Brad Richardson, Chief, Bureau of Public Land Administration,
Division of State Lands, State of Florida Department of
Environmental Protection, as agent for and on behalf of the Board
of Trustees of the Internal Improvement Trust Fund of the
State of Florida.

(SEAL)

"LESSOR"

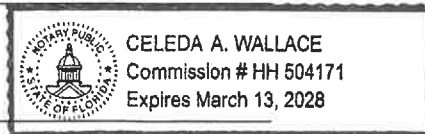
24 The foregoing instrument was acknowledged before me by means of physical presence, this 2nd day of July, 2024, by Brad Richardson, Chief, Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. He is personally known to me.

APPROVED SUBJECT TO PROPER EXECUTION:

Toni Sturtevant 6/12/2024
DEP Attorney Date

Celeda A. Wallace
Notary Public, State of Florida

Notary Public, State of Florida



Printed, Typed or Stamped Name

My Commission Expires:

Commission/Serial No. _____

Kelli Gunn

Kelli Funkhouser

Original Signature

Mary Reinert

(SEAL)

BY

Original Signature of Executing Authority

Teri Johnston

Typed/Printed Name of Executing Authority

Mayor

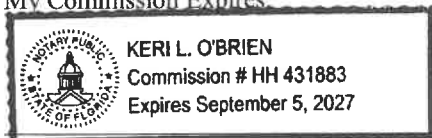
Title of Executing Authority

STATE OF FLORIDA

COUNTY OF MONROE

The foregoing instrument was acknowledged before me by means of X physical presence or online notarization, this 21st day of June, 2024, by Teri Johnston as Mayor, for and on behalf of City of Key West, Florida. He/she is personally known to me or who has produced _____, as identification.

My Commission Expires: _____



Commission/Serial No.

Signature of Notary Public

Notary Public, State of FLORIDA

Keri O'Brien

Printed, Typed or Stamped Name



THIS INDENTURE, Made this 30th day of August, A. D. 1952,
between GULF ATLANTIC TRANSPORTATION CO., a corporation existing
under the laws of the State of Florida, having its principal place of business
in the County of Duval and State of Florida, party of the first part, and The
City of Key West, Florida, a municipal corporation organized and existing
under the laws of the State of Florida, party of the second part,

WITNESSETH, That the said party of the first part, for and in
consideration of the sum of One Hundred Fifty Thousand Dollars, to it in
hand paid, the receipt whereof is hereby acknowledged, has granted,
bargained, sold, aliened, remised, released, conveyed and confirmed, and
by these presents doth grant, bargain, sell, alien, remise, release, convey
and confirm unto the said party of the second part, its successors and assigns
forever, all that certain parcel of land lying and being in the County of
Monroe and State of Florida, more particularly described as follows:

On the Island of Key West, Florida, and known as part of
Lots 2, 3, 4, and 5 in Square 3, as shown on William A.
Whitehead's Map of said City, delineated in February, 1829,
being described by metes and bounds as follows:

Beginning at the Northerly corner of Wall and Whitehead
Streets, and running thence in a Northerly direction along
the Westerly side of Wall Street 464 feet to a point; thence
at right angles and in a Westerly direction 362.2 feet to the
waters of the harbor of said City; thence meander along the
waters of the harbor in a Southerly direction to the Northerly
side of Whitehead Street, if extended; thence along said
Northerly side of Whitehead Street, if extended, back to the
point of beginning.

TOGETHER with all the tenements, hereditaments and appurtenances,
with every privilege, right, title, interest and estate, reversion, remainder
and easement thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

And the said party of the first part doth covenant with the said
party of the second part that it is lawfully seized of the said premises that
they are free of all incumbrances, and that it has good right and lawful
authority to sell the same; and the said party of the first part does hereby

fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be signed in its name by its President, and its corporate seal to be affixed, attested by its Assistant Secretary, the day and year above written.

Signed, Sealed and Delivered in Our Presence:

GULF ATLANTIC TRANSPORTATION CO.

J. J. Johnson
Indie E. Foster

By

H. G. Williams (SEAL)
President

ATTEST:

By

Edna B. Wallace (SEAL)
Assistant Secretary

STATE OF FLORIDA)

COUNTY OF DUVAL)

ss.

State of Florida, County of Monroe

This instrument was filed for record the 3rd day of Sept.
1952 at 3:35 p.m. and duly recorded in Book
Book 0-64 on Page 274/275 File No. 29005

HAROLD ADAMS, Clerk Circuit Court

I HEREBY CERTIFY, That on this day of August, A. D. 1952,

before me personally appeared H. G. Williams and Edna B. Wallace, President and Assistant Secretary, respectively, of GULF ATLANTIC TRANSPORTATION CO., a corporation under the laws of the State of Florida, to me known to be the persons described in and who executed the foregoing conveyance to The City of Key West, Florida, and severally acknowledged the execution thereof to be their free act and deed as such officers, for the uses and purposes therein mentioned; and that they affixed thereto the official seal of said corporation, and the said instrument is the act and deed of said corporation.

WITNESS my signature and official seal at Jacksonville, in the County of Duval and State of Florida, the day and year last aforesaid.

Lawrence R. Owen
Notary Public, State of Florida at Large.

(SEAL)

Notary Public, State of Florida at Large.
My Commission expires May 10, 1958.
Bonded by American Fire & Casualty Co.