

LEASE AMENDMENT FOR FLAGLER STATION

This Lease Amendment ("Amendment") is entered into this 22 day of September 2000, between the Caroline Street Corridor and Bahama Village Community Redevelopment Agency of the City of Key West ("Landlord") and Conch Tour Train, Inc. ("Tenant").

I. RECITALS

- A. On or about June 7, 1996 Landlord and Tenant entered into a certain Lease Agreement whereby Tenant would lease from Landlord approximately 2,730 sq. ft. of space at the corner of Caroline Street and Margaret Street in Key West, Florida ("the Lease"). On or about May 16, 1996, by virtue of Resolution #96-174, the Lease was approved by the City Commission of the City of Key West, acting as the Landlord. Pursuant to the Lease, the commencement date of same is to occur when permits for construction of the "Flagler Station" attraction are issued.
- B. On or about January 23, 1997, Landlord and Tenant executed a Lease Addendum ("Lease Addendum") extending the duration of the Lease to 20 years. That Lease Addendum was approved by the City of Key West by virtue of Resolution #97-50.
- C. Pursuant to the Lease, Tenant was to construct, at Tenant's expense, a retail/tourist attraction/ticket depot, more commonly referred to as "Flagler Station." Landlord issued Tenant building permits on or about August 12, 1998, but, at the request of Landlord, construction was delayed until on or about March 15, 1999. On or about January 28, 2000 the final building

permit was issued. Construction has been substantially completed. The project's grand opening occurred on January 29, 2000.

- D. Flagler Station is a significant addition to the City's Caroline Street Corridor and the Key West Bight, and the complex greatly enhances the City's real property as well as visitors' historical experience.
- E. Flagler Station consists of four principal portions: a retail space, a railroad car, the Maggie Attwell House, and, to the southwest of the retail space, the Tenant's ticket depot. The site plan of the completed Flagler Station Complex is attached hereto as Exhibit "A".
- F. The "footprint" of the Flagler Station Complex takes up 4,096-sq. ft. which is approximately 1,366-sq. ft. greater than the initial approximately 2,730-sq. ft. "footprint" identified in the Lease.
- G. The increase in "footprint" was due, *inter alia*, as a result of the inclusion of a ramp for handicap accessibility and the addition of the historic Maggie Attwell House, both of which were designed and constructed, with Landlord's consent, after the parties entered into the Lease.
- H. Landlord now desires that Tenant, as opposed to Landlord, maintain all of the "non-footprint" space of the premises surrounding the "footprint". There is 4,176-sq. ft. of "non-footprint" space as identified in Exhibit "A".
- I. On July 29, 1998 Landlord, through its agent, the Key West Bight Management District Board ("the Bight Board"), agreed to give Tenant a \$5,000.00 rent credit for infrastructure drawings which had been prepared

at Tenant's expense. On November 17, 1999, the Bight Board agreed that, Tenant's liability for rent, would not begin until the opening of the project, which occurred on January 29, 2000.

- J. The initial base rent, which the parties agree is to begin on January 29, 2000, shall be \$8.00 per sq. ft. per year for all "footprint" space, and \$1.00 per sq. ft. per year for all "non-footprint" space.
- K. Additionally, due to Tenant (and not Landlord) maintaining all "non-footprint" green space, Common Area Maintenance ("CAM") charges (i. e. all those charges outlined in Section 3(a) and Exhibit "A" of the Lease including, but not limited to, common area maintenance and promotional fund charges, real estate taxes and insurance) originally provided for in the Lease shall be paid by Tenant, but only on the "footprint" space. Also, due to the significant increase in base rent (from a projected \$28,434.00 to \$32,768.00 in year one), percentage rent charges, originally provided for in the Lease (as outlined in Lease provision 3(d)) shall be adjusted so that the threshold Gross Sales amount per lease year shall be increased (from \$364,000.00) by the same percentage as the base rent in year one will increase (i. e. 13% - - or to \$411,320.00).
- L. Pursuant to Provision 4 of the Lease, on or about June 13, 1996, Tenant paid Landlord a \$2,000.00 security deposit. On or about July 26, 1999, Tenant, after being erroneously invoiced by Landlord, erroneously paid Landlord an additional \$24,610.29, some of which has been prematurely debited from Tenant's "account" with Landlord due to confusion regarding

the commencement date of the Lease. The Lease, and subsequent agreements and extensions thereto, have caused confusion regarding both the Lease's commencement date, and the debiting of Tenant's "account" with Landlord. The parties wish to clarify this issue by fixing a specific commencement date (i. e. March 15, 1999), and by crediting Tenant for the above-referenced \$24,610.29, plus the \$5,000.00 rent credit for infrastructure drawings.

- M. The parties wish to amend the Lease to: (1) accurately define the area of the "footprint" of the building, including the Maggie Attwell House and handicap ramp, (2) include, in the leased premises, all of the "non-footprint" space which Landlord wishes for Tenant to control and maintain, (3) adjust the rent accordingly to provide for the inclusion of the "non-footprint" space, (4) clarify CAM charges so that same are assessed only to "footprint" leasehold, (5) adjust the threshold amount which triggers percentage rent charges, as the base rent has significantly increased, (6) provide Tenant a rent credit for all amounts previously paid plus the \$5,000.00 rent credit for infrastructure drawings, (7) clarify the commencement date of the Lease and set same at March 15, 1999 (the date construction commenced), and (8) clarify the rent commencement date of the Lease and set same at January 29, 2000 .

II. SQUARE FOOTAGE/RENT ADJUSTMENT FOR "FOOTPRINT" AREA

The parties agree that the "footprint" area shall consist of 4,096-sq. ft. as depicted in Exhibit "A", which area shall be leased from the Landlord to Tenant

for \$8.00 per sq. ft. for the first year (\$32,768.00 first year rent, \$2,730.67 first year monthly payments, plus applicable sales tax), and shall increase/decrease thereafter based on the Consumer Price Index/Urban (US average) as outlined provision 3(e) of the Lease.

III. SQUARE FOOTAGE/RENT ADJUSTMENT FOR "NON-FOOTPRINT" AREA

The parties agree that the "non-footprint" area shall consist of 4,176-sq. ft. as depicted in Exhibit "A", which area shall be leased from Landlord to Tenant for \$1.00 per sq. ft. for the first year (\$4,176.00 first year rent, \$348.00 first year monthly payments, plus applicable sales tax), and shall increase/decrease based on the Consumer Price Index/Urban (US average) as outlined provision 3(e) of the Lease. Tenant shall not use this "non-footprint" area for any retail use (i. e. retail carts, retail banking, etc.) except as specifically provided in the Lease.

IV. CLARIFICATION OF CAM CHARGES AND ADJUSTMENT OF PERCENTAGE RENT

Because of the foregoing, Tenant shall be responsible for CAM charges at the current rate of \$4.29/square foot/year for all "footprint" space (i. e. 4,096 x \$4.29 = \$17,571.84/year, or \$1,464.32 monthly CAM fees) CAM charges shall increase/decrease based on the schedule outlined in Provision 3(c) of the Lease. Additionally, the reference to \$364,000.00 as the Lease year Gross Sales threshold number for percentage rent charges, as referenced in Provision 3(d) of the Lease, is adjusted to \$411,320.00.

V. CREDIT FOR PREPAID AMOUNT/INFRASTRUCTURE DRAWINGS

Pursuant to the Lease, and possible erroneous interpretations and agreements regarding same, Landlord shall give Tenant a rent credit equal to \$24,610.29, which is the total amount of payments Tenant has previously made to Landlord, plus an additional \$5,000.00 rent credit for infrastructure drawings per the July 29, 1998 meeting of the Bight Board, and therefore Tenant's first rent payment hereunder shall not be due until July 29, 2000, and that payment shall be in the amount of \$2,362.35 (\$29,610.29 - total credit amount - - divided by \$4,542.99 - - total monthly base rent plus monthly CAM - - yields 6.52 months of rent credit), with subsequent payments made as outlined in Provisions II, III and IV herein.

VI. LEASE COMMENCEMENT DATE

The term of the Lease shall be 20 years commencing on March 15, 1999 and expiring on March 14, 2019.

VII. FULL FORCE OF REMAINDER LEASE AND LEASE ADDENDUM PROVISIONS

Any and all other provisions not herein amended contained in the Lease and Lease Addendum and which are not inconsistent with the changes herein shall remain in full force and effect and are specifically incorporated herein by reference as though fully set forth in complete form herein.

[SIGNATURES TO THIS LEASE AMENDMENT ON NEXT PAGE]

The parties hereto have caused the foregoing Amendment to be executed on the day and year first above written.

Conch Tour Train, Inc.

By: Deedee Masher SUP.

Its: Senior Vice Pres.

Date: 9/22/00

Caroline Street Corridor and

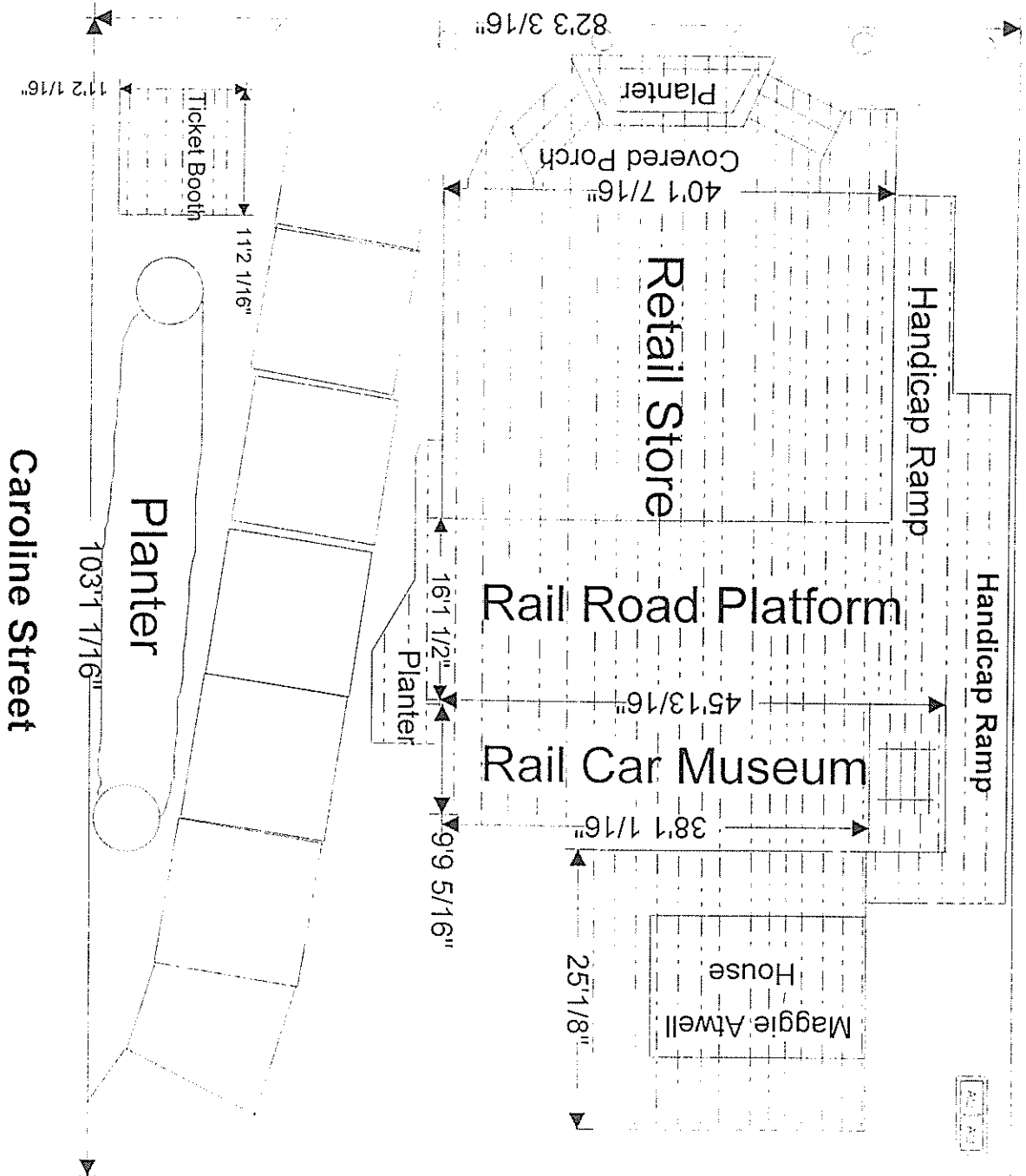
Bahama Village Community Redevelopment Agency

By: Jimmy Waller

Its: Mayer

Date: 9-20-00

Margaret Street



Caroline Street

Exhibit "A"

Flagler Station Site Plan

All Dementions Approximate

AU

= Air Conditioning Units

Indicates "FootPrint" Area

N

"EXHIBIT A"

RESOLUTION NO. 97-50

A RESOLUTION OF THE CAROLINE STREET CORRIDOR
AND BAHAMA VILLAGE COMMUNITY REDEVELOPMENT
AGENCY, APPROVING THE ATTACHED LEASE ADDENDUM
BETWEEN THE CRA AND CONCH TOUR TRAINS, INC.
TO PROVIDE FOR A 10-YEAR LEASE EXTENSION,
THEREBY ESTABLISHING A LEASE WHOSE TERM SHALL
BE 20 YEARS; PROVIDING FOR ADDITIONAL
IMPROVEMENTS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Conch Tour Trains, Inc. executed a 10-year lease
with the CRA on June 7, 1996, for property at the Key West Bight;
and

WHEREAS, the CRA has determined that Conch Tour Trains, Inc.
meets the 20-year lease Guidelines set forth in Resolution 97-22;

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

Section 1: That the attached Lease Addendum between the CRA
and Conch Tour Trains, Inc. to provide for a 10-year lease
extension, thereby establishing a lease whose term shall be 20
years, and providing for additional improvements, 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.

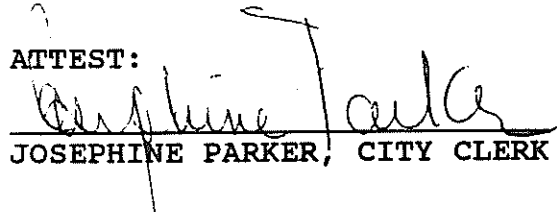
Passed and adopted by the Caroline Street Corridor and Bahama Village Community Redevelopment Agency at a meeting held this 22 day of January, 1997.

Authenticated by the presiding officer and Clerk of the Agency on January 22, 1997.

Filed with the Clerk January 23, 1997 .


DENNIS J. WARDLOW, CHAIRMAN

ATTEST:


JOSEPHINE PARKER, CITY CLERK

LEASE ADDENDUM EXTENDING DURATION TO TWENTY YEARS

THIS LEASE ADDENDUM, made and entered into at Key West, Monroe County, this 22 day of January, 1997, by and between **Caroline Street Corridor and Bahama Village Community Redevelopment Agency**, hereinafter called "LANDLORD," and **Conch Tour Trains, Inc.** hereinafter called "TENANT."

WITNESSETH:

That the LANDLORD and the TENANT, for and in consideration of the keeping by the parties of their respective obligations hereinafter contained, and for the purpose of extending a lease which was made on June 7, 1996, for valuable consideration by each of the parties unto the other, in hand paid, the receipt of which is acknowledged, the parties have agreed, as follows:

1. **TERM** - The term of this extension shall be for ten (10) years, which shall commence on June 6, 2006 and end on June 6, 2016.
2. **RENT** -- Tenant agrees to pay to the Landlord as and for rent amounts detailed and attached below.
3. **LEASEHOLD IMPROVEMENTS** - TENANT agrees to construct at its expense, a Train Museum and Depot as depicted in Exhibit "A-1". Permitting shall be the responsibility of the TENANT. Exhibit "A-1" attached shall replace Exhibit "A" of the Lease. At the termination of the Lease all new structures constructed upon the leased land by TENANT shall be deemed permanent improvements to the land and shall be owned by the LANDLORD at no expense to the LANDLORD. TENANT shall leave the structures in good repair as provided by Paragraph 12 of this Lease. The LANDLORD and TENANT agree that the Flagler Railroad Car, Big Pine Depot and all other personal property shall not become a permanent improvement and shall remain the property of the TENANT.
4. **ALL OTHER PROVISIONS** -- Any and all other provisions contained in the lease dated June 7, 1996, executed by the LANDLORD and TENANT shall remain in effect as part of this lease. The entirety of the terms of the above described lease are specifically incorporated herein by reference, as though fully set forth in complete form herein.

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

Tenant

Witness as to Tenant

Landlord

Witness as to Landlord

"A"). No T-shirt sales will be allowed except Conch Tour Train & Flagler RR shirts, all clothing type display shall be de-minimus in comparison to overall display. Tenant shall not sell any tickets for attractions or vessels which are not tenants of the Key West Bight, from the leased area which directly compete with any other Key West Bight tenants. Any carts or other type portable display shall be operated by the tenant and may not be subleased.

8. Conch Tour Trains shall not block sidewalks on either Caroline St. or Margaret St. except when entering and leaving the "Train Stop Area" (see exhibit "A").

Memo

To: Mayor and Commissioners of City of Key West

From: Mark Summers 

Subject: Conch Tour Trains Lease Addendum

Date: January 10, 1997

- This lease was previously approved (May 1996) by the Commission, however because of the restriction eliminating cart display with this Lease Mr. Swift has had to consider a fully enclosed structure built to FEMA specifications. Without the carts he would have nothing to display merchandise on in the original Pavilion design.
- Mr. Swift has already proceeded with preliminary design and has had to reassess the site plan previously approved. A new lay out is attached.
- The previous lease encompassed 2730 sq ft of land lease for exclusive use of tenant for outdoor display (carts). The new site plan while it takes up more land (8 parking spaces lost) the actual exclusive building area will be roughly the same, of course there will be no outdoor cart display.
- Because of the additional expense to build a full structure FEMA compliant, Mr. Swift has asked to extend the lease to a 20 year term. The rent has been increased to reflect the change in footprint of the leased area.
- This project will be a major attraction for the Bight and represents substantial capital investment (over \$250,000) on the tenants part.
- The terms of this lease are in line with the Master Plan Proforma for land lease parcels in this area of the Bight and were approved by the Bight Board on December 18, 1996. **Staff recommends approval.**

RESOLUTION NO. 96-174

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, ACTING AS THE CAROLINE STREET CORRIDOR AND BAHAMA VILLAGE COMMUNITY REDEVELOPMENT AGENCY APPROVING THE ATTACHED LEASE WITH CONCH TOUR TRAINS, INC.; PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE CAROLINE STREET CORRIDOR AND BAHAMA VILLAGE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF KEY WEST, FLORIDA AS FOLLOWS:

Section 1: That the attached lease with Conch Tour Trains, Inc. is hereby approved;

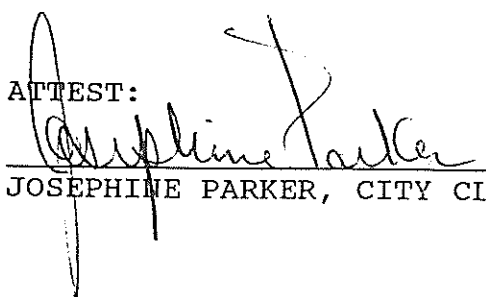
Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission

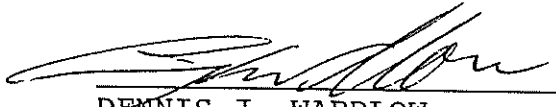
Passed and adopted by the City Commission at a meeting held this 7th day of May, 1996.

Authenticated by the presiding officer and Clerk of the Commission on May 16, 1996.

Filed with the Clerk May 16, 1996.

ATTEST:


JOSEPHINE PARKER, CITY CLERK


DENNIS J. WARDLOW,
Chairman, Caroline Street
Corridor and Bahama Village
Community Redevelopment
Agency

RECEIVED
6/13/96

KEY WEST BIGHT - PROPOSED LEASE TERMS

Tenant Conch Tour Trains, Inc. Size 3,668 sq ft
 Location Margaret St. Sq Ft for CAM 1,690 sq ft $\times 4.71 =$
 Contact Ed Swift Term 20 years

Period	Base Rent	Base Rent per sq. ft.	Rent Cred	Rent Before Extras	Taxes, Ins., Common Area	Total Rent Before Sales Tax	Sales Tax	Total Rent	Percentage Rent over Sales of	Monthly Gross
1	\$29,344	8.00		29344.00	7,960	37303.90	2,798	\$40,101.69	\$489,067	\$3,341.81
2	\$30,151	8.22		30150.96	7,960	38110.86	2,858	\$40,969.17	\$502,516	\$3,414.10
3	\$30,980	8.45		30980.11	7,960	38940.01	2,921	\$41,860.51	\$516,335	\$3,488.38
4	\$31,832	8.68		31832.06	7,960	39791.96	2,984	\$42,776.36	\$530,534	\$3,564.70
5	\$32,707	8.92		32707.45	7,960	40667.35	3,050	\$43,717.40	\$545,124	\$3,643.12
6	\$33,607	9.16		33606.90	7,960	41566.80	3,118	\$44,684.31	\$560,115	\$3,723.69
7	\$34,531	9.41		34531.09	7,960	42490.99	3,187	\$45,677.82	\$575,518	\$3,806.48
8	\$35,481	9.67		35480.70	7,960	43440.60	3,258	\$46,698.64	\$591,345	\$3,891.55
9	\$36,456	9.94		36456.41	7,960	44416.31	3,331	\$47,747.54	\$607,607	\$3,978.96
10	\$37,459	10.21		37458.97	7,960	45418.87	3,406	\$48,825.28	\$624,316	\$4,068.77
11	\$38,489	10.49		38489.09	7,960	46448.99	3,484	\$49,932.66	\$641,485	\$4,161.06
12	\$39,548	10.78		39547.54	7,960	47507.44	3,563	\$51,070.50	\$659,126	\$4,255.87
13	\$40,635	11.08		40635.10	7,960	48595.00	3,645	\$52,239.62	\$677,252	\$4,353.30
14	\$41,753	11.38		41752.56	7,960	49712.46	3,728	\$53,440.89	\$695,876	\$4,453.41
15	\$42,901	11.70		42900.76	7,960	50860.66	3,815	\$54,675.20	\$715,013	\$4,556.27
16	\$44,081	12.02		44080.53	7,960	52040.43	3,903	\$55,943.46	\$734,675	\$4,661.95
17	\$45,293	12.35		45292.74	7,960	53252.64	3,994	\$57,246.59	\$754,879	\$4,770.55
18	\$46,538	12.69		46538.29	7,960	54498.19	4,087	\$58,585.56	\$775,638	\$4,882.13
19	\$47,818	13.04		47818.09	7,960	55777.99	4,183	\$59,961.34	\$796,968	\$4,996.78
20	\$49,133	13.40		49133.09	7,960	57092.99	4,282	\$61,374.97	\$818,885	\$5,114.58

Years 2 - 10 base rent increases calculated @ CPI of 2.75% for demonstration purposes only

Exhibit "A-1"

Conch Tour Trains

VACANT
(FUTURE
MUSEUM)

EXISTING
BUILDING

EXISTING
RESTAURANT

EXISTING
RESTAURANT

EXISTING
RESTAURANT

RESTROOM/
SHOWER
FACILITY

EXISTING
BUILDING

EXISTING
BUILDING

COMMERCIAL (TOURIST)

EXISTING
BUILDING

RETAIL
COMMERCIAL

Possible
Trash

MARGARET STREET

PIANO
REPAIR

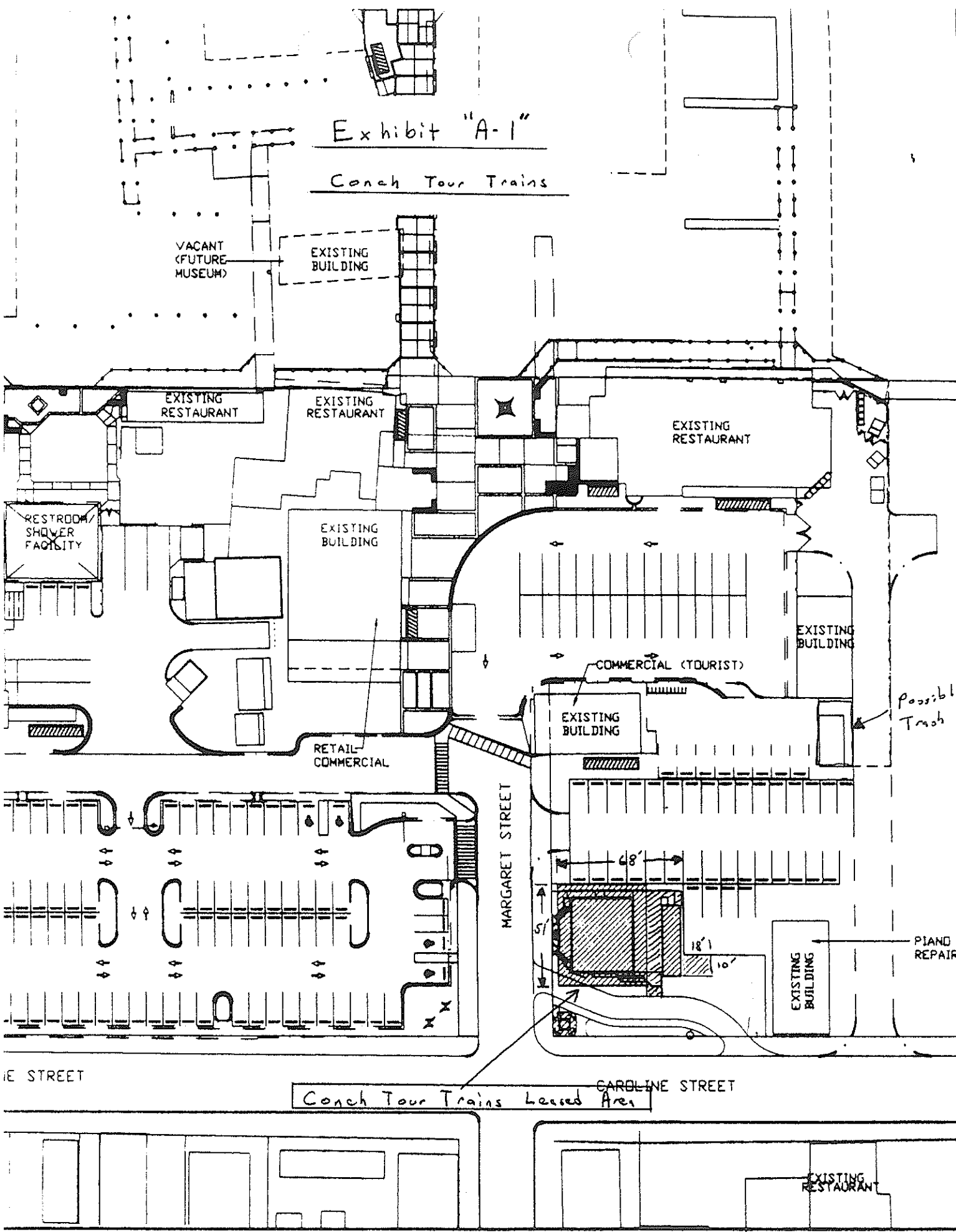
EXISTING
BUILDING

IE STREET

Conch Tour Trains Leased Area

GAROLINE STREET

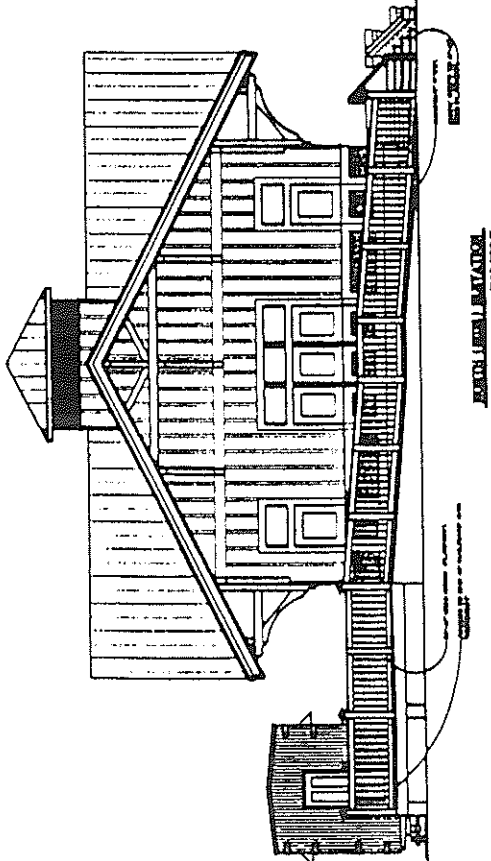
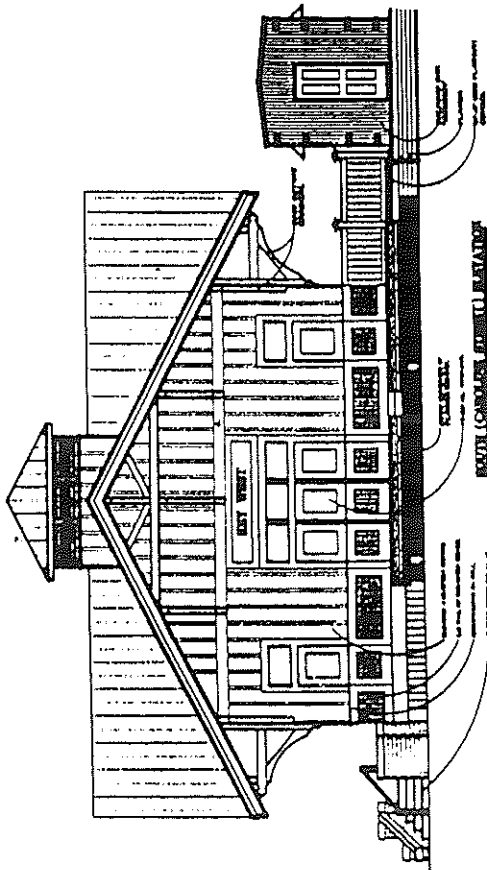
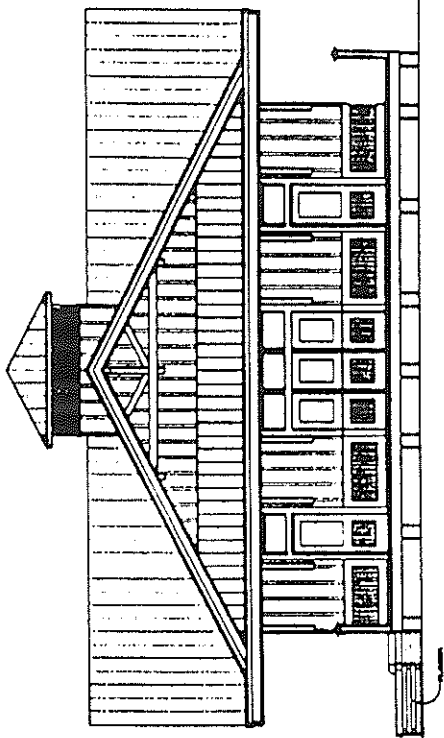
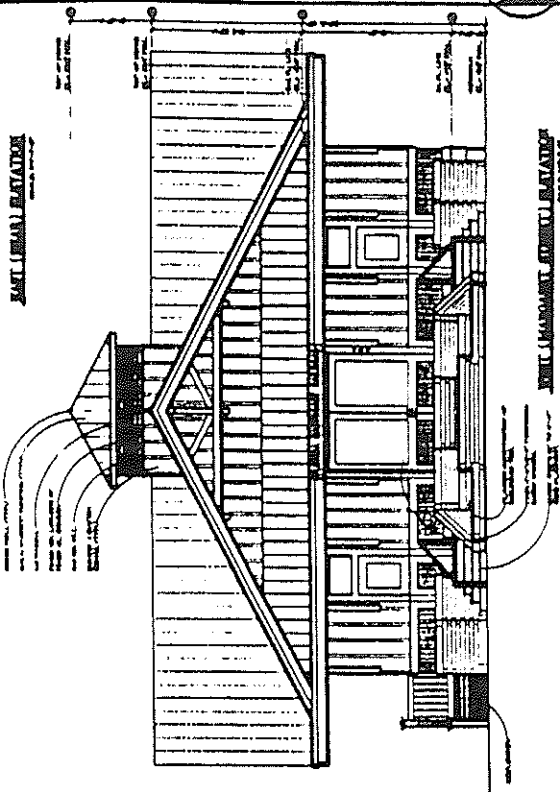
EXISTING
RESTAURANT





ELEVATIONS

CHARLES MCCOY AIA





Key West Bight Lease

THIS LEASE IS MADE AS OF THE 7th DAY OF June, 1996, BY AND BETWEEN THE LANDLORD AND TENANT IDENTIFIED BELOW:

1. INFORMATION PROVISIONS AND DEFINITIONS

1.1 LANDLORD'S NAME & MAILING ADDRESS CITY OF KEY WEST
KEY WEST BIGHT
201 WILLIAM ST.
KEY WEST, FL 33040

1.2 TENANT'S NAME & MAILING ADDRESS
CONCH TOUR TRAINS, INC
601 DUVAL ST. SUITE #5
KEY WEST , FL 33040

TENANT'S TRADE NAME

1.3 GUARANTOR(S) AND ADDRESS:

1.4 LOCATION WITHIN KEY WEST BIGHT CAROLINE & MARGARET ST.

1.5 DEMISED PREMISES (PAR. 1): AS PER EXHIBIT "A"

SPACE NO: _____

LEASABLE AREA (APPROX.)

SQUARE FEET: 2730 sq ft
1 400 FOR CAM

ESTIMATED PERCENTAGE OF LEASABLE AREA OF BIGHT (APPROX.) _____ %

1.6 TERM (PAR. 2)

1.6.1 ESTIMATED COMMENCEMENT DATE: June 6, 1996

1.6.2 TERM (PAR. 2) 10 YEARS (10) LEASE YEARS

1.7 TENANT PAYMENTS (PAR. 3)

1.7.1 MINIMUM RENT FOR TERM: (PAR. 3)

[illegible]

L E A S E

THIS LEASE, made and entered into at Key West, Monroe County, Florida, this 7th day of June, 1996 by and between the **Caroline Street Corridor and Bahama Village Community Redevelopment Agency**, hereinafter called LANDLORD, and **Conch Tour Trains, Inc.**, hereinafter called 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:

1. **DEMISE** - 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 described premises situated, lying, and being in Monroe County, Florida: That portion of the Key West Bight property outlined and/or crosshatched on Exhibit "A" containing the following approximate dimensions and area: It is agreed that the square footage for the purpose of any calculations which are based on square footage is **1400**, notwithstanding any actual measurements which may be taken. The demised premises shall include the land and a structure the Tenant shall build upon the land in accordance with terms of Paragraph 5.

2. **TERM** - The term of this lease shall be for ten (10) years which shall commence on, the date set forth above, subject to the provisions of Paragraph 5 and shall end at midnight on the eve of the tenth anniversary of date of commencement.

3. **RENT** - All rentals provided for herein shall be payable in advance on the first day of each and every month of the term hereof. Any monthly rental not received by the first day of the month shall bear interest at the highest rate permitted by law from such first day until the date it is received. 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.

The rent reserved under this Lease for the term hereof shall be and consist of:

- (a) Tenant agrees to pay to the Landlord as and for rent equal monthly installments of *\$1,820.00 in advance, on the first day of each and every calendar month during the term of this Lease except that Tenant shall pay, upon execution and delivery of this Lease by Tenant, the sum of \$1,820.00 plus sales tax, together with ~~\$594.50~~ 549.50 representing the first month's portion of the estimated share of expenses per Section 2c of this Lease, plus applicable sales tax, to be applied against the first installments of fixed rent becoming due under this Lease. *See Section 3(e) for changes in rent.
- (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) The estimated Common Area Charges for the first Lease Year are \$3,024, payable in advance, in Monthly Installments of \$252.00 each. Actual Common Area Charges will be determined, and necessary adjustments will be made at the expiration of each Fiscal Year in accordance with this Section.

The Common Area Charges are based on the Estimated Schedule of Common Area Charges attached hereto as Schedule A. These charges are only estimates. The tenant shall be responsible for all Common Area Charges actually incurred on a pro rata assessment basis determined by the square footage of the demises premises. Any increase in the common area charges shall result in an increase in the Tenant's share of the Common Area Charges. Common Area Charges assessed after the base year shall not increase in any given year by more than 5% of the previous year's common area assessment. The base year for the purpose of limiting increases in Common Area Charges shall be Oct. 1, 1995 - Sept. 30, 1996 (base year). 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 Charges shall include any and all expenses reasonably incurred in the operation and maintenance of the Bight property Common Area including management and administrative fees. Major capital improvements will not be included in Common Area Charges.

Commencing with the 1st day of the Term, Tenant agrees to pay to Landlord, as Additional Rent, Tenant's Proportionate Share of Common Area Maintenance Charges, in Monthly Installments as specified herein. Such 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.

Tenant shall pay Tenant's Proportionate Share 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 Bight Property against the land, buildings, store rooms, Common Areas and all other improvements within the Upland Bight 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 prorated 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 shall pay Tenant's Proportionate Share of the Insurance Expenses which shall include all insurance premiums incurred by the Landlord in insuring the Upland Bight Property including hazard and liability insurance for any and/or all buildings, improvements and common areas.

Tenant's prorated 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.

____ check
and initial
by Landlord
and Tenant
if applicable

(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 \$364,000, as adjusted pursuant to this Paragraph. 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 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. If by the end of any such preceding month the Gross Sales in the Premises during such Lease Year shall exceed the Percentage Base, 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 Base, less the Percentage Rent, if any, previously paid by Tenant to Landlord during that Lease Year.

"Gross Sales" shall mean the amount of sales of all merchandise or services sold or rendered at or from the 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.

Percentage rent shall not apply to ticket sales for Conch Tour Trains sold at "Ticket Depot" (see Exhibit "A")

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. If any audit shows that the amount of Gross Sales on Tenant's statement was understated by more than 1% for any year, then Tenant (in addition to paying the Percentage Rent due for such understatement) shall pay to Landlord the reasonable cost of the audit.

- (e) The monthly installment referred to in a) above shall be adjusted annually to reflect the preceding years increase/decrease in the **Consumer Price Index - Urban (US avg.)**
- (f) 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 City of Key West, Key West Bight, 201 William Street, Key West, FL 33040.

4. **SECURITY** - Tenant simultaneously with the execution and delivery of this Lease, has deposited with the Landlord the sum of \$2,000.00 the receipt of which is hereby acknowledged, which

sum shall be retained by Landlord 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 therefrom by Landlord pursuant to the provision 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.

5. USE OF THE PREMISES - TENANT shall be entitled to use the premises for a Train Museum, a ticket depot for Trains, the retail sale of souvenirs and marine related or train artifacts, and no other purpose.

Tenant further agrees:

A. To operate its Business 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 Bight, not to display any merchandise, solicit business or distribute advertising material beyond the 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, search lights, window signs, balloons, or similar temporary advertising media on the exterior of the Premises.

D. Not to commit waste in the Premises or Common Areas

and to keep the 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 Premises.

E. Not to use the 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 Bight or annoy, inconvenience or damage its patrons or other tenants; or that would constitute an extra-hazardous use or violate any insurance policy of Tenant, Landlord or any other tenant in the Bight or increase the cost thereof.

F. To keep all garbage, refuse and solid waste inside the Premises in the kind of containers specified by Landlord, or to place the same outside the Premises, prepared for collection, in the manner and at the times and places designated on the attached Site Plan or as otherwise specified by Landlord or the appropriate disposal company. Tenant agrees not to burn or permit any burning of garbage or refuse on the Premises or any part of the Bight. 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. In the event Landlord installs a trash compactor to service the Bight, Tenant shall pay its Proportionate Share of the cost of installing and maintaining such trash compactor.

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 Premises to load and unload from the hours of 12:00 a.m. to 11:00 a.m. and not to permit such trucks to service through the front entrance of the Premises except when no other entrance is available.

I. To take no action that would: (i) violate Landlord's contracts if any, affecting the Bight (including without limitation the use restrictions contained in Landlord's leases with its Major 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 Bight.

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 Bight and its Common Areas.

L. Not to conduct any auction, fire, bankruptcy or selling-out sale on or about the Premises except in strict compliance with City Code Chapter 105.

M. At Tenant's total expense, Tenant shall have the right to build Train Museum and Flagler Depot as depicted in Exhibit "A". Permitting shall be the responsibility of the Tenant. The design of all structures shall be consistent with the conceptual plan as approved by the Key West Bight Management District Board.

N. If all necessary permits are unattainable within nine (9) months of execution of this Lease, the Lease shall automatically terminate unless both parties agree to extend same. Rental payments shall begin 90 days from the date permits are issued, or when final Certificate of Occupancy is issued, whichever occurs first. Tenant's possession of the demised premise shall occur when permits are issued for the limited purpose of constructing the Train Museum and Flagler Depot.

O. Upon the expiration of this lease, the parties may negotiate a new lease for the demised premises. If no such new lease is executed, or upon the ultimate expiration of the contractual relationship between the parties, all structures constructed upon the leased land by Tenant shall be deemed permanent improvements to the land and shall be owned by the Landlord at no expense to the Landlord. Tenant shall leave the structures in good repair as provided by Paragraph 12 of this Lease. The Landlord and Tenant agree that the "Flagler Railroad Car," ~~all display carts~~, and all other personal property shall not become a permanent improvement and shall remain the property of the Tenant. This Paragraph shall take precedence over Paragraph 15 and 16 of this Lease in the event of conflict.

P. In the event of conflict no part of this lease shall be in conflict with any City Ordinance, City Ordinance shall take preference.

Q. Tenant shall not engage in any display or business use of the landscape areas of the Key West Bight not included in

leased premises (see exhibit "A"). No T-shirt sales shall be allowed on the premises except for Conch Tour Train & Flagler RR shirts. Display of clothing shall be at a minimus in relation to the display of all material on the premises. At the demised premises Tenant shall not sell any tickets for attractions or vessels that are not tenants of the Key West Bight, which would be competition for any Key West Bight Tenant. ~~Any carts or other type portable display shall be operated by the tenant and may not be subleased.~~

R. Conch Tour Trains shall not block sidewalks on either Caroline St. or Margaret St. except when entering and leaving the "Train Stop Area" (see exhibit "A").

S. Prior to the start of construction by Tenant on the land that is subject of this Lease, Tenant shall execute a Hold Harmless and Indemnity Agreement with the Landlord in which Tenant shall agree to hold harmless the City for any injuries to person or property that might arise during or result from the construction phase of the demised premises.

6. 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.

7. TENANT'S DUTY TO PAY INSURANCE PREMIUMS - TENANT covenants and agrees with LANDLORD that TENANT will pay the premiums for all insurance policies which TENANT is obligated to carry under the terms of this lease and will deliver the said policies or certificates in respect of same and the evidence of payment to the LANDLORD. TENANT shall carry liability insurance in amounts of \$1,000,000 / 1,000,000. TENANT shall carry liability insurance which provides coverage for any incidents arising out of TENANT's use of the demised premises. TENANT shall be required to carry insurance covering any property whether it be inventory or furniture and fixtures or any other property belonging to TENANT. 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. All policies of insurance

required of the Tenant shall name the City of Key West as additional insured and copies shall be provided to the Landlord.

8. 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.

This Tenant may assign the Lease without the written consent of the Landlord for the sole and limited purpose of collateralizing a loan from a financial institution.

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.

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.

9. 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 landlords 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 estopped from asserting any defaults known to tenant at that time.

10. CONDEMNATION CLAUSE

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 premises be wholly taken by condemnation, or if the portion taken will prevent the 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.

11. DEFAULT CLAUSE

A. It is further covenanted and agreed by and between the parties hereto that in case at any time default shall be made by the TENANT in the payment of any of the rent herein provided for within ten days (10) of the day the same becomes due and payable; or 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 said demised premises or any part thereof during said 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 said 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 non payment 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 said demised term ended and to re-enter upon said premises, building, and improvements situated thereon, or any part hereof, either with or without process of law, the said TENANT hereby waiving any demand for possession of said premises and any and all buildings and improvements then situated thereon; In the event of non payment of rent, this notice shall not be required.

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 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 tenants shall hold the said 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 said premises under the statute and shall be subject to eviction or removal, forcibly or otherwise, with or without process of law.

C. Bankruptcy or Insolvency - If at any time during the term hereof proceedings in bankruptcy shall be instituted against TENANT and which proceedings have not been dismissed within a reasonable time period, and which bankruptcy results in an adjudication of bankruptcy; or if any creditor of TENANT shall file any petition under Chapter X of the Bankruptcy Act of the United States of America, as it is now in force or may hereafter be amended; and TENANT be adjudicated bankrupt, or TENANT makes an assignment for the benefit of creditors; or sheriff, marshall, or

constable take possession thereof by virtue of any attachment or execution proceedings and offer same for sale publicly, and such taking and offer for sale is not rescinded, revoked, or set aside within ten (10) days thereafter, then LANDLORD may, at its option, in any of such events, immediately take possession of the premises and terminate this lease. Upon such termination, all installments of rent earned to the date of termination and unpaid, shall at once become due and payable; and in addition thereto, LANDLORD shall have all rights provided by said bankruptcy laws relative to the proof of claims on an anticipatory breach of an executory contract. The grace period for the curing of default shall not apply to this event of default.

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 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. If at any time, by reason of the failure of the TENANT to keep and perform any covenant or agreement which, under the terms of this lease, the TENANT is bound and obligated to keep and perform, it becomes necessary for LANDLORD to employ an attorney to protect the rights and interests of the LANDLORD in the property demised or to enforce the lease or proceed under it in any particular, then in any of such events, the TENANT will owe and will pay unto LANDLORD all costs of Court and reasonable attorneys fees incurred or expended by the LANDLORD in taking such actions, including actions taken in all trial and appellate courts.

12. TENANT'S DUTY TO KEEP PREMISES IN GOOD REPAIR - The TENANT covenants and agrees with the LANDLORD that during the continuance of this lease, the TENANT will keep in good state of repair and in current condition, the demised premises and all furnishings brought or placed 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.

13. 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 the square footage of the demised premises and/or the TENANT's estimated usage of that particular utility.

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 premises or to terminate

this lease or to violate any of its provisions or to cause any abatement or rebate in the rent then due or thereafter becoming due under the terms hereof, unless otherwise specifically provided for herein. If the lease be canceled for the TENANT's default at any time while there remains outstanding any obligation from any insurance company to pay for the damage or any part thereof, then the claim against the insurance company shall, upon the cancellation of the within-lease, be deemed immediately to become absolute and unconditional property of the LANDLORD. In the event of destruction to the 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 H-VAC 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 premises and all buildings and improvements located thereon, as well as the TENANT's interest in all 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.

14. LANDLORD'S RIGHT OF ENTRY - The LANDLORD or its agents shall have the right to enter upon the 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 premises. If the said premises are damaged by fire, windstorm, or by any other casualty which caused the premises to be exposed to the elements, then the LANDLORD may enter upon the premises to make emergency repairs. LANDLORD may enter upon the 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.

15. EQUIPMENT, FIXTURES AND SIGNS

All furnishings, fixtures, trade fixtures, equipment, and signs used on the 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 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 premises, and provided further, that TENANT will pay or reimburse LANDLORD for the reasonable expense of repairing damage caused by such removal.

16. The TENANT accepts the 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.

17. MISCELLANEOUS PROVISIONS - It is mutually covenanted and agreed by and between the parties as follows:

A. That no waiver of a breach of any of the covenants in this lease contained shall be construed to be a waiver of all succeeding breach of the same covenant.

B. That time is of the essence in every particular and particularly where the obligation to pay money is involved.

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

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

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

F. That this instrument 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: 201 William Street
Key West, FL 33040

AS TO TENANT: 601 Duval St. Suite #5
Key West, FL 33040

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.

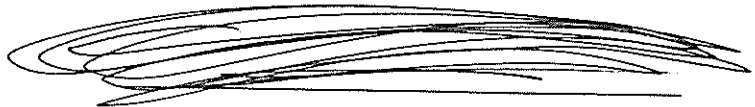
H. This lease and the provisions thereof shall be governed by and construed and enforced in accordance with the laws of the State of Florida.

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.

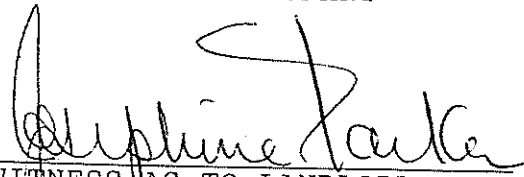
J. Landlord may delegate its decision making authority regarding any provision of this lease to an Advisory Board.

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

Conch Tour Trains, Inc.




WITNESS AS TO TENANT


WITNESS AS TO LANDLORD

THE CITY OF KEY WEST

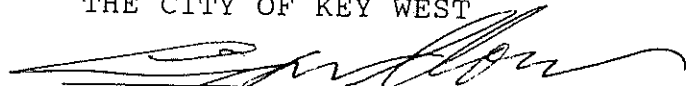
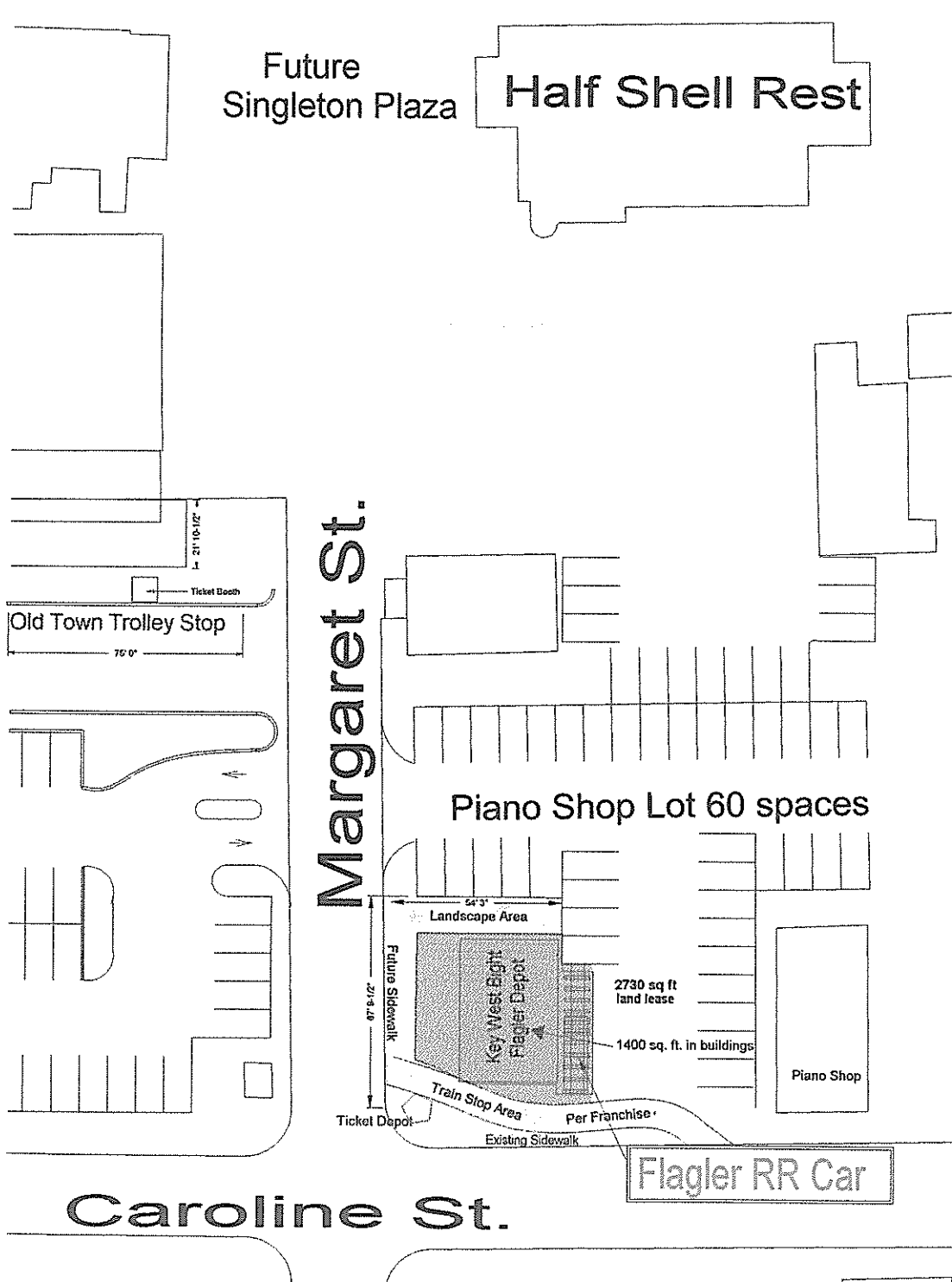

BY: Dennis J. Wardlow, Mayor Chairman
Caroline Street Corridor + Behrens Village
Community Redevelopment Agency

Exhibit "A"

Land Lease Area

Train Depot

as allowed by franchise



Schedule A

KE. WEST BIGHT
COMMON AREA CHARGES

Maintenance Charges	FY 95 Budget	FY 95 est actual	FY 96 BUDGET
LABOR			
Staff - General maintenance; bathrooms & garbage, landscaping & grounds, including fica & work comp	56,000	41,020	70,000
UTILITY SERVICE			
Garbage - Plazas & Harbour walk Power, Water & Sewer Bathrooms & Harbourwalk	25,000	7,480	25,000
REPAIR & MAINTENANCE			
Electrical repair, bulb & fixture replacement.	13,000	0	13,000
Landscaping materials & supplies	6,000	0	6,000
Signage repair & replacement	6,000	0	6,000
Misc, materials & supplies	2,000	0	2,000
	27,000	2,487	27,000
OPERATING SUPPLIES			
Cleaning materials & supplies for bathrooms, plazas and harbourwalk	18,000	4,866	12,000
SECURITY SERVICES			
	34,000	18,176	26,000
	160,000	74,029	160,000
ADMINISTRATIVE OVERHEAD 50%			
	80,000	37,015	80,000
	240,000	111,044	240,000
PROMOTIONAL FUND			
	70,000	17,255	35,000
TOTAL			
	310,000	128,298	275,000
50% TENANTS	155,000	64,149	137,500
50% CITY	155,000	64,149	137,500
Insurance Charges			
	FY 95 Budget	FY 95 est actual	FY 96 BUDGET
Direct All Risk Policy	77,005	75,454	61,379
Umbrella Policy Allocation	62,039	62,039	62,039
M.O.L.L.	8,500	26,582	26,582
Total Insurance Cost	147,544	164,075	150,000
Insurance Applicable to Businesses			
Direct All Risk Policy	77,005	75,454	61,379
Self Insurance Allocation from Umbrella	10,000	10,000	62,039
	87,005	85,454	123,418
Insured Values			
Buildings 3,500,000 .56	0.56	0.56	0.56
Docks 2,800,000 .44			
6,300,000 100			
Building Insurance	48,723	47,854	69,114
Building Area	65,000	65,000	65,000
Allocation Per Sq. Ft.	\$0.75	\$0.74	\$1.06
Estimated leased area sharing in common area 1994 - 1995			
	65,000	sq ft	65,000
Common Area Maintenance & Promotional Fund			
Estimated Total Cost	310,000	128,298	275,000
50% Shared to Leased Area	155,000	\$2.38	64,149
		\$0.99	137,500
			\$2.17
Realty Taxes			
Estimated Total Costs	160,000	149,692	149,692
Less: Marina (43,000)		0.3 (40,372)	0.3 (40,372)
Bayside Trailer Park (10,000)		0.1 (9,084)	0.1 (9,084)
Share to Leased Area	107,000	\$1.65	100,236
		\$1.54	100,236
			\$1.51
Insurance			
Estimated Total Costs	147,544	164,075	150,000
Share to Leased Area	48,723	\$0.75	47,854
		\$0.74	69,114
			\$1.04
	\$4.78	\$3.27	\$4.72

KEY WEST BIGHT - PROPOSED LEASE TERMS

Tenant Conch Tour Trains, Inc
~~Tropical Shell & Gift, Inc.~~ Size 2,730 sq ft
 Location Margaret St. Sq. Ft. for CAM 1,400 sq ft
 Contact Ed Swift or Mike Cates Term 10 years

Period	Base Rent	Base Rent per sq. ft.	Rent Credit	Rent Before Extras	Taxes, Ins., Common Area	Total Rent Before Sales Tax	Sales Tax	Total Rent	Percentage Rent over Sales of	Monthly Gross
1	\$21,840	8.00		21840.00	6,594	28434.00	2,133	\$30,566.55	\$364,000	\$2,547.21
2	\$22,441	8.22		22440.60	6,594	29034.60	2,178	\$31,212.20	\$374,010	\$2,601.02
3	\$23,058	8.45		23057.72	6,594	29651.72	2,224	\$31,875.60	\$384,295	\$2,656.30
4	\$23,692	8.68		23691.80	6,594	30285.80	2,271	\$32,557.24	\$394,863	\$2,713.10
5	\$24,343	8.92		24343.33	6,594	30937.33	2,320	\$33,257.63	\$405,722	\$2,771.47
6	\$25,013	9.16		25012.77	6,594	31606.77	2,371	\$33,977.28	\$416,879	\$2,831.44
7	\$25,701	9.41		25700.62	6,594	32294.62	2,422	\$34,716.72	\$428,344	\$2,893.06
8	\$26,407	9.67		26407.39	6,594	33001.39	2,475	\$35,476.49	\$440,123	\$2,956.37
9	\$27,134	9.94		27133.59	6,594	33727.59	2,530	\$36,257.16	\$452,227	\$3,021.43
10	\$27,880	10.21		27879.77	6,594	34473.77	2,586	\$37,059.30	\$464,663	\$3,088.27

Years 2 - 10 base rent increases calculated @ CPI of 2.75% for demonstration purposes only

Special Terms

1. Tenant shall have right to build at his expense train museum and depot as depicted in conceptual drawing. Permitting shall be the responsibility of the tenant.
2. If permits are unattainable within 9 months of execution of the lease said lease shall automatically terminate unless both parties agree to extend same.
3. Rent shall begin 90 days from permits being issued or when final CO is signed whichever occurs first.
4. At the term of the lease if parties do not negotiate a new lease the "Flagler Depot" (pavillion) shall remain as an improvement to the owners property; the "Flagler RR Car" and any display carts, fixtures, etc. not a physical part of the depot structure shall be the property of the tenant.
5. No part of this lease shall be in conflict with any City Ordinance and if found to be in conflict City Ordinance shall take preference.
6. Percentage rent shall not apply to ticket sales for Conch Train Depot (included in Franchise with City)
7. No display or business use of landscape areas not included in leased area (see exhibit

"A"). No T-shirt sales will be allowed except Conch Tour Train & Flagler RR shirts, all clothing type display shall be de-minimus in comparison to overall display. Tenant shall not sell any tickets for attractions or vessels which are not tenants of the Key West Bight, from the leased area which directly compete with any other Key West Bight tenants. Any carts or other type portable display shall be operated by the tenant and may not be subleased.

8. Conch Tour Trains shall not block sidewalks on either Caroline St. or Margaret St. except when entering and leaving the "Train Stop Area" (see exhibit "A").