

December 20, 2022

Steve McAlearney
Port and Marine Services Director
City of Key West
201 William Street
Key West, FL 33040

Subject: Key West Bight's Common Area Maintenance Charge Evaluation

Dear Mr. McAlearney,

Raftelis Financial Consultants, Inc. ("Raftelis") is pleased to provide this letter report summarizing the results of an evaluation of the Key West Bight's ("Bight") Common Area Maintenance ("CAM") Charge for the City of Key West ("City"). The Bight is a 20-acre facility that has become a major tourist destination and is located in the middle of the City's Seaport properties, which is within the historic district of the City. The City leases property at the Bight to private business owners and charges for on-site services and assesses these tenants a CAM Charge to recover the tenants' share of costs associated with maintaining and operating common areas at the Upland area of the Bight.

In general, the CAM Charge evaluation involved identifying allocable CAM-related costs at the Bight, determining the portion to be recovered from tenants, using the portion allocable to tenants to calculate a CAM cost per square foot ("SF") of leasable space, and then using each tenant's net leasable SF to determine the individual CAM Charge for each tenant.

Background

The City has developed lease agreements with each of the Bight tenants. Based on discussions with the City about the leases and the review of several lease agreements that have been provided by the City, the terms and conditions regarding the CAM Charge are the same or very similar in each lease agreement. The tenants at the Bight pay CAM expenses associated with maintaining common areas, and for property taxes and insurance.

The Bight is comprised of several different areas, including the Marina, Upland, Ferry Terminal, and the Parking Area. Common area costs are those that pertain to operating and maintaining the common area at the Upland area and the Ferry Terminal at the Bight. According to the City's leases with the Bight tenants,¹ 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 the tenant, their officers, agents, employees, and customers, and the general public which may have been furnished by the Landlord: lavatories, parking areas, driveways, entrances, and exits thereto, pedestrian sidewalks and ramps, landscapes area, and other similar facilities, and all areas which are located within the Property and which are not leased to tenants."

¹The lease agreement provisions referenced herein come from the Lease Agreement between the Caroline Street Corridor and Bahama Village Community Redevelopment Agency as LANDLORD and Key West Seaport, LLC., as TENANT dated May 2, 2017.

In addition, the City's leases with the Bight tenants define CAM Charges as follows:

“Common Area Maintenance (CAM) charges will be based upon the square feet as described in the Maximus CAM report, which provides that additional outdoor areas be factored at 50%.”

“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 administration 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.”

The leases specify that a portion of the CAM Charges are subject to a 5% cap on increases from the prior year, except that the cap is not applicable to Real Estate Taxes or Insurance Expenses:

“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 CAM Charges. CAM 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 CAM Charges shall be the first year of the term of this lease. The 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.”

“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.”

“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.”

Evaluation Approach

In general, the CAM Charge evaluation involved (1) identifying CAM costs related to the Key West Bight, (2) determining the portion of which could be recovered from tenants through the CAM Charge, (3) calculating a CAM cost per SF, and then (4) multiplying the CAM Charge per SF by each tenant's net leasable SF to determine the individual CAM Charge for each tenant.

Several meetings were held with City staff to review the relevant tenant lease provisions, the City CAM Charge cost allocation model, and budgeted expense data, and to discuss the CAM Charge methodology and calculations. In addition, meetings were held with selected tenants to receive input from tenants on issues and concerns with the CAM Charge.

The CAM analysis was guided by several factors, including the approach used by the City in the past that was known and generally accepted by the Key West Bight Board, the provisions of the existing tenant leases that were reviewed, and discussions with certain tenants.

1. Identification of Expenses Eligible for CAM Charge Recovery

CAM Charge Costs (Test Year FY 2022)

The City accounts for costs at the Bight within the Key West Bight Enterprise Fund. Costs within this fund are grouped by department. The individual departments within the Bight’s enterprise fund and the fiscal year (“FY”) 2022 budgeted operating costs associated with each department are included in Table 1. Note that CAM costs at the Bight are accounted for within Department 7504.

The lease agreement specifies that capital expenditures related to infrastructure are not recoverable through the CAM Charge unless they reduce expenses; therefore, the capital costs associated with capital expenditures (object code # 5756300) and machinery and equipment (object code # 5756400) were excluded from the total costs eligible for recovery by the CAM Charge.

Table 1. Key West Bight Enterprise Fund Costs by Department

Department	FY 2022 Budgeted Operating Costs
7501 – General Administration	\$611,684
7502 – Upland Leases Maintenance	0
7503 – Marina Operations	2,765,924
7504 – Common Area Maintenance	1,075,221
7505 – KWB Parking	220,830
7506 – Ferry Terminal	<u>1,580,490</u>
Total	\$6,254,149

Maintenance and Operations Costs

Maintenance and operations (“M&O”) related CAM costs include most of the operating related costs within Department 7504. In general, M&O costs within this department included salaries and wages, benefits, professional services, various contractual services, waste management/trash related services, minor repairs and maintenance, and supplies. M&O costs also include a portion of the budgeted allocation of costs from the City’s General Fund for support services provided to the Bight. The portion of the Bight’s indirect cost allocation was allocated to CAM based on the proportion of annual revenues at the Bight generated through leases and other sources in the Upland area, which was calculated to be 35.2 percent of total annual Bight revenues ($\$1,196,645 \times 35.2\% = \$421,127$).

CAM related M&O costs excluded costs incurred for (1) building inspections (\$2,500), (2) inspection and certification of the Turtle Kraals handicap lift (\$1,000), and (3) promotional expenses (\$260,100). As discussed further below, a portion of promotional expenses within Department 7504 are recoverable in the CAM charge separate from other M&O costs. In addition, M&O costs do not include capital expenditures related to infrastructure and machinery and equipment.

M&O budgeted costs allocated to CAM for FY 2022 are shown in Table 2. The total operating costs shown for CAM in Table 1 can be reconciled to the M&O budgeted costs allocable to CAM by adding the costs associated with the CAM portion of the Bight’s indirect cost allocation (\$421,127) and

subtracting the costs related to building inspections, the handicap lift, and promotional expenses (\$2,500, \$1,000, and \$260,100).²

Table 2: M&O Budgeted Costs Allocable to CAM for FY 2022

Object #	Account Description	Amount
5751200	Regular Salaries and Wages	\$258,857
5751400	Overtime	8,000
5751500	Special Pay	180
5752100	FICA Taxes	20,428
5752200	Retirement Contributions	21,349
5752300	Life and Health Insurance	87,307
5753100	Professional Services	87,500
5753400	Other Contractual Service	98,200
5754100	Communications/Postage	2,100
5754300	Utility Services	82,500
5754302	Electricity	15,000
5754303	Wastewater	4,200
5754304	Water	8,300
5754600	Repairs and Maintenance	79,700
5755200	Operating Supplies	38,000
5759100	Indirect Cost Allocation from GF	<u>421,127</u>
	Total	\$1,232,748

The City has historically applied a 50/50 “cost sharing” ratio to the total M&O costs. This cost sharing ratio is applied in the City’s existing Microsoft Excel CAM model and is included in the sample CAM worksheet that is attached to some lease agreements. However, this cost-sharing ratio was not mentioned in the narrative section of the lease agreements that Raftelis reviewed. Furthermore, since the leases specify that a portion of the CAM Charges are subject to a 5% cap on increases from the prior year, the City would still be subject to the 5% cap if the 50/50 cost sharing ratio were to be eliminated. For example, in FY 2021, CAM related M&O costs recovered through the CAM Charges to tenants was \$233,100; therefore, the maximum amount of CAM related M&O costs that could be recovered from tenants in FY 2022 was \$244,755 ($\$233,100 \times 1.05$). The total amount of M&O expenses eligible to be allocated to the CAM Charge in FY 2022 is summarized in Table 3.

Table 3: M&O Budgeted Cost Sharing and CAP on Increases in the CAM for FY 2022

Description	Amount
Total Budgeted M&O Amount (from Table 2)	\$1,232,748
Allocable to Tenant CAM Charge	50%
Total CAM Charge Eligible	\$616,374
Prior Year M&O CAM Charge (FY 2021)	\$233,100
M&O CAM Charge with CAP (FY 2022)	\$244,755 (1.05 × Prior Year)

² \$1,075,221 in CAM/Department 7504 operating expenses from Table 1, plus \$421,127, minus \$2,500, \$1,000, and \$260,100 = \$1,232,748, as shown in Table 2, as total budgeted M&O costs allocable to CAM.

Insurance Costs

Insurance costs incurred by the City and related to the Bight include insurance premiums and self-insurance costs. The Bight insurance costs for FY 2022 are summarized in Table 4.

Table 4: Key West Bight Budgeted Insurance Costs (FY 2022)

Description	Amount
Property	\$768,288
GL/AL/E&O/LEL/Cyber	257,952
Workers Comp	245,768
Boiler & Machinery	11,670
Participation Credit	(25,684)
Self-Insurance	<u>228,010</u>
Total	\$1,486,004

GL = General liability, AL = Automobile liability, Errors & Omissions, LEL = Lower Earnings Limit

The City’s existing CAM Charge Model allocates only property insurance, participation credit, and self-insurance costs to the CAM Charge. The remaining insurance costs are not currently included in the CAM Charge Model. These costs have been allocated in proportion to the insured value of the Upland and Ferry Terminal properties as compared to the total value of all insured properties. This percentage is currently approximately 10.5 percent.

Based on our review of the insurance costs, in addition to the insurance costs identified above, it is recommended that the City consider recovering workers compensation insurance costs with the CAM Charge on the basis of full-time equivalent (“FTE”) employees. Per the lease agreements, no cap is applied to insurance costs recoverable from tenants at the Bight. Therefore, the CAM portion of workers compensation costs was estimated based on the proportionate share of FTE employees at the Bight as compared to the total FTEs for the City. Using the City’s adopted FY 2022 budget, this portion was 3.9 percent. The portion of workers compensation costs estimated to pertain to the Bight was then multiplied by the proportionate share of personnel costs incurred within Department 7504 as compared to the total personnel costs of the Key West Bight Fund (29.7 percent) to get to the estimated share of workers compensation costs to be recovered through the CAM Charge (1.2 percent).

The CAM portion of the City’s cost of self-insurance was estimated as 50.0 percent and was based on the City’s historical estimate for losses incurred at the Upland area as compared to other areas of the Bight. The existing and the recommended allocation of property insurance, workers compensation insurance, and the City’s self-insurance costs at the Bight to the CAM Charge is shown in Table 5.

Table 5: Key West Bight Budgeted Insurance Cost Allocation (FY 2022)

Description	Amount	Existing CAM Allocation (%)	Existing CAM Allocation (\$)	Recommended CAM Allocation (%)	Recommended CAM Allocation (\$)
Property	\$768,288	10.5%	\$80,449	10.5%	\$80,449
GL/AL/E&O/LEL/Cyber	257,952	n/a	0	n/a	0
Workers Comp	245,768	n/a	0	1.2%	2,854
Boiler & Machinery	11,670	n/a	0	n/a	0
Participation Credit	-25,684	10.5%	-2,689	10.5%	-2,689
Self-Insurance	<u>228,010</u>	50%	<u>114,005</u>	50%	<u>114,005</u>
Total	\$1,486,004		\$191,765		\$194,619

As an alternative to the current cost allocation approach, it is recommended that the City and the Bight Board consider allocating CAM-related property insurance costs to tenants separately from the CAM Charge. This would involve identifying the appraised value of individual properties at the Upland area and then allocating associated property insurance costs to the individual properties proportional to each property’s appraised value. With these costs allocated to each property, they would be allocated directly to each property’s tenants, proportional to their net leasable space as compared to the total net leasable space of the property.

While this approach would require the City to track and periodically update the appraised value of each leasable property at the Upland area, it would result in a more accurate allocation of property insurance costs to tenants because it reflects that the value of a building is a key driver affecting the cost to insure it and that some properties have higher appraised values and cost more to insure on a per net leasable SF basis than others.

Promotional Costs

Annual promotional costs incurred at the Bight include costs related to general promotional expenses, website related costs, decorative costs, production costs for marketing materials, and promotional costs related to specific events at the Bight. In the recent past, the City’s promotional costs have not been allocated to the CAM Charge. However, some promotional expenses, such as holiday decorations and lighting, are included in the list of expenses eligible to be recovered in the CAM Charge and should be included. A summary of the promotional-related expenses eligible to be recovered in the CAM Charge is provided in Table 6.

Table 6: Promotional Expenses Recoverable in the CAM Charge (FY 2022)

Object #	Account Description	FY 2022 Budgeted Cost	% Allocable to CAM	\$ Allocable to CAM
5754800	Annual Support	\$25,000	0.0%	\$0
5754800	Historical Seaport Website	100	0.0%	0
5754800	Holiday Christmas Lights	75,000	100%	75,000
5754800	Marketing Materials	155,000	0.0%	0
5754800	Promote/Sponsor Events	<u>5,000</u>	0.0%	<u>0</u>
Total		\$260,100		\$75,000

Property Taxes

The City assesses ad valorem property taxes on taxable properties located throughout the City using the property’s assessed value and the millage rate adopted by the City and other taxable entities each year. The property tax expense amount considered the millage rate for tax year 2022 weighted by 75% and the millage rate for tax year 2021 weighted by 25% since the City’s fiscal year ends on September 31st of each year. The estimated property tax associated with the Bight in FY 2022 was calculated as shown in Table 7.

Total property taxes for the Bight were obtained from the City’s current assessed value for the Bight properties. The City’s existing CAM Charge Model calculates the CAM portion of the total property taxes for the Bight based on the City’s proportionate share of Upland and Ferry Terminal revenues compared to the total revenues generated. Based on the FY 2022 budget, revenues earned at the Upland portion of the Bight were 35.2 percent of total revenues at the Bight, as shown in Table 8; therefore, 35.2 percent of the property tax expense at the Bight was allocated to the CAM Charge using the City’s CAM cost model. There is no 5.0 percent cap on the amount of property tax expense that can be recovered with the CAM Charge from one year to the next.

Table 7: Property Tax Expense for the Bight (FY 2022)

Tax Year	KW Bight Assessed Value	Millage Rate	Portion of Fiscal Year	Property Tax
2021	\$33,842,952	\$8.7569	75.0%	\$222,270
2020	\$31,569,382	\$8.7342	25.0%	<u>68,933</u>
Total (Weighted)				\$291,203
Total Property Tax Expense at KW Bight During Fiscal Year				\$291,203
% Allocable as CAM Using Proportional Revenues				35.2%
\$ Allocable as CAM				\$102,481

Table 8: City Operating Revenues by Bight Location (FY 2022)

KW Bight Location	\$ Revenue	% of Total
Marina	\$ 4,411,192	34.1%
Upland	4,151,752	32.1%
Parking	2,394,489	18.5%
Upland / Ferry Terminal	400,793	3.1%
Marina, Fuel / Ferry Terminal	1,577,967	12.2%
City / Other	253,633	0.0%
Total (Excluding City-Other)	\$ 12,936,193	100.0%

As an alternative to the current method of allocating property taxes to the CAM Charge, it is recommended that the City and the Bight Board consider assessing property taxes to Upland and Ferry Terminal properties directly based on the assessed value of each property and then to the individual tenants of each property based on their proportionate share of net usable square feet (“SF”) at the location. This approach is similar to the alternative approach for allocating property insurance costs to tenants that was discussed previously and would require the City to maintain a detailed breakdown of the assessed property value of the Upland and Ferry Terminal properties.

Furthermore, estimating property taxes associated with Upland and Ferry Terminal properties using their proportionate revenues (see Table 8) under recovers the actual amount of property tax associated with these properties. For example, individual property tax bills for Upland and Ferry Terminal properties for the 2021 tax year were obtained and reviewed and it was noted that \$269,000 in property taxes were assessed to the properties in this area of the Bight. This is about \$166,500 (\$268,981 - \$102,481) more than the amount of annual property tax estimated to be recoverable under the CAM Charge as shown in Table 7. The City should consider using individual tax bills for Upland and Ferry Terminal properties to estimate property taxes to be recovered with the CAM Charge, so that these costs are more fully recovered from tenants at the Bight.

2. Calculation of Unit CAM Charge Per SF and Individual Tenant CAM Charges

The CAM cost per SF in FY2022 was calculated based on the recoverable CAM costs related to M&O, insurance expenses, promotional expenses, and property taxes, as identified above, and the amount of net usable SF of space associated with Upland and Ferry Terminal properties. The City’s existing CAM Charge cost model utilizes “net usable SF” as the basis for the CAM calculation. In the lease agreements that we reviewed net usable SF was 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 approximate dimensions and area measured in accordance with the published BOMA/ ANSI standard for calculating net usable floor areas for stores.”

As applied in the lease agreements, net usable SF includes all usable space, including covered areas, outdoor dining, enclosed areas, walkways, and storage buildings. Outdoor usable space is weighted by a factor of 0.5. Based on discussions with the City, the net usable SF of tenant properties at the Bight are periodically measured, updated, and included in the City’s CAM Charge cost model. The latest version of the City’s CAM Charge cost model contains a total net usable SF of 110,166.

The City’s existing CAM Charge cost model divides the total allocated CAM expenses by the total net usable SF to derive the CAM Charge per SF. This calculation for FY 2022 is presented in Table 9.

In the past, the City has only measured and recorded the net usable SF of a particular space when a lease is signed by a tenant. However, measuring and recording net usable SF at different points in time could lead to concerns about whether a consistent approach is being used to identify a tenant’s net usable SF. Therefore, the City should consider reviewing and verifying the net usable SF of all leasable spaces at the Bight once every 10 years. This will ensure that a consistent approach is used to identify each tenant’s net usable SF.

Table 9. Calculation of CAM Charge per SF (FY 2022)

CAM Cost	FY 2022 Cost	Net Usable SF	Cost per SF
Maintenance and Ops	\$244,755	110,166	\$2.22
Insurance	194,619	110,166	\$1.77
Promotional Expenses	75,000	110,166	\$0.68
Property Taxes	<u>102,481</u>	110,166	<u>\$0.93</u>
Total	\$616,855		\$5.60

Based on the CAM Charge per SF calculated in Table 9 and the net usable SF of each tenant, the CAM costs allocated to each tenant for FY 2022 are shown in Table 10. Note that some properties are vacant or are not billable (various City buildings and other public areas). Their allocated cost has been totaled and netted against the allocated CAM cost total to show the net cost total that would be recovered by the City with the current CAM Charge.

Table 10. Net Usable SF and Allocated CAM Cost by Tenant

Unit	Tenant	Net Usable SF	CAM Charge per SF	Allocated CAM Cost
631 Greene Street	Conch Republic Seafood Co.	15,345	\$5.60	\$85,922
Booth Greene Street	Fury Water Adventures	96	\$5.60	\$538
631B Greene Street Gazebo	Captains Corner Scuba School	56	\$5.60	\$314
621 Greene Street	Reef Relief, Inc	926	\$5.60	\$5,185
625 Greene Street	Storage Units Building	2,162	\$5.60	\$12,106
Lazy Way Units A, A-1	Yours and Mayan	337	\$5.60	\$1,887
Lazy Way Unit B	Yours and Mayan	135	\$5.60	\$756
Lazy Way Units C, D	Fisherman’s Café	489	\$5.60	\$2,738
Lazy Way Unit F	AER Photography	426	\$5.60	\$2,385
Lazy Way Unit G	Dragonfly Key West	326	\$5.60	\$1,825
Lazy Way Unit H	Captain Quick Dry	452	\$5.60	\$2,531
Lazy Way Units I, J	RED Hospitality & Leisure	817	\$5.60	\$4,575
Lazy Way Storage Units I, J	RED Hospitality & Leisure	157	\$5.60	\$879
Lazy Way Recording Studio	Jimmy Buffett	1,447	\$5.60	\$8,102
Lazy Way Booth	RED Hospitality & Leisure	98	\$5.60	\$549
William Street Plaza Booth	Schooner Appledore Booth	30	\$5.60	\$168
201R William Street	Schooner Wharf Bar	6,719	\$5.60	\$37,622
201 William Street Unit A	City Office	414	\$5.60	\$2,318
201 William Street Unit B	Bumble Bee Silver Co.	152	\$5.60	\$851
201 William Street Unit C	Sunset Watersports Office	750	\$5.60	\$4,199

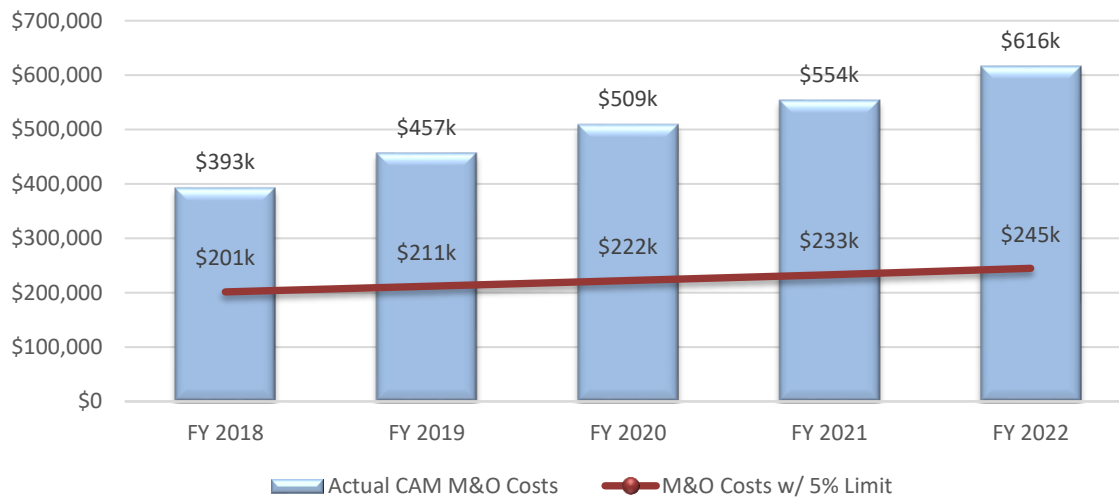
201 William Street Unit D	City Conference Room	107	\$5.60	\$599
201 William Street/Harborwalk Unit A	Conch Tees	722	\$5.60	\$4,043
201 William Street/Harborwalk Unit B	Sunset Watersports	1,006	\$5.60	\$5,633
201 William Street/Harborwalk Unit C	Hayes Robertson	1,001	\$5.60	\$5,605
201 William Street/Harborwalk Unit E	Waterfront Brewery	1,447	\$5.60	\$8,102
201 William Street/Harborwalk Unit D, F	Waterfront Brewery	16,692	\$5.60	\$93,464
201 William Street 2 nd Floor Offices	City Offices (Port & Marine Services)	1,239	\$5.60	\$6,938
201 William Street/Caroline Street Corner	B.O.'s Fish Wagon	1,816	\$5.60	\$10,168
284 Margaret Street	Cuban Coffee Queen	208	\$5.60	\$1,165
284 Margaret Street	Cuban Coffee Queen Storage	240	\$5.60	\$1,344
KWB Marina D Dock	Thompson Fish House	1,728	\$5.60	\$9,676
200 Margaret Street	Turtle Museum	1,076	\$5.60	\$6,025
Harborwalk	Public Restrooms	1,555	\$5.60	\$8,707
Margaret Street Plaza Booth	Vacant Booth	100	\$5.60	\$560
1 Lands End Village	Boat House Key West	9,732	\$5.60	\$54,493
274 Margaret Street	Local Color	3,048	\$5.60	\$17,067
208 Margaret Street	Mac's Sea Garden & Curio Shop	2,550	\$5.60	\$14,278
231 Margaret Street	Half Shell Raw Bar	8,873	\$5.60	\$49,683
241, 251A, 251B Margaret Street	Key West Bait & Tackle	3,280	\$5.60	\$18,366
255 Margaret Street Plaza	Café (RED Hospitality & Leisure)	1,404	\$5.60	\$7,861
Margaret Street Plaza	Public Restrooms	694	\$5.60	\$3,886
261 Margaret Street	Lost Reef Dive Shop	1,711	\$5.60	\$9,580
901 Caroline Street	Flagler Station	5,586	\$5.60	\$31,278
907 Caroline Street	Good Day on a Happy Planet	975	\$5.60	\$5,459
907 Caroline Street (Rear)	Maintenance Shot	1,383	\$5.60	\$7,744
Ferry Terminal 1 st Floor Outdoor Area	Conch Electric Cars	634	\$5.60	\$3,550
Ferry Terminal Suite 212	Vacation Key West Booth	250	\$5.60	\$1,400
Ferry Terminal Ticket Counter	Key West Express Ticket Counter	172	\$5.60	\$963
Ferry Terminal Suites 213, 225, & 225A	Paradise Porters	388	\$5.60	\$2,173
Ferry Terminal 202, 205, 216, & Storage	Yankee Freedom	808	\$5.60	\$4,524
Ferry Terminal Suite 214	Superwoofie LLC	270	\$5.60	\$1,512
Ferry Terminal's all non-leasable/vacant	Restrooms, Passenger Areas, Other	<u>8,137</u>	\$5.60	<u>\$45,562</u>
	Total	110,166		\$616,855
	Recoverable Portion	91,721		\$513,576
	Unrecoverable Portion	<u>18,445</u>		<u>103,280</u>
	Total	110,166		\$616,855

3. CAM Cost Recovery Discussion

With existing lease agreements limiting the amount of M&O cost that can be included in the CAM Charge at no more than 5% more than the amount of M&O cost recovered in the prior year, a significant portion of common area related M&O costs are left unrecovered by the City. For example, the amount of common area M&O cost incorporated into the prior year's (FY 2021) CAM Charge was \$233,100. Increasing this amount by 5.0 percent results in allowable M&O costs of \$244,755, which is almost \$372,000 less than the estimated amount of M&O costs using the City's assumed 50/50 cost sharing ratio (see Table 3).

The annual amount of unrecoverable CAM-related costs due to the 5% cap was estimated from FY 2018 to FY 2022 by comparing the CAM-related costs with the capped amount in each year. Note historical actual CAM M&O costs were reviewed to determine the amounts by which individual M&O expenses were being under recovered. The results of this analysis are shown in Figure 1. This comparison shows that a significant portion of historical CAM M&O costs have been unrecovered due to the 5% cap on increases. For example, in FY 2018, the 5% cap limited cost recovery to approximately \$201,361, but CAM M&O costs were roughly \$393,032, resulting in \$191,672 being unrecovered by the City. Overall, the City’s under recovery of M&O costs over this period totaled \$1.4 million, with the amount of unrecoverable costs has ranged from roughly \$192,000 (FY 2018) to \$372,000 (FY 2022) per year.

Figure 1. Comparison of Actual and Allowable M&O Costs



There are several options that the City and the Bight Board could consider in addressing this unrecoverable cost issue. These options are as follows:

1. Exclusion of Costs From the Cap Not Included in the Base Year. The lease agreements that have been reviewed contain a provision that specifies that “*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,*” and the base year is defined as follows: “*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.*” While the base year of each lease and the lease term may be different, the City could review the base year CAM costs to identify if there are specific CAM costs that were not included in the base year and are new. For example, if the City’s Senior Property Manager staff position is a new position and the staffing costs associated with this position was not included in the base year CAM charges in the first year of the term of each lease, then this cost could be excluded from the 5% Cap. Raffelis requested but did not receive sufficient historical CAM cost information to be able to identify potential costs that were added to the CAM charge following the base year of the leases that were provided and reviewed.
2. Exclusion of City Non-Controllable Costs from the Cap. The lease agreements that were reviewed contain a provision that specifies that “*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.*” While there is no definition of “controllable

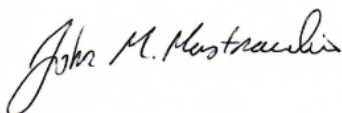
expenses” contained in the lease agreements, according to Black’s Law Dictionary, uncontrollable expenses are those that are incapable of being controlled or ungovernable, and controllable means capable of being directed or influenced. Given these common definitions, some O&M expenses that are incorporated into the CAM Charge were considered to be uncontrollable, and eligible to be separated from the 5% CAM charge cap. Examples of non-controllable costs include contractual services costs, utility services, electricity, and water utility costs. These costs totaled \$210,000 in the FY 2022 budget, and could potentially be excluded from the 5% CAM charge cap.

3. Re-baseline the base cost included under the cap. This option consists of re-baselining the allowable amount of M&O cost that could be included in the CAM Charge once every five years. For example, if the amount of M&O cost to be included was re-baselined in FY 2022, the full amount of M&O costs assuming the 50/50 cost share (\$616,374, Table 3) would be included in the CAM Charge calculation for this year. This base cost amount would only be allowed to increase by a maximum amount of 5% per year until it is re-baselined in FY 2027 to a new amount. Similarly, another alternative would be to re-baseline the maximum allowable amount in the upcoming fiscal year and then re-baseline when FTEs are added to Department 7504, when contract service costs are rebid, or when non-recurring/onetime professional services costs are incurred. This option would require an amendment to the lease agreements with each of the tenants but would help ensure that City CAM costs are more fully recovered.
4. The City and the Bight Board could also reevaluate the appropriateness of the 50/50 cost sharing ratio currently used to allocate CAM costs between the City and the tenants. Modifications could be considered in conjunction with the re-baselining option described above. This 50/50 cost sharing ratio is not specified in any of the lease agreements that Raftelis reviewed, but it was included in some CAM calculation examples included as an exhibit attached to some lease agreements. Without modifying the CAM baseline with which the 5% cap is calculated, this option would not result in any more CAM costs to be recoverable. Therefore, this option would need to be considered along with re-baselining the costs used in the cap calculation.

We appreciate the opportunity to help the City update its CAM Charge at the Key West Bight and we look forward to discussing the results of this report with members of the Key West Bight Board at the City’s request. An electronic version of the Microsoft Excel model used to prepare the calculations discussed in this report has been included along with the submission of this report.

Should you have any questions or require additional information related to this scope of work, please do not hesitate to contact me at 518.391.8944, or by email at jmastracchio@raftelis.com.

Sincerely,



John Mastracchio, ASA, CFA
Executive Vice President

cc: Philip Sapone (Raftelis)