

RESOLUTION NO. 06-147

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED LEASE AGREEMENT BETWEEN THE CITY OF KEY WEST AND THE KEY WEST WOMAN'S CLUB, INC.; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to section 2-941(c) of the Code of Ordinances, the proposed lease is for a below-market rent and requires a supermajority vote for adoption;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the attached Lease Agreement 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 Commission.

Passed and adopted by the City Commission at a meeting held this 2nd day of May, 2006.

Authenticated by the presiding officer and Clerk of the Commission on May 3, 2006.

Filed with the Clerk May 3, 2006.


MORGAN McPHERSON, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

LEASE AGREEMENT

This Lease Agreement, made and entered into this 8th day of May 2006, by and between the City of Key West, a municipal corporation, ("Lessor"), and the Key West Woman's Club Inc., a not-for-profit Florida corporation and 501 (c)(3) exempt organization, ("Lessee").

WITNESSETH

Lessor hereby lets to Lessee, and Lessee hereby leases from Lessor, real property located in Key West, Florida hereinafter referred to as the "Premises," more particularly described as that portion of the sidewalk five (5) feet in width immediately adjacent to the Lessee's real property located at 319 Duval Street, Key West, Florida, subject to the terms and provisions hereinafter set forth.

1. Term:

The term of this lease shall be five (5) years and shall apply to the Fantasy Fest activities for the years 2006 through 2011.

2. Rent:

Lessor and Lessee agree that it is a public purpose and to the mutual benefit of the parties that Lessee be permitted to sell alcoholic beverages on the Premises for the rental amount of One Dollar (\$1.00) per year.

3. Use of Premises:

Lessee shall lease the Premises exclusively to facilitate Lessee's sale of alcoholic beverages on Lessee's adjoining property for the Thursday, Friday, and Saturday only during the week of Fantasy Fest. Lessee shall be solely responsible for all costs associated with obtaining all necessary federal, state and local government regulatory approvals. Furthermore, Lessee agrees to comply with all applicable laws, codes, ordinances, rules and regulations of Lessor, or other governmental agencies, as existing and as may be promulgated during the term hereof.

4. Taxes:

As the Premises are City-owned property leased to a not-for-profit organization, the parties anticipate that no ad valorem taxes are to be paid. In the event ad valorem taxes become due for whatever reason, they shall be the responsibility of Lessee.

5. Right of Entry/Liaison:

Lessor may enter the leased property at any reasonable time for the purpose of inspecting the Premises. Lessor shall designate a department of the City responsible for overseeing the Premises and which shall act as the City's liaison to the Lessee.

6. Assignment or Subletting:

Lessee shall not assign this lease nor sublet or suffer or permit the Premises or any part thereof to be used by others without the prior written consent of the City Commission.

7. Responsibility for Damage:

Lessee agrees that it shall bear full responsibility for all damage to its personal property and other contents not affixed to Premises.

8. Default/Termination:

If Lessee shall fail to perform the terms and conditions agreed upon in this Lease Agreement and shall remain in such default for a period of thirty (30) days from the date Lessee receives written notice of default by Lessor, then Lessor, at its sole option, may immediately terminate this Lease Agreement. Lessor and Lessee may each terminate this Lease Agreement upon thirty (30) days notice for no cause. Upon termination, Lessee shall remove its personal property and restore the Premises, including the making of necessary repairs, to good and habitable condition.

9. Insurance and Indemnification:

Lessee shall indemnify and hold harmless the Lessor, its employees and agents, from all suits, claims, actions and judgments as a result of or arising from the loss of or damage to property or the injury to person by reason of any act or failure to act by the Lessee, its employers, officers, agents or members. This indemnification shall survive the expiration or termination of this lease.

Lessee agrees to provide at its expense comprehensive liability insurance insuring itself and Lessor against all claims of damages or injury to persons or property arising for any reason out of Lessee's tenancy or use of the Premises, or arising out of its activities related to the lease use, or otherwise arising from its exercise of rights or failure to perform obligations pursuant to this Lease. The insurance policy shall be written by a solvent insurance company in good standing and fully licensed to do business in Florida and shall provide a minimum of \$2,000,000 coverage for bodily injury arising out of one incident and \$10,000,000 aggregate. The policy shall show Lessor as an additional named insured and a copy shall be provided to the Special Events Section of the City Manager's Office no later than three weeks before the Fantasy Fest's first event. Further, the policy shall provide that it cannot be canceled or revoked except after a minimum of thirty (30) days written notice to the Lessor. Lessee's failure to obtain this insurance coverage at any time during the lease term shall be a default hereunder, and upon such default Lessee shall immediately suspend all lease use and shall provide to Lessor written notice of default.

The insurance amounts here provided shall not in any way operate to limit or release, or be construed to limit or release, Lessee from any liability to Lessor, or from any obligation to indemnify Lessor as provided herein. Such insurance amounts are minimum requirements, and shall be supplemented by Lessee as necessary to meet its obligations, and to indemnify the Lessor fully, as provided in this Lease.

If Lessee fails under the State of Florida Workers' Compensation Law, workers' compensation coverage shall be provided for all employees where the Lessee is obligated to do so by operation of law. The coverage shall be for statutory limits in compliance with applicable state and federal laws.

10. Notices:

Any notice which either party to this lease is required to send to the other under any statutes, decision, or rule or law, under any provision of this lease, or which either desires to send or give to the other, shall be in writing and may be served personally or be enclosed in a sealed, post-paid envelope and be sent by registered or certified United States mail to:

Lessor: City Manager
City of Key West
525 Angela Street
Key West, FL 33040

Lessee: Key West Woman's Club
Attention: President
319 Duval Street
Key West, FL 33040

11. Non-Discrimination

Lessee represents and warrants that it will not discriminate against any person for any reason because of race, color, religion, sex, national origin or ancestry.

12. Severability:

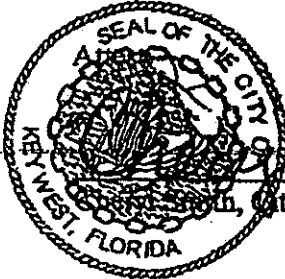
If any provision of this Lease Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be impaired thereby, but such remaining provisions shall be interpreted and enforced so to achieve, as near as may be, the purpose of this Lease Agreement to the extent permitted by law.

13. Entire Agreement:

This Lease Agreement sets forth the entire agreement between the parties. No amendment or modification may be made unless reduced to writing executed by the parties.

IN WITNESS WHEREOF, Lessee and Lessor have caused this instrument to be executed as of the date first written by their respective officers or parties.

Witness our hand and seals this 8th day of May, 2006.



[Handwritten signature]

City Clerk

City of Key West, Florida,
a municipal corporation

[Handwritten signature]

Julio A. Avel, City Manager

Signed in presence of:

[Handwritten signature]

[Handwritten signature]

Susan P. Harrison

Key West Woman's Club, Inc.

By: *[Handwritten signature]*

Margaret T. Belisle, President