RESOLUTION NO. 23-353

A RESOLUTION OF THE CAROLINE STREET CORRIDOR AND BAHAMA VILLAGE COMMUNITY REDEVELOPMENT AGENCY (CRA) AMENDING THE LEASE BETWEEN THE CRA AND FLORIDA STRAITS CONCH COMPANY, INC., DBA CONCH REPUBLIC SEAFOOD COMPANY TO REPLACE THE NAME HARVEY WATKINS WITH DALE WATKINS FOR LOBSTER TRAP STORAGE IN THE NORTHWEST CORNER OF THE STORAGE LOT; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Florida Straits Conch Company, Inc., dba Conch Republic Seafood Company, under their lease agreement with the City of Key West dated May 1, 2018, and in association with Fryde Conch, LLC by Harvey Watkins, was permitted to occupy a portion of dirt storage lot owned by the city for the purpose of storing, maintenance and repair of lobster traps, and

WHEREAS, the lease provides for termination of Lessee's right to use City property in the event Mr. Watkins ceases to retain controlling interest in Fryde Conch, LLC, and

WHEREAS Mr. Watkins passed away in October of 2022 and the required notice to vacate the property was provided to Lessee; and

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

Section 1: The Caroline Street Corridor and Bahama

Village Redevelopment Agency approves a lease amendment to permit the continuation of the existing use of approximately 3,000 square feet of the northwesternmost area of the demised premise by Fryde Conch, LLC for the remainder of the 2018 lease so long as Dale Watkins is alive and controls Fryde Conch, LLC.

Section 2: The CRA finds the referenced operations of Fryde Conch, LLC to be a valid public purpose pursuant to Sec. 2-941 of the Code of Ordinances in this below market sublease. Fryde Conch is one of only a few historic working boats of the historic seaport. It has been the expressed and resolved desire to promote and preserve historic working boats and schooners in Key West Bight. The CRA further finds that the visual presentation of the harvesting of Florida spiny lobster to residents and visitors alike is consistent with the historic spirit of the working waterfront at the Key West Bight that was typical of the foundational industries of the city that also included shrimping, turtle harvesting and sponging. This visual presentation of lobster harvesting also serves as an economic engine for the Key West Bight by regularly attracting spectators to the area who in turn are customers of the various businesses there.

Section 3: 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 Key West Caroline Street Corridor and Bahama Village Redevelopment Agency at a meeting held this 14th day of December , 2023.

Authenticated by the presiding officer and Clerk of the Agency on December 15, 2023.

Filed with the Clerk December 15, 2023

Chair Teri Johnston	Yes
Vice Chair Sam Kaufman	Yes
Commissioner Lissette Carey	Yes
Commissioner Mary Lou Hoover	Absent
Commissioner Clayton Lopez	Yes
Commissioner Billy Wardlow	Yes
Commissioner Jimmy Weekley	Yes

TERI JOHNSTON, CHAIR

ATTEST:

KERI O'BRIEN, CITY CLERK

FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment to Lease Agreement is entered into this 13th day of February, ~~2023,~~ 2024 by and between Caroline Street Corridor and Bahama Village Community Redevelopment Agency hereinafter ("LANDLORD") and Florida Straits Conch Company, Inc., dba Conch Republic Seafood Company, (hereinafter "TENANT").

WITNESSETH

WHEREAS, LANDLORD and TENANT entered into a Lease Agreement on the 1st day of May, 2018 for the property located at 631 Greene Street, Key West, FL 33040

WHEREAS, the LANDLORD and TENANT now desire to amend their Lease Agreement which is attached hereto as Exhibit "A",

NOW, THEREFORE, in mutual consideration of the benefits conferred upon the parties by the terms of this Amendment, LANDLORD and TENANT agree as follows:

1. Section 1.8, beginning at line 3 of the lease shall be amended as follows: Repair, maintenance and storage of the lobster traps and ancillary equipment of the commercial lobster trapping enterprise Fryde Conch, LLC which is operated by Dale Watkins so long as she operates and/or retains the controlling interest in the LLC. In the event that Dale Watkins ceases operation or no longer has controlling interest of Fryde Conch LLC the rights to store traps will cease and TENANT'S leasehold interest in that portion of the demised premises shall terminate with no further action by LANDLORD.

(All other provisions of Section 1.8 remain unchanged)

2. Section 2, fourth paragraph, first sentence, shall be amended as follows: TENANT agrees to provide an on-site area not to exceed 3,000 square feet at the rear of the public parking lot and as shown on Exhibit "A" for the operation, repair, maintenance and storage of the commercial lobster traps associated with the existing commercial lobster business Fryde Conch, LLC operated onsite by Dale Watkins.

(All other provisions of Section 2 remain unchanged)

3. Section 6, paragraph 2 of the lease shall be amended as follows: Repair, maintenance and storage of the lobster traps and ancillary equipment of the commercial lobster trapping enterprise Fryde Conch, LLC which is operated by Dale Watkins so long as she operates and/or retains the controlling interest in the LLC. In the event that Dale Watkins ceases operation or no longer has controlling interest of Fryde Conch LLC the rights to store traps will cease and TENANT'S leasehold interest in that portion of the demised premises shall terminate with no further action by LANDLORD.

(All other provisions of Section 6 remain unchanged)

4. Except as modified herein, the Lease Agreement as amended shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have made this First Amendment to Lease Agreement on the date first written above.

ATTEST:

Keri O'Brien, City clerk

Caroline Street Corridor and Bahama Village Community Redevelopment Agency

By: _____
Teri Johnston, Chair

Witness

Florida Straits Conch Company, Inc.
dba Conch Republic Seafood Company

_____
Jeffery C. Gunther, President

Lessee

The foregoing First Amendment to Lease Agreement was acknowledged before me this 13th day of February, ~~2023~~ 2024, by Jeffrey Gunther, who is personally known to me, or who [✓] produced Drivers License as identification.

KIYA E. TABB
MY COMMISSION #HH341879
EXPIRES: DEC 15, 2026
Bonded through 1st State Insurance

_____
Notary Public

My commission expires: 12/15/2026

Print name: Kiya Tabb

Lessor

The foregoing First Amendment to Lease Agreement was acknowledged before me this 15th day of December, 2023, by Teri Johnston, who is personally known to me, or who [ ] produced _____ as identification.

KIYA E. TABB
MY COMMISSION #HH341879
EXPIRES: DEC 15, 2026
Bonded through 1st State Insurance

_____
Notary Public

My commission expires: 12/15/2026

Print name: Kiya Tabb

CRA #4
23-5209

MEMORANDUM

Date: December 14, 2023

To: Caroline Street Bahama Village Redevelopment Agency
Mayor and City Commissioners

Via: Albert P. Childress
City Manager

From: Gary Moreira
Senior Property Manager

Subject: **Lease Amendment - Florida Straits Conch Company re: Commercial Lobster Trapping Enterprise and Storage Area**

Introduction

At the Key West Bight Management District Board meeting on July 12, 2023, a motion was passed requesting the CRA allow the continued use by tenant of a portion of the city owned Greene Street parking lot for a commercial lobster trapping enterprise at no charge. It is proposed the lease between the CRA and Florida Straits Conch Company, (dba Conch Republic Seafood Company), be amended to permit continued use by sub-tenant Fryde Conch, LLC at no charge until 2028.

Background

Under the tenant's original 20-year lease dated June 1, 1997, tenant's rentable area included the above referenced 3,000 square foot City lot, as well as the existing structures and much of the common areas shown on the attached lease as Exhibit A. At the end of tenant's original lease term in 2017, tenant's base rent for all buildings and the City lot was approximately $390,000 annually. When tenant's current lease agreement was negotiated, (Resolution 18-158), tenant relinquished a portion of the building and much of the area shown on Exhibit A, and the area was targeted for future City development of parking and retail. During lease negotiations, tenant requested they retain 3,000 square feet of the city lot, at no cost, for repair, maintenance, and storage of lobster traps by a third party, Harvey Watkins and Fryde Conch, LLC. The new lease was executed and commenced on May 1, 2018. In the lease it specifically requires "Harvey Watkins" to operate and/or retain controlling interest in the Fryde Conch, LLC for the continued use. The lease contained a section that indicated that in the event Mr. Watkins was no longer involved in the operation, the tenant's leasehold interest in that portion of the demised premises shall terminate.

Mr. Watkins passed away in 2022 causing the leasehold rights to occupy the area to expire, with the lease providing: "*right to store traps will cease and TENANT'S leasehold interest in that portion of the demised premises shall terminate with no further action by LANDLORD. LANDLORD agrees to continue to provide storage of the lobster traps and ancillary equipment for up to eighteen months to facilitate re-location thereof*". Pursuant to the CRA's lease agreement with Florida Straits Conch Co., written notice was

provided to tenant on October 11, 2022, terminating tenant's right to continued use of the storage area. During the December 14, 2022, meeting of the Key West Bight Management District Board, the Board heard from several members of the public and the tenant who spoke to the value of maintaining the lobster operation as a part of the character of a working historic seaport. Following public comment, members of the Key West Bight Management District Board recommended staff review and provide a solution for the continued lessee use of the lobster trap area for the balance of their 10-year lease term.

At the July 12, 2023, meeting of the Key West Bight Management District Board, the board recommended the city amend the Conch Republic Seafood lease and allow tenant along with the Fryde Conch, LLC to continue its commercial lobster trapping enterprise, using the city lot for the balance of current lease, at no charge, until the lease expiration date of April 30, 2028.

During the City's recent budget process, identifying new sources of revenue has become a matter of high priority for the City Manager and Staff. Conservatively, Staff feels the property used for the lobster enterprise could generate approximately $83,700/year in new parking revenue.

If the enterprise is allowed to continue as it operates today, it would be a below market, "no cost" land lease for the balance of the Conch Republic lease term or until April of 2028. Approval of a below market lease rate would be subject to City code 2-941(c) which provides, in pertinent part, "a public benefit must be shown on the record, and the lease must be approved by a supermajority vote of the city commission". Furthermore, City code section 2-871(d) provides, in pertinent part, "Every person applying for a lease, a lease renewal or a sublease of city-owned property or concession or franchise agreement shall submit to the city, together with the application, a sworn disclosure statement, on a form to be provided by the city, 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". "The city shall consider financial information for each applicant as a factor in making its award determination".

The following revenue assumptions under Procurement are based on historical data provided by the Parking Department.

Procurement

If the City assumes control of the area, as originally intended and as stipulated under the lease, the City could conservatively expand its existing adjacent parking area with seven spaces and achieve new revenue estimated at $83,700 annually as soon as the area is cleared.

Should the CRA decide to allow the lobster trapping enterprise to continue, no measurable revenue to the city is anticipated. Parking revenue loss over the 54-month balance of the lease term is estimated to be approximately $377,000 based on historical parking revenue data.

Recommendation

Under these particular circumstances and upon numerous discussions with the City Attorney's Office with respect to the history of this area, the City Manager's Office is making two recommendations:

1) Approve the Resolution accepting the Motion that was passed by the Bight Board on July 12, 2023 by a vote of 7-0 that allows for continued use by the tenant of the 3,000 square feet at no charge for the storage of lobster traps until 2028.

2) Reject the Resolution and follow the terms of the lease that the portion of the demised premise would terminate with no further action by the City.

RESOLUTION NO. KWB 23-16

A RESOLUTION OF THE KEY WEST BIGHT MANAGEMENT DISTRICT BOARD (BIGHT BOARD) PROVIDING A RECOMMENDATION TO THE COMMUNITY REDEVELOPMENT AGENCY (CRA) TO SUPPORT THE ONGOING USE OF A 3000 SF PARCEL OF CITY PROPERTY OCCUPIED BY FLORIDA STRAITS CONCH COMPANY, INC., DBA CONCH REPUBLIC SEAFOOD COMPANY AND FRYDE CONCH, LLC FOR LOBSTER TRAP STORAGE; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Florida Straits Conch Company, Inc., dba Conch Republic Seafood Company, under their lease agreement with the City of Key West dated May 1, 2018 and a related arrangement with Fryde Conch, LLC by Harvey Watkins, was permitted to occupy a portion of dirt parking lot owned by the City for the purpose of storage, maintenance and repair of lobster traps, and

WHEREAS, the lease provides for termination of Fryde Conch, LLC's right to use City property in the event Mr. Watkins ceases to retain controlling interest in Fryde Conch, LLC; and

WHEREAS, Mr. Watkins passed away in October of 2022, and at a regular meeting on December 14, 2022, the Bight Board discussed the value of maintaining the lobster operation to preserve the character of a working historic seaport, and recommended staff review and identify a solution that would provide for the lessee to continue to use the lobster trap area for the balance of their

original 10-year lease term; and

WHEREAS, at a regular meeting on July 12, 2023, the Bight Board discussed this situation again, and recommends continued use of the storage area,

and

NOW, THEREFORE, BE IT RESOLVED BY THE KEY WEST BIGHT MANAGEMENT DISTRICT BOARD, AS FOLLOWS:

Section 1: That the Key West Bight Board at its regular meeting on July 12, 2023 recommended amend the Florida Straits Conch Company, Inc. lease to allow for continued use of the City property at a rate of Zero Dollars ($0.00)

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 Key West Bight Management District Board at a meeting held this 12th day of July, 2023.

Authenticated by the presiding officer and Clerk of the Board on July 12, 2023.

MICHAEL KNOWLES, CHAIRMAN

ATTEST:

Keri O'Brien, CLERK OF THE BOARD

RESOLUTION NO. 18-158

A RESOLUTION OF THE CAROLINE STREET CORRIDOR AND BAHAMA VILLAGE COMMUNITY REDEVELOPMENT AGENCY (CRA) APPROVING THE ATTACHED LEASE BETWEEN THE CRA AND FLORIDA STRAITS CONCH COMPANY, INC d/b/a CONCH REPUBLIC SEAFOOD COMPANY, FOR PROPERTY LOCATED AT 631 GREENE STREET; PROVIDING FOR AN EFFECTIVE DATE

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

Section 1: That the attached Lease between the CRA and Florida Straits Conch Company, Inc. d/b/a Conch Republic Seafood Company 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 1st day of May, 2018.

Authenticated by the presiding officer and Clerk of the Agency on May 2, 2018.

Filed with the Clerk May 2, 2018.

Chairman Craig Cates	Yes
Commissioner Sam Kaufman	Yes
Commissioner Clayton Lopez	Yes
Commissioner Richard Payne	Yes
Commissioner Margaret Romero	Yes
Commissioner Billy Wardlow	Yes
Commissioner Jimmy Weekley	Yes

CRAIG CATES, CHAIRMAN

ATTEST:

CHERYL SMITH, CITY CLERK

Lease Agreement

between

Caroline Street Corridor and Bahama Village Community Redevelopment Agency

as Landlord

and

Florida Straits Conch Company, Inc.

as Tenant

Dated May 1, 2018

THIS LEASE is made as of the 1st day of May, 20 18 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:
Florida Straits Conch Company, Inc.
631 Greene Street
Key West, FL 33040

TENANT'S TRADE NAME: Conch Republic Seafood Company

1.3 GUARANTOR (S) AND ADDRESS:

1.4 DEMISED PREMISES (Section 2): as per **EXHIBIT "A"** located at **631 Greene Street** in the Historic Seaport (hereinafter referred to as the "Property").

16,289 NET USABLE SQUARE FEET comprised of:

Restaurant and Bar	10,840
Outdoor Dining	1,304
Office	2,591
Fish House	971
Outdoor Storage/Utilities	583
Commercial Trap Storage	3,000
(excluded from rent calculations)	

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

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 methodology and the square feet as described in the Maximus CAM report which provides that additional outdoor areas be factored at 50%. This includes any area that is available for exclusive use of the tenant therefore CAM square footage is:

Restaurant and Bar	10,840
Outdoor Dining	652

Office	2,591
Fish House	971
Outdoor Storage/Utilities	291

TOTAL CAM SQUARE FEET 15,345

1.4.1 EXPANSION/RIGHT OF FIRST REFUSAL: LANDLORD is in the planning phase of replacing the existing storage building located in the rear of the Fish House building occupied by TENANT. **TENANT shall have the right to lease up to 1000 square feet of additional space in the new building replacing the existing storage building for its permitted uses and without sublet to others, at the then current market rent to be negotiated. TENANT shall notify LANDLORD of its intention to exercise this right of refusal by providing written notice to LANDLORD within 30 days of the issuance of a certificate of occupancy for the new storage building failing which this right shall expire and be of no force or effect. In the event LANDLORD elects not to demolish or replace the existing storage building TENANT has the right, but no obligation, to lease up to 1000 square feet of the existing building on the same terms and conditions as offered to the general public.**

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

1.5.1 COMMENCEMENT DATE: Effective May 1, 2018 or as of the date of approval by the LANDLORD as acknowledged by TENANT'S written statement

1.5.2 RIGHT TO TERMINATE: Upon default as provided herein.

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.

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: 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

1.7 SECURITY DEPOSIT (Section 5): $ Equal to one month's base rent.

1.8 PERMITTED USE (Section 6): Operation of a restaurant with alcohol sales containing 232 licensed seats, live entertainment, wholesale and retail fish market, retail area for logo apparel, gifts, souvenirs. **Repair, maintenance, and storage of the lobster traps and ancillary equipment of the commercial lobster trapping enterprise Fryde Conch, LLC which is operated by Harvey Watkins so long as he operates and/or retains the controlling interest in the LLC. In the event that Harvey Watkins ceases operation or no longer has controlling interest of Fryde Conch LLC the rights to store traps will cease and TENANT'S leasehold interest in that portion of the demised premises shall terminate with no further action by LANDLORD. LANDLORD agrees to continue to provide storage of the lobster traps and ancillary equipment for up to eighteen months to facilitate the re-location thereof. TENANT acknowledges that this portion of the demised premises is being provided by LANDLORD as an accommodation and that no rental is being collected by LANDLORD for this trap storage area.**

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

1.10 ASSIGNMENT OR SUBLETTING: (Section 10) Allowed with LANDLORD'S approval

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

INITIALS: LANDLORD _____ TENANT _____

WITNESSETH:

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

2. DEMISED PREMISES - TENANT shall relinquish portions of the previously leased areas described as storage building areas, retail space, outside walkways and parking areas, retail booth and plaza space, except that the functions of solid waste and recycling disposal and pick up shall remain in the former lease area known as the dirt lot, or another location on City property within 125 feet of the Demised Premises and the off street loading and delivery zone for TENANT shall remain in the current location proximate to the Fish House.

TENANT agrees that the Fish House may be re-located, so long as any operational disruption is minimized by LANDLORD coordination with TENANT to design and manage the Fish House construction and build-out to allow the relocation without any material operational disruption, into a comparable area in the anticipated new building so long as the substituted usable area meets or exceeds the current net usable area of the Fish House operation within the Demised Premises and so long as the visibility, access and function of the Fish House are not negatively impacted. LANDLORD agrees that any change in square footage will not change the rent or Common Area Maintenance Charges square footage. TENANT shall have the right to occupy the new space and operate in tandem for up to 90 days to ensure a smooth re-location before vacating the existing space. LANDLORD shall pay the reasonable re-location costs in connection therewith. Reasonable costs shall include all expenses incurred as a result of the LANDLORD'S election to construct a new Fish House facility and provide TENANT with a comparable facility to that existing at the time of the re-location.

Should LANDLORD proceed with the replacement of the existing storage building and Fish House a

loading/delivery area as well as solid waste and recycling will be provided in a Common Area location for TENANT'S non-exclusive use, at a location proximate to Tenant's lease premises.

TENANT agrees to provide an on-site area not to exceed 3,000 square feet at the rear of the public parking lot and as shown on Exhibit "A" for the operation, repair, maintenance and storage of the commercial lobster traps associated with the existing commercial lobster business Fryde Conch, LLC operated on site by Harvey Watkins. TENANT agrees that they will use their best efforts to minimize the area required for trap storage and the trap storage area will revert to public parking during the commercial lobster season when the traps are in the water. The trap storage area may be expanded for a maximum of 30 days immediately following the closure of the harvesting season of each year to a maximum of 6000 square feet or a depth of 62 feet measured from the rear of the public parking lot to facilitate repairs and stacking traps. The trap storage area shall not be considered a portion of the TENANT'S Net Usable Square Feet for the purposes of calculating rent or CAM charges.

TENANT shall have the right to utilize a portion of the plaza area adjacent to the premises from time to time for events that are not subject to special event permits and do not materially interfere with public access to the waterfront, not to exceed a weekly average of 2.5 events per week on an annualized basis.

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. 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 except for LANDLORD repairs pursuant to section 14.1 and Section 19 hereof.

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.

3. TERM - The term of this Lease shall be for Ten (10) years which shall commence on the date of approval by the LANDLORD and shall end at the completion of the tenth lease year 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** – Upon default as provided herein.

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.

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 and 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. Common Area Charges will be based upon the methodology established for allocating expenses in the Maximus Study and Report.

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 all Common Area Maintenance Charges actually incurred on a pro rata assessment basis. Any increase in the common area charges shall result in an increase in the TENANT'S Common Area Maintenance Charges. Common Area Maintenance Charges for controllable 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 controllable 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.

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, 1/12th 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 3(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 3(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 _____ TENANT _____

(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, provided they have been included in Gross Sales; and (ii) the amount of any sales tax levied upon retail sales and payable over to the appropriate governmental authority (iii) **dockage revenues that are passed through to the LANDLORD.**

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

5. **SECURITY**: LANDLORD will retain the amount of $36,126.27 that is currently held by LANDLORD, in a non-interest bearing account 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 a restaurant with alcohol sales containing 232 licensed seats, live entertainment, wholesale and retail fish market, retail area for logo apparel, gifts, souvenirs.

Repair, maintenance, and storage of the lobster traps and ancillary equipment of the commercial lobster trapping enterprise Fryde Conch, LLC which is operated by Harvey Watkins so long as he operates and/or retains the controlling interest in the LLC. In the event that Harvey Watkins ceases operation or no longer has controlling interest of Fryde Conch LLC the rights to store traps will cease and TENANT'S leasehold interest in that portion of the demised premises shall terminate with no further action by LANDLORD. LANDLORD agrees to continue to provide storage of the lobster traps and ancillary equipment for up to eighteen months to facilitate the re-location thereof. TENANT acknowledges that this portion of the demised premises is being provided by LANDLORD as an accommodation and that no rental is being collected by LANDLORD for this trap storage area.

TENANT may continue to accept deliveries of fish and seafood at the docks and transport the product to its on-site fish house.

TENANT shall have the right to hold up to five special events per year in the adjacent city owned public parking lot, as expanded to include the current gravel lot, at no charge except as required by the City Special Events Ordinance, and in compliance with all rules and regulations governing special events.

Landlord agrees to maintain the existing or a substantially similar driveway entrance to the Lease Premises to provide off street loading for TENANT deliveries and the loading and unloading of passengers from trolleys and other shuttle vehicles providing transportation to the Historic Seaport.

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 part 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 its 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 Common Areas - TENANT has the non-exclusive right to use the common areas solely for the purposes for which they were designed. The common areas may also be used by anyone else LANDLORD has or hereinafter in its sole discretion grants the right to use them in accordance with the City of Key West Special Events permit requirements.

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 - To the fullest extent permitted by law, the TENANT expressly agrees to indemnify and hold harmless the City of Key West, their respective officers, directors, agents and employees (herein called the "indemnitees") from any and all liability for damages, including, if allowed by law, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, caused in whole or in part by any act, omission, or default by TENANT or its subcontractors, material men, or agents of any tier or their employees, arising out of this agreement or its performance, including any such damages caused in whole or in part by any act, omission or default of any indemnitee, but specifically excluding any claims of, or damages against an indemnitee resulting from such indemnitee's gross negligence, or the willful, wanton or intentional misconduct of such indemnitee or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the TENANT or its subcontractors, material men or agents of any tier or their respective employees.

The indemnification obligations under this Agreement shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the 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 the TENANT or of any third party to whom TENANT may subcontract a 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 a 30-day 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 nor sublet without the prior written consent of the LANDLORD which may be withheld and shall be at the sole discretion of the LANDLORD.

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.

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.

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.

(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 be responsible for non-structural repairs to the building and entry areas, storage areas, all

dining, kitchen, lavatories and any other areas that comprise the Demised Premises. In addition to the foregoing, TENANT agrees to complete all repairs and maintenance required to the Demised Premises pursuant to the existing lease including but not limited to those identified in in the Building Inspection Report, attached hereto and incorporated herein as Exhibit "E", at TENANT'S sole cost and expense. TENANT will not be responsible for any repairs to the relinquished space in the storage building. TENANT shall complete any repairs or make the replacements required in Exhibit "E" with 365 days of the execution of the lease.

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 walls, foundation, floor, roof, support columns, and exterior of the building, the seawall, and the master fire suppression system serving the Demised Premises and the docks, due to normal wear and tear, wind, flood or other peril unless the same result from TENANT'S act, negligence, default or other mode of operation.

In the event that LANDLORD shall deem it necessary or be required by any governmental authority to repair, alter, remove, reconstruct or improve any part of the 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 **based upon a mutually agreed upon schedule and with 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 nor shall such interference be deemed an actual or constructive eviction or partial eviction or result in abatement of rental.

Any changes, additions or alterations to the Premises, the Property, the Building shall not (a) unreasonably or materially 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.

15. ALTERATIONS - Except for those items described in Exhibit E, 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 bondable, licensed contractors, possessing good labor relations, and capable of performing quality workmanship.

16. EQUIPMENT, FIXTURES AND SIGNS

(a) All furnishings, fixtures, trade fixtures, equipment, and signs used 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-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 the HVAC and all air conditioning systems together with the plumbing and electrical system.

(d) The TENANT shall be responsible for maintaining the roof and 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 or Art in Public Places installations located thereon, as well as the TENANT'S interest in fixtures and equipment appertaining thereto.

(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 instance and particularly where the obligation to pay money is involved.

(c) That all arrearages in the payment of rent or in the repayment to the LANDLORD of any sums which the LANDLORD may have paid in order to cure a default of the TENANT (as elsewhere herein provided for), shall bear interest from the date when due and payable at the highest rate permitted by law until paid.

(d) That no modification, release, discharge, or waiver of any provision hereof shall be of any force, effect, or value unless in writing and signed by the persons who are then LANDLORD and TENANT.

(e) That all covenants, promises, conditions, and obligations contained herein or implied by law, or covenants running with the land, shall attach to and be binding upon the heirs, executors, administrators, successors, legal representatives, and assigns of each of the parties to this Lease.

(f) That this instrument contains the entire agreement between the parties as of this date, and that the execution hereof has not been induced by either of the parties by representations, promises or understandings not expressed herein, and that there are not collateral agreements, stipulations, promises, or understandings whatsoever between the respective parties in any way touching the subject matter of this instrument which are not expressly contained in this instrument.

(g) That when either of the parties desire to give notice to the other or others in connection with and according to the terms of this Lease, such notice shall be deemed given when it shall have been deposited in the U.S. Registered or Certified mail with sufficient postage pre-paid thereon to carry it to its addressed destination. Said notice shall be addressed as follows:

AS TO LANDLORD: PROPERTY MANAGEMENT
CITY OF KEY WEST
P.O. BOX 1409
KEY WEST, FL 33040

AS TO TENANT: FLORIDA STRAITS CONCH COMPANY, INC.
631 GREENE STREET

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 agrees to make up to 100 linear feet of dock space available for the docking of Commercial Fishing Vessels, as defined below:

Commercial Fishing: Vessels engaged in commercial fishing and selling their catch to the TENANT.

This dockage will be at no charge to TENANT so long as the activity and use of the vessels is in conjunction with seafood operations as described herein. All vessels shall be approved by the Key West Bight Management District Board (KWBMDB) or its designee. Any commercial uses, live aboard, or other uses not defined herein will require payment of current applicable rental rates, unless prior written approval of the KWBMDB is obtained. LANDLORD agrees to sell fuel to TENANT'S commercial fishing vessels, as described above, at cost plus reasonable handling fee ($0.5/gallon initially or 5% over cost, whichever is greater.)

At the Landlord's discretion, the Northwest section of the bulkhead will be non-exclusive courtesy dock for vessels to use for access to business tenants of the Key West Bight.

Subject to the provision above, TENANT shall otherwise have the right to lease the docks identified as H-1 (141.5'x2) and the North side of H-2 (100') for a total of 383 linear feet of dock pursuant to the terms of the Historic Seaport Monthly Dockage Agreement, as amended from time to time, a copy if which is attached hereto and incorporated herein as Exhibit "F". TENANT shall receive any discounts offered by the LANDLORD for fuel and/or dockage to historic vessels (or reproductions thereof) and commercial fishing vessels selling their catch to TENANT. Should TENANT affirmatively elect not to renew any of the slip Monthly Dockage Agreements for a period exceeding 30 days the rights granted to TENANT herein shall lapse and LANDLORD may lease the docks to others free of any claim of TENANT.

(l) Landlord acknowledges that anticipated future improvements and capital projects occurring on the adjacent parking lots and portions of the former leasehold structure of TENANT will require best construction management practices in order to avoid disruption to TENANT'S business operation. LANDLORD shall provide written notice to TENANT of any construction activity along with the proposed construction management plan designed to minimize disruption of TENANT'S Quiet Possession.

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

ATTEST:

Cheryl Smith, City Clerk

Date: May 1, 2018

LANDLORD: Caroline Street Corridor and Bahama Village Community Redevelopment Agency

Craig Cates, Chairman

Date: May 1, 2018

TENANT: Florida Straits Conch Company, Inc.

WITNESS

Date: 4-30-2018

Jeffrey C. Gunther, President

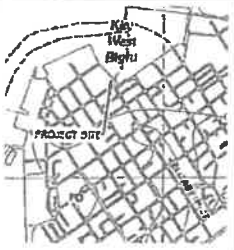
Date: 4-30-2018

EXHIBIT "A"

Demised Premises
Relinquished Area
Lobster Trapping Enterprise Area

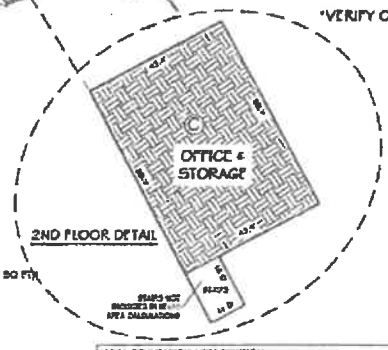
SPECIFIC PURPOSE SURVEY SKETCH TO SHOW LEASE AREA

NET USABLE SQ FT OF THE DIMENSIONED AREAS AT 631 GREENE STREET, KEY WEST



LOCATION MAP - NTS
SEC. 31-T67S-R25E

*VERIFY ORIGINAL SCALE OF 2"



- (A) = RESTAURANT / BAR AREAS
- (B) = OUTDOOR DINING AREAS
- (C) = OFFICE SPACE AREAS
- (D) = FISH HOUSE AREAS (INCLUDING RAMP & PORCH: 376.87 SQ FT)
- (E) = OUTSIDE STORAGE / UTILITIES AREAS

AREA DELINEATION / DESCRIPTION	AREA
(A) = TOTAL AREA OF RESTAURANT / BAR AREAS	10,439.9 SQ FT +/-
(B) = TOTAL AREA OF OUTDOOR DINING AREAS	1,304.4 SQ FT +/-
(C) = TOTAL AREA OF OFFICE SPACE AREAS	2,881.0 SQ FT +/-
(D) = TOTAL AREA OF FISH HOUSE AREA (Ramp & Porch Sq Ft)	970.53 SQ FT +/-
(E) = TOTAL AREA OF OUTSIDE STORAGE / UTILITIES AREAS	532.5 SQ FT +/-

**TOTAL LEASE AREA OCCUPIED = 16,288.63 SQ FT +/-

SURVEYOR NOTES

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

NORTH ARROW IS REFERENCED TO GRID NORTH, BASED ON THE 2011 ADJUSTMENT OF THE NORTH AMERICAN DATUM OF 1983 (NAD 83(2011)), OF THE FLORIDA STATE PLANE COORDINATE SYSTEM (TRANSVERSE MERCATOR PROJECTION), EAST ZONE (0901).

ADDITIONS OR DELETIONS TO SURVEY MAP OR REPORT BY OTHERS THAN THE SIGNING PARTY IS PROHIBITED WITHOUT THE WRITTEN CONSENT OF THE SIGNING PARTY.

STREET ADDRESS: 631 GREENE STREET, KEY WEST, FL 33040.

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

ALL FIELD DATA WAS ACQUIRED BETWEEN 04/28/2017 - 05/17/2017.

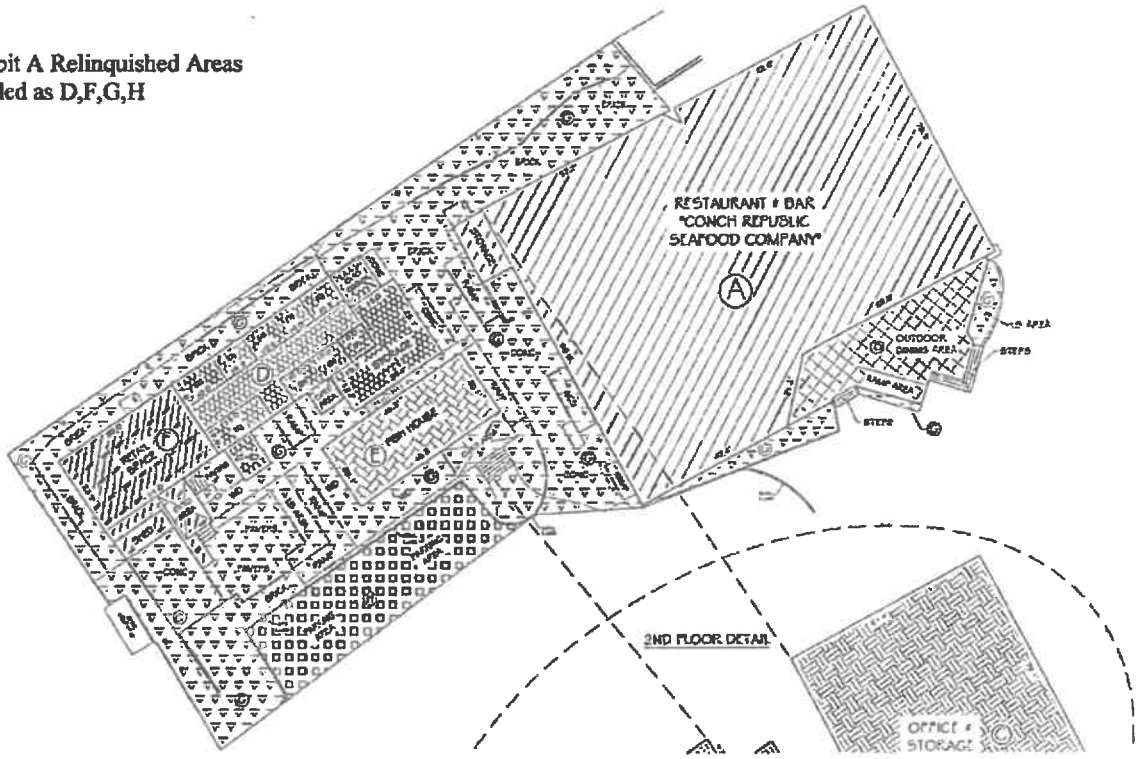
REVISION (1) - 06/07/2017 - ADDED PARKING AREA "F"
REVISION (2) - 11/1/2017 - REVISED LEASE AREAS
REVISION (3) - 11/1/2017 - REVISED LEASE AREAS

NOTE: FOUNDATIONS BENEATH THE SURFACE ARE NOT SHOWN. MEASURED DIMENSIONS SHOWN PLAT(S) OR DESCRIBED DIMENSIONS UNLESS INDICATED OTHERWISE.
THE FOLLOWING IS A LIST OF ABBREVIATIONS THAT MAY BE FOUND ON THIS SHEET.

BFP = BACKFLOW PREVENTER
BO = BLOW OUT
C.B.S. = CONCRETE CURB & GUTTER
CB = CONCRETE BLOCK
CBW = CONCRETE BLOCK WALL
CL = CENTERLINE
CMP = CORRUGATED METAL PIPE
CO = CLEAN OUT MONUMENT
CONC = CONCRETE
CPP = CONCRETE POWER POLE
COVD = COVERED
DELTA = CENTRAL ANGLE
EBARB = EXPANSION BARRIER
EL = ELEVATION
ENCL = ENCLOSURE
EP = EDGE OF PAVEMENT
FF = FINISHED FLOOR ELEVATION
FH = FIRE HYDRANT
FI = FENCE INSIDE
FND = FOUND
FO = FENCE OUTSIDE
FOL = FENCE ON LINE
GUY = GUY WIRE
HB = HOSE BIB
IP = IRON PIPE
L = ARC LENGTH
LB = LANDSCAPING
MB = MAILBOX
MEAS = MEASURED
MF = METAL FENCE
MHWL = MEAN HIGH WATER LINE
MOHO = MASONRY, MISCELLANEOUS STRUCTURES, DECORATIVE
NCB = NAIL TO BRASS
OH = POST OVERHANG
OHW = OVERHEAD WIRES
PC = POINT OF CURVE
PG = PARKING METER
PKS = TYPE OF PARKING SPACE
POT = PERMANENT CONTROL POINT
PL = PROPERTY LINE/LOT LINE
POB = POINT OF BEGINNING
R = RADIUS OF CURVATURE
POC = POINT OF COMMENCEMENT
PRC = POINT OF REVERSE CURVE
PTI = PERMANENT REFERENCE MONUMENT
PT = POINT OF TANGENT
R = RADIUS
RW = RIGHT OF WAY LINE
SMCO = SANITARY SEWER CLEAN-OUT
SW = SIDE WALK
TBM = TEMPORARY BENCHMARK
TOB = TOP OF BANK
TOS = TOP OF SLOPE
TR = TRAFFIC SIGN
TYP = TYPICAL
UP = UNREADABLE
UE = UTILITY EASEMENT
WD = WOOD DECK
WF = WOOD FENCE
WL = WOOD LANDING
WM = WATER METER
WMF = WOOD PERIMETER FENCE
WOOD LINE = LINE OF FENCE ON WOOD
WV = WATER VALVE

NOTE: LEGAL DESCRIPTIONS HAVE BEEN FURNISHED BY THE CLIENT OR HIS/HER REPRESENTATIVE. SURVEYOR RECORDS HAVE NOT BEEN RESEARCHED BY THE SURVEYOR, TO DETERMINE THE ADEQUACY OF THESE DESCRIPTIONS NOR HAVE EASEMENTS OF RECORD BEEN RESEARCHED TO DETERMINE THEIR EFFECT ON TITLE. 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 ESTABLISHED FOR THIS SURVEY. THE APPARENT MEAN HIGH WATER LINE IS SHOWN FOR REFERENCE ONLY.

Exhibit A Relinquished Areas
Labeled as D,F,G,H



= RESTAURANT / BAR AREAS

= OUTDOOR DINING AREAS

= OFFICE SPACE AREAS

= STORAGE BUILDING AREAS

= FISH HOUSE AREAS

= REEF RELIEF AREAS

= OUTSIDE / WALKWAYS AREAS

= PARKING AREAS

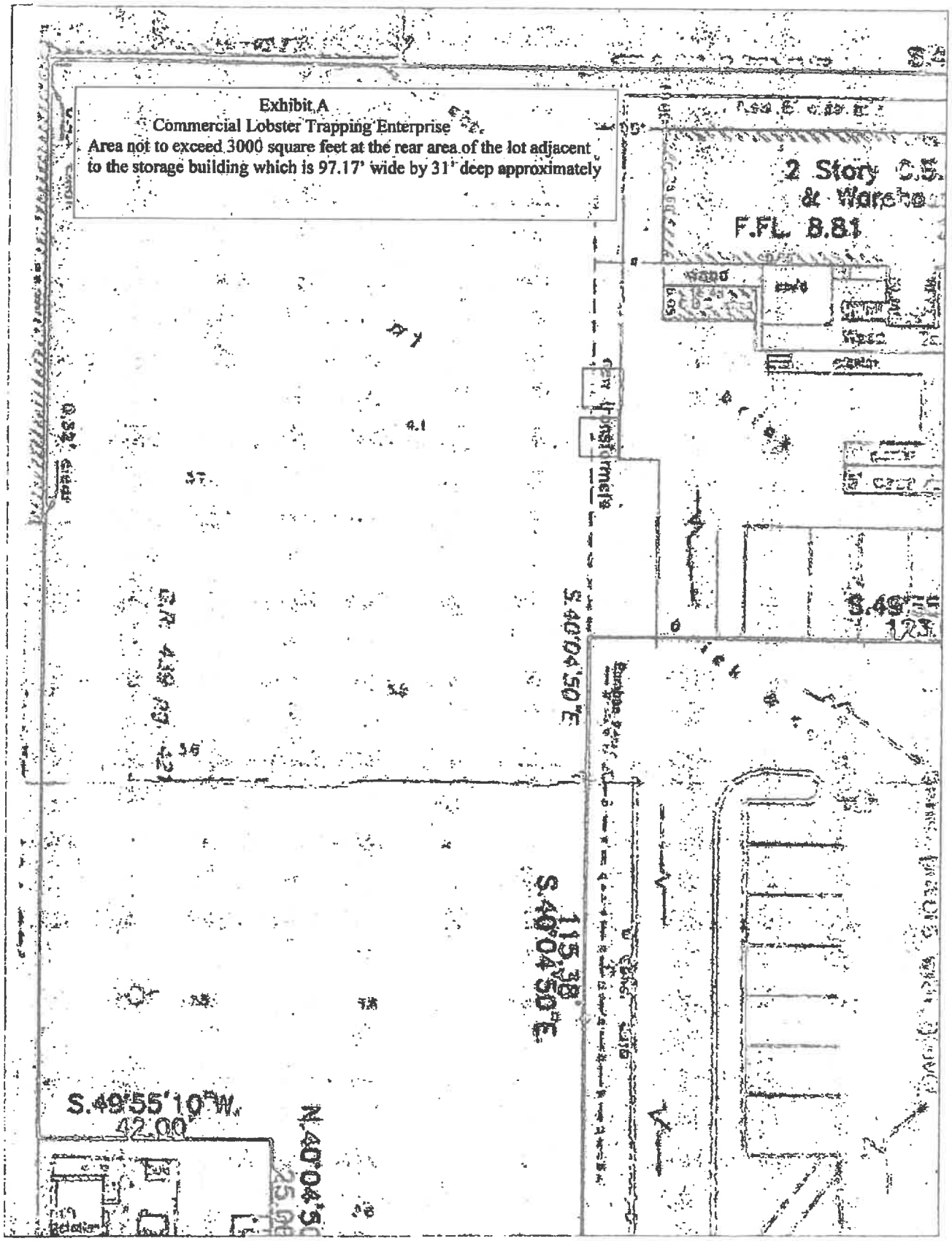


Exhibit A
Commercial Lobster Trapping Enterprise
Area not to exceed 3000 square feet at the rear area of the lot adjacent to the storage building which is 97.17' wide by 31' deep approximately
2 Story C.S.
& Wareho
F.F.L. 8.81
S.40°04'50"E.
115.38'
S.40°04'50"E.
S.49°55'10"W.
42.00'
N.40°04'5

EXHIBIT "B" Rent Schedule

EXHIBIT "B"

Tenant: Florida Straits Conch Company, Square Feet 15345 CAM
Location: 631 Greene Street Square Feet 16289 BASE RENT
Contact: Jeff Gunther Term 10 years
$4.85 PER SQ. FT.

YEAR	Period Beginning upon approval	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	May 1, 2018	$35.00	$570,115.00	$47,509.58	$74,423.25	$6,201.94	$53,711.52	$4,028.36	$57,739.88	$692,878.62	$9,501,916.67
2	May 1, 2019	CPI									
3	May 1, 2020	CPI									
4	May 1, 2021	CPI									
5	May 1, 2022	CPI									
6	May 1, 2023	CPI									
7	May 1, 2024	CPI									
8	May 1, 2025	CPI									
9	May 1, 2026	CPI									
10	May 1, 2027	CPI									

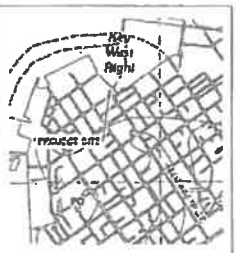
Tax, Insurance and CAM are estimated based upon the most recent actual costs
Period beginning is estimated and will begin effective with lease approval

EXHIBIT "A"

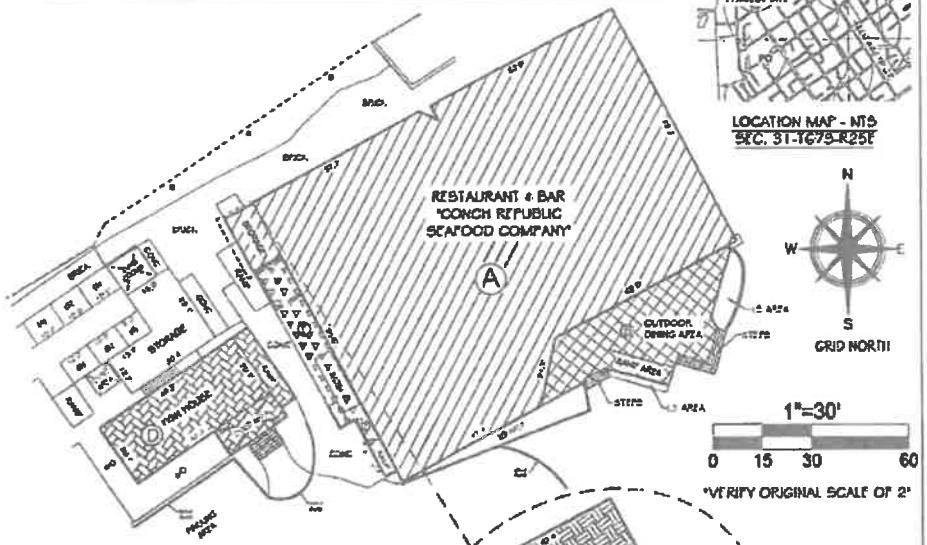
Demised Premises
Relinquished Area
Lobster Trapping Enterprise Area

SPECIFIC PURPOSE SURVEY SKETCH TO SHOW LEASE AREA

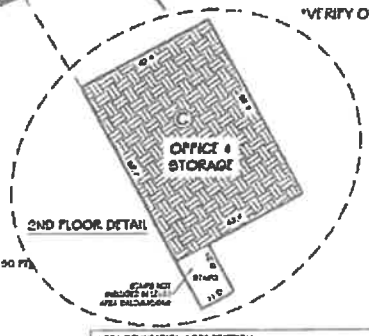
NET USABLE SQ FT OF THE DIMENSIONED AREAS AT 631 GREENE STREET, KEY WEST



LOCATION MAP - NTS
SEC. 31-T67S-R25E



*VERIFY ORIGINAL SCALE OF 2"



= RESTAURANT / BAR AREAS

= OUTDOOR DINING AREAS

= OFFICE SPACE AREAS

= FISH HOUSE AREAS (INCLUDING RAMP & PORCH @76.87 SQ FT)

= OUTSIDE STORAGE / UTILITIES AREAS

AREA DELINEATION / DESCRIPTION	AREA
(A) = TOTAL AREA OF RESTAURANT / BAR AREAS	10,538.9 SQ FT +/-
(B) = TOTAL AREA OF OUTDOOR DINING AREAS	1,354.4 SQ FT +/-
(C) = TOTAL AREA OF OFFICE SPACE AREAS	2,891.0 SQ FT +/-
(D) = TOTAL AREA OF Fish House AREA (Ramp & Porch Sq Ft)	870.83 SQ FT +/-
(E) = TOTAL AREA OF OUTSIDE STORAGE / UTILITIES AREAS	832.5 SQ FT +/-

**TOTAL LEASE AREA OCCUPIED = 16,288.63 SQ FT +/-

SURVEYOR NOTES

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

NORTH APPLIES PERPENDICULAR TO GRID NORTH, BASED ON THE 2011 ADJUSTMENT OF THE NORTH AMERICAN DATUM OF 1983 (NAD 83/2011), OF THE FLORIDA STATE PLANE COORDINATE SYSTEM (TRANSVERSE MERCATOR PROJECTION), EAST ZONE (0901).

ADDITIONS OR DELETIONS TO SURVEY MAP OR REPORT BY OTHERS THAN THE SIGNING PARTY IS PROHIBITED WITHOUT THE WRITTEN CONSENT OF THE SIGNING PARTY.

STREET ADDRESS: 631 GREENE STREET, KEY WEST, FL 33040.

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

ALL FIELD DATA WAS ACQUIRED BETWEEN 04/26/2017 - 05/07/2017.

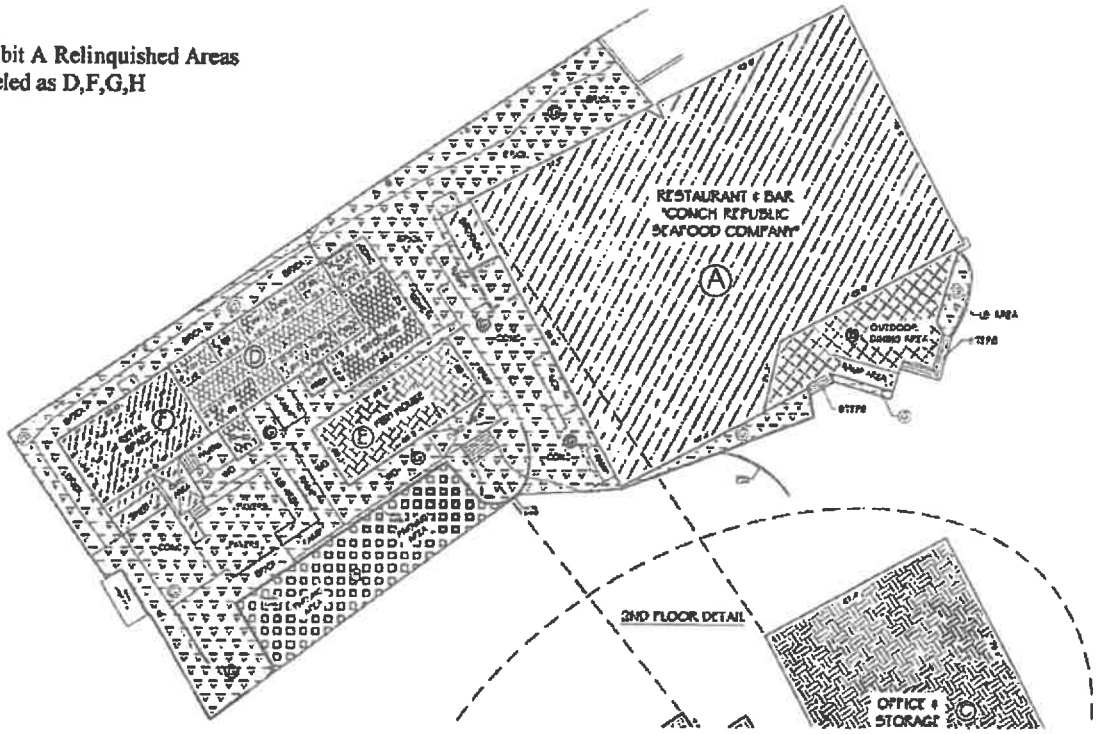
REVISION (#1) - 05/07/2017 - ADDED PARKING AREA "F"
REVISION (#2) - 11/13/2017 - REVISED LEASE AREAS
REVISION (#3) - 11/18/2017 - REVISED LEASE AREAS

MOST FOUNDATIONS BENEATH THE SURFACE ARE NOT SHOWN, MEASURED DIMENSIONS EQUAL PLATTED OR DESCRIBED DIMENSIONS UNLESS INDICATE OTHERWISE.
THE FOLLOWING IS A LIST OF ABBREVIATIONS THAT MAY BE FOUND ON THIS SHEET.

BRICK = BRICK
CONC. = CONCRETE
FH = FISH HOUSE
STORAGE = STORAGE

NOTICE: ALL DESCRIPTIONS HAVE BEEN FURNISHED BY THE CLIENT OR HIS REPRESENTATIVE. PUBLIC RECORDS HAVE NOT BEEN RESEARCHED BY THE SURVEYOR TO DETERMINE THE ADEQUACY OF THESE DESCRIPTIONS NOR ARE ADJOINING PROPERTIES DATA 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 BOUNDARY LINES SHOWN HEREON REPRESENT 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 PERSPECTIVE ONLY.

Exhibit A Relinquished Areas
Labeled as D,F,G,H



- = RESTAURANT / BAR AREAS
- = OUTDOOR DINING AREAS
- = OFFICE SPACE AREAS
- = STORAGE BUILDING AREAS
- = FISH HOUSE AREAS
- = REEF RELIEF AREAS
- = OUTSIDE / WALKWAYS AREAS
- = PARKING AREAS

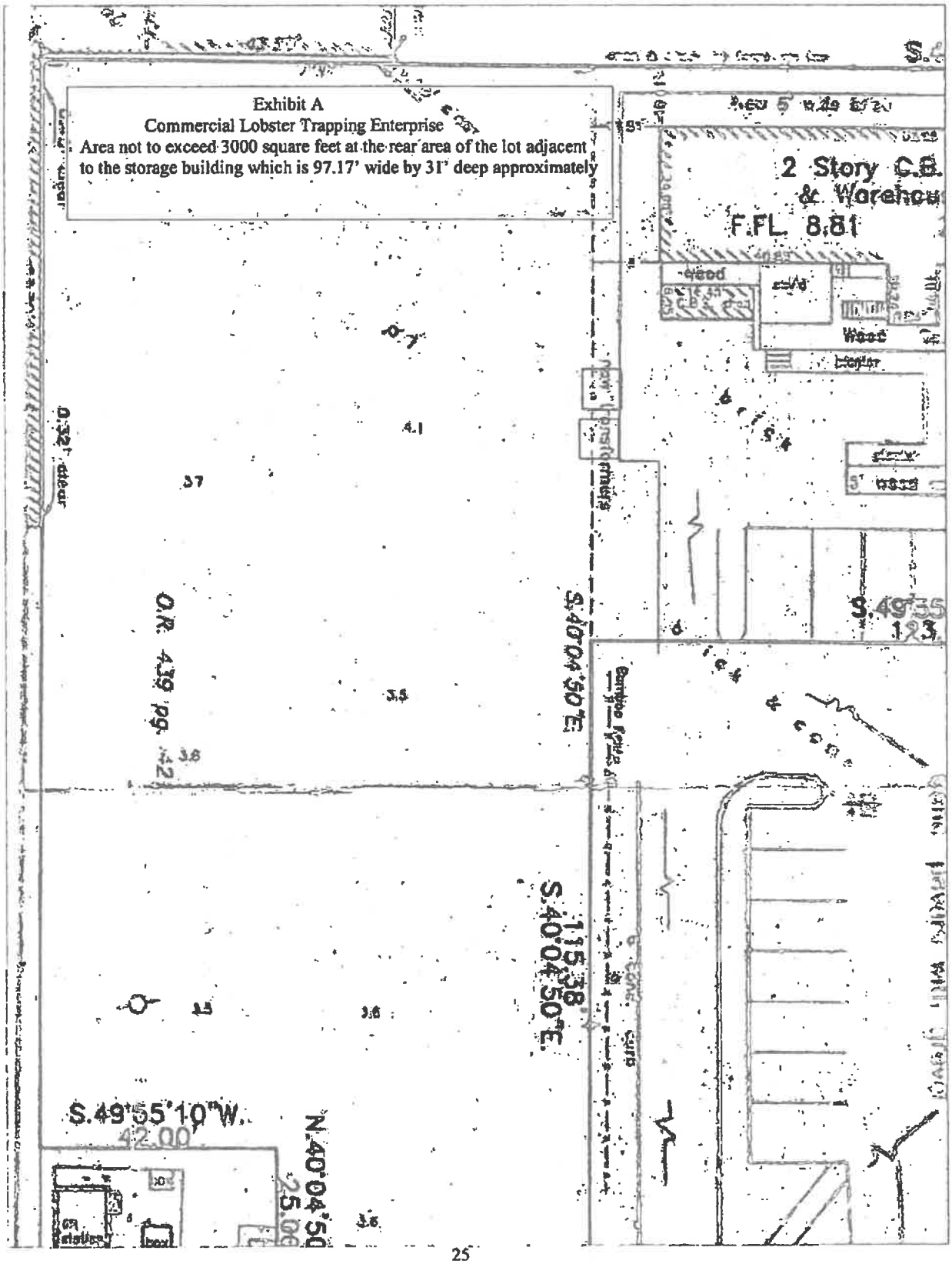


Exhibit A
Commercial Lobster Trapping Enterprise
Area not to exceed 3000 square feet at the rear area of the lot adjacent to the storage building which is 97.17' wide by 31' deep approximately
2 Story C.B.
& Warehou
F.FL. 8.81
Wood
O.R. 439 Pg.
S.40°04'50"E.
S.49°55
193
S.40°04'50"E.
115.38
S.49°55'10"W.
42.00
N.40°04'50
25.00