

## LESSOR ESTOPPEL CERTIFICATE

**Lessor:** City of Pensacola

**Lessee:** Downtown Property Group USA, LLC, a Florida corporation

**Assignee:** Harbourmaster Pensacola, LLC, a Florida limited liability company

**Lease:** Amended and Restated Lease Agreement dated May 16, 2008, and recorded in Book 6330 at Page 87 of the Official Records of Escambia County, Florida; as amended by that certain Amendment to Amended and Restated Lease Agreement dated May 14, 2014, and recorded in Book 7156, at Page 1324 of the Official Records of Escambia County, Florida; and as assigned by that certain Assignment of Amended and Restated Lease Agreement dated April 9, 2014, and recorded in Book 7156, at Page 1450 of Official Records of Escambia County, Florida (collectively, the “**Lease**”)

**Lender:** ServisFirst Bank

**Date:** \_\_\_\_\_, 2021

Pursuant to Article XVI(A) of the Lease, Lessor certifies to Lessee, Assignee and Lender as follows:

(a) The Lease, attached hereto as Exhibit “A”, is a true, correct and complete copy of the agreement between Lessor and Lessee.

(b) The Lease has not been modified or amended and is in full force and effect.

(c) The assignment of the Lease from Lessee to Assignee has been approved by Lessor.

(d) Lessor understands and acknowledges that Assignee intends to finance its acquisition of the Lease with Lender, and as security for said financing, intends to grant Lender a Mortgage and Security Agreement on its interests in the Lease (“**Mortgage**”). Lessor consents to the Mortgage, subject in all respects to the terms of the Lease. Any correspondence, notice of default or notice of non-compliance from Lessor to Lessee or Assignee shall also be sent to Lender and Lender shall have the right to cure any default by Assignee. Lender’s current address is 219 E. Garden Street, Pensacola, FL 32502 and Lender shall promptly notify Lessor of a change to Lender’s address.

(e) As of the date hereof, to our knowledge, no default, or state of facts which with the passage of time or notice would constitute a default under the Lease exists by either Lessor, Lessee, or Assignee.

[A separate signature page follows.]

City of Pensacola

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

*Harbourmaster Pensacola, LLC – signature page to Lessor Estoppel Certificate*

Recorded in Public Records 05/20/2008 at 04:30 PM OR Book 6330 Page 87,  
Instrument #2008038689, Ernie Lee Magaha Clerk of the Circuit Court Escambia  
County, FL Recording \$231.00

Prepared by and Return to:

Daniel R. Lozier  
Lozier, Thames, Frazier,  
Spencer & Schlieter, P.A.  
24 West Chase Street  
Pensacola, FL 32502  
(850) 469-0202

STATE OF FLORIDA

COUNTY OF ESCAMBIA

AMENDED AND RESTATED LEASE AGREEMENT

This Amended and Restated Lease Agreement ("Lease Agreement" or the "Agreement") is entered into effective the 16<sup>th</sup> day of May, 2008, by and between the CITY OF PENSACOLA, FLORIDA, a municipal corporation of the state of Florida, hereinafter called the "Lessor" or "City", and MARINA MANAGEMENT CORP., a Florida corporation, hereinafter called the "Lessee" or "Developer", whose address is c/o Daniel R. Lozier, 24 West Chase Street, Pensacola, Florida 32502, Harbourmaster Building, LLC, a Florida limited liability company, wholly owned by Lessee, hereinafter called the "Sublessee", whose address is c/o Daniel R. Lozier, 24 West Chase Street, Pensacola, Florida, 32502, and Icehouse Property, LLC, a Florida limited liability company, and wholly owned by Lessee, hereinafter called "Icehouse", whose address is c/o Daniel R. Lozier, 24 West Chase Street, Pensacola, Florida, 32502.

**WITNESSETH:**

WHEREAS, certain of the parties hereto are parties to that certain South Palafox Marina Lease Agreement dated on or about June 12, 1997, and recorded in Official Records Book 4203 at Page 1071 of the Public Records of Escambia County, Florida, as subsequently amended by that certain First and Second Amendment to South Palafox Marina Lease Agreement recorded in Official Records Book 4720 at Pages 1937-1944 of the Public Records

of Escambia County, Florida, as subsequently amended by that certain Third Amendment to South Palafox Marina Lease Agreement recorded on Official Records Book 5303 at Pages 1691-1697 of the Public Records of Escambia County, Florida, which South Palafox Marina Lease Agreement as amended is hereinafter referred to as the "Marina Lease"; and

WHEREAS, certain of the parties hereto are also parties to that certain South Palafox Commercial Lease Agreement dated on or about November 30, 1998 and recorded in Official Records Book 4396 at Page 0733, of the Public Records of Escambia County, Florida, which Lease was subsequently amended by that certain First Amendment to South Palafox Commercial Lease Agreement, and that certain Second Amendment to South Palafox Commercial Lease Agreement, both of which amendments are recorded in Official Records Book 4575 at Pages 0768-0789, of the Public Records of Escambia County, Florida, and further amended by that certain Third Amendment to South Palafox Commercial Lease Agreement dated on or about November 9, 2000, and recorded in Official Records Book 4684 at Pages 0932-0937 of the Public Records of Escambia County, Florida, which South Palafox Commercial Lease Agreement, as amended, is hereinafter referred to as the "Commercial Lease"; and

WHEREAS, the Marina Lease and the Commercial Lease were executed and delivered in connection with the redevelopment, development, construction, and operation of a marina and of commercial and residential upland improvements on property owned by the City and leased to Lessee along what is commonly called or referred to as the "Palafox Pier Peninsula"; and

WHEREAS, pursuant to the terms of the Marina Lease and the Commercial Lease, Lessor and Lessee substantially completed the intended redevelopment of the Palafox Pier Peninsula; and

WHEREAS, Lessee previously assigned its interest in a portion of the property leased pursuant to the Commercial Lease by that certain Partial Assignment of Lease dated May 7, 2001 and recorded in Official Records Book 4720 at Page 1945 of the Public Records of Escambia County, Florida (which assignment is hereinafter referred to as the "Condominium Assignment"); and

WHEREAS, Lessee also assigned its interest in a portion of the property leased pursuant to the Marina Lease to Icehouse by that certain Partial Assignment of Lease dated June 27, 2005 and recorded in Official Records Book 5672 at Page 402 of the Public Records of Escambia County, Florida (which assignment is hereinafter referred to as the "Icehouse Assignment"); and

WHEREAS, Lessee also subleased a portion of the property leased pursuant to the Marina Lease, by that certain Sublease dated on or about May 1, 2006, and recorded in Official Records Book 5928 at Page 1065 of the Public Records of Escambia County, Florida (hereinafter "Sublease"), which Sublease was subsequently assigned to Sublessee pursuant to that certain Assignment of Sublease as recorded in Official Records Book 6147 at Page 1161 of the Public Records of Escambia County, Florida; and

WHEREAS, Lessor and Lessee desire to further segregate and remove certain of the various parcels leased under the Marina Lease and Commercial Lease (as such parcels are described and depicted in Exhibit A to the Marina Lease) from the Marina Lease and Commercial Lease, and enter into this new lease with respect to said parcels so that such parcels are represented by a separate and independent lease agreement between the parties and their respective successors and assigns;

NOW THEREFORE, in consideration of the foregoing, and in consideration of their mutual covenants, terms, and conditions hereinafter expressed, the parties hereto agree as follows:

### **I. PREMISES LEASED**

Lessor, hereby leases to Lessee the property described in Exhibit "A" as Parcel 1, attached and incorporated by reference, which property is hereinafter referred to as the "Subject Property", together with the improvements constructed and to be constructed thereon, subject to the terms, provisions and conditions of this Lease Agreement. Upon mutual agreement of Lessor and Lessee, the Subject Property may be expanded to include additional property described as Parcel 2 in Exhibit "A" and depicted in Attachment "A" to Exhibit "A" hereto ("Additional Property"), and Lessee may additionally acquire the exclusive right to use the three (3) Northernmost parking spaces depicted on said Attachment, at no additional cost to Lessee provided: (i) Lessee agrees to restrict the use of such Additional Property and the ground floor of the building located on the Subject Property to a restaurant, nightclub and/or bar, or other use acceptable to Lessor; and (ii) the parties negotiate and execute a document setting forth such other terms and conditions related to such use as the parties deem appropriate at such time, including but not limited to lease fees for the additional property, term of use restrictions, penalties for non-compliance, and a possible license to use other property near or adjacent to the Subject Property or Additional Property for outdoor dining or other use acceptable to Lessor.

### **II. EASEMENTS/PUBLIC PROPERTY**

Lessor reserves an easement for public pedestrian access and public utilities over, under and across the upland portion of the Subject Property upon which no buildings, improvements, fixtures, equipment, or furnishings have been or will be constructed.

Said property (hereinafter collectively referred to as the "Public Property") has been improved by the City for public use as hereinafter provided.

### **III. LEASE TERM**

The term of this lease shall be for a period of one hundred (100) years commencing June 12, 1997 ("Effective Date"), and ending on June 12, 2097.

### **IV. USE OF SUBJECT PROPERTY**

The Subject Property shall be developed and utilized substantially in the same manner as currently developed and utilized as of the date hereof and for further and other uses incidental thereto and compatible therewith including but not limited to commercial, residential, retail, indoor and outdoor restaurant, nightclub, and/or bar, and other uses incidental thereto or consistent therewith Lessee shall at all times comply with all governmental laws, ordinances and regulations relating to the Subject Property and the Project, shall keep the Subject Property and the Project clean and free of trash and debris and shall not use the Subject Property and the Project in any way or manner which would cause injury to the buildings or structures on the Subject Property or which would constitute a nuisance to others.

### **V. CONSTRUCTION OF IMPROVEMENTS**

All utilities on the Subject Property and adjacent "Public Property" shall be underground. No alterations or additions to the improvements to be placed upon the Subject Property shall be made at any time without the prior written consent of the Lessor which shall not be unreasonably withheld, nor shall Lessor alter the Public Property immediately adjacent to the Subject Property without Lessee's consent which shall, not be unreasonably withheld. In the event the other party shall so consent, all work shall be done in a good and workman-like manner and in compliance with governmental rules and regulations, all at the cost of the party making said alterations or additions. The subsequent removal of any such fixed additions or

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structural alterations shall be authorized by both parties and shall be at the cost of the party making such additions or alterations who shall restore the Subject Property to the same Condition as it existed prior to the structural alterations and fixed additions so removed.

#### **VI. TITLE TO IMPROVEMENTS**

Title to the Subject Property, including any building or other improvement of a permanent character that shall be placed upon the Subject Property, shall immediately vest in Lessor subject to this Lease or any renewal or extension hereof.

#### **VII. MAINTENANCE AND REPAIRS**

Lessee shall, during the term of this Lease or any subsequent extension, maintain and repair in good condition all of the Subject Property and constructed thereon. Lessor shall maintain and repair the Public Property and improvements constructed thereon.

It is agreed between the parties that the development of the Subject Property, the other parcels developed under the Marina Lease and Commercial Lease, and the Public Property, is one of the most visible and important parts of the City of Pensacola and the parties intend that they shall maintain such property and all improvements thereon in good condition and in new or near-new exterior condition and appearance during the entire term of this lease. Lessee shall, at its sole cost and expense, maintain the Subject Property in a clean manner, free of refuse and debris, in good order and repair and shall keep all the elements and systems of the Subject Property in good working order, repair and appearance, including, without limitation, all structural elements, all utilities systems, roofs, exterior walls, walkways, drive-ways, docks, piers, boat slips, floors, doors, windows, toilets, electrical fixtures, gas fixtures, fuel storage and distribution facilities, parking areas, and all waste water removal and disposal facilities to the extent that they or any of them are located within the Subject Property. Any damage to the Public Property caused by or through uses of Lessee, its invitees, guests, employees or Lessees



will be repaired by Lessee at its own cost.

It is agreed and understood that if, through normal wear and tear or otherwise, the buildings and improvements upon the Subject Property shall deteriorate so that they are not in compliance with current governmental codes and regulations or if the appearance thereof shall look shabby or deteriorated, they will be brought into compliance by Lessee or Lessor as the case may be, at such party's sole cost and expense and the appearance upgraded or improved to good condition and new or near-new exterior condition and the parties shall continue to maintain such buildings and improvements and the Subject Property and the Public Property, to such standards of appearance and condition during the entire term of this lease. Because of the long term of this lease, exceptions for normal wear and tear shall not be considered.

#### **IX. ACCESS TO PROPERTY**

During the term of this Lease, Lessee shall permit representatives of the Lessor access to the Subject Property at all reasonable times deemed necessary for inspection of all work being performed in connection with the construction of the improvements on the Subject Property.

#### **X. PERFORMANCE SCHEDULE**

Performance by both parties shall be extended when delays result from fire, storm, inclement weather, forces of nature, governmental restrictions enacted subsequent to this instrument, civil disobedience, riots, war, work stoppage, or other causes beyond the reasonable control of the parties.

#### **XI. COVENANTS AND RESTRICTIONS**

Lessor and Lessee agree that the following restrictions shall be covenants running with the land, and shall be binding on Lessor, Lessee, and the successors and assigns of the parties,

and all other successors in interest to the leased property, or any part thereof:

A. That the Subject Property and Public Property shall be devoted only to and used in accordance with the uses contemplated by the Marina Lease and Commercial Lease and as specified in Section IV hereto.

B. That all utility distribution lines shall be placed underground.

C. The westernmost ten (10) feet (more or less) of the Subject Property shall not be occupied by any building, wall, or other permanent or semi-permanent structure other than a railed terrace and a roof overhang. The cost of constructing the terrace, including the elevation thereof, steps, ramps, or access ways, the railing (which meets Lessor's safety standards), and the cost of pavers similar to those placed on the public ways by Lessor, shall be borne and paid by Lessee.

## **XII. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT**

To the extent insurance policy proceeds are insufficient to cover the same, the Lessee shall hold the Lessor, its subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives and agents, harmless from any and all claims, suits, actions, damages, liability and expense, including reasonable attorneys fees, in connection with loss of life bodily or personal injury or property damage, including loss or use thereof, directly or indirectly caused by, resulting from, arising out of or occurring in connection with Lessee's performance under this Lease or Lessee's use of the Subject Property.

To the extent insurance policy proceeds are insufficient to cover the same, the Lessee shall defend and indemnify the Lessor and save it harmless from any and all claims, suits, actions, damages, liability and expense, including reasonable attorneys fees in connection with loss of life, bodily or personal injury, and property damage arising from or out of any occurrence in, upon, at or about the leased premises or any part thereof, or occasioned wholly or in part by

any act or omission of the Lessee, its agents, contractors, employees, servants, invitees, licensees or concessionaires.

The parties acknowledge and agree that Lessor's rights and remedies under this Article XI shall, not be deemed Lessor's exclusive rights and remedies.

Notwithstanding the aforesaid, before Lessee shall have any obligation of indemnity hereunder, Lessor shall provide notice to Lessee, reasonable under the circumstances, of the matter for which indemnification is claimed hereunder and shall thereafter, provide Lessee with an opportunity, reasonable under the circumstances, to defend, litigate, compromise, arbitrate, appeal, settle, or otherwise resolve said matter, to the reasonable satisfaction of the Lessor.

### **XIII. ENVIRONMENTAL INDEMNITY**

Lessee shall fully and promptly pay, perform, discharge, indemnify and hold Lessor harmless from any and all claims, orders, demands, causes of actions, proceedings, judgments or suits in all liabilities, losses, costs or expenses (including, without limitation, technical consultant fees, court costs, expenses paid to third parties and reasonable legal fees) and damages arising out of or as a result of, any contamination or pollution discharged, released, deposited, dumped, spilled, leached, leaked, or placed into, on or from the Subject Property at anytime after the commencement of this Lease or the commencement of this Lease or the commencement of construction, which ever shall occur first.

Lessee shall indemnify, hold harmless and defend, Lessor, its council members, officers and employees against and in respect of any and all damages, costs, expenses (including, without limitation, fines, penalties, consequential damages and remedial costs) and other liabilities arising from claims based upon the environmental condition of the Subject Property or any portion thereof and the surrounding property (including, without limitations, all

facilities, improvements, structures and equipment thereon and all soil and ground water thereunder and all waters which form a part thereof), resulting from (a) Lessee's leasehold ownership of the Subject Property, or operations thereon by or on behalf of Lessee, its affiliates, agents, successors, tenants, transferees, or tenants of the transferees (b) claims arising out of, related to, or in connection with (i) the release of any hazardous or toxic substance, waste, constituent or other substance into, onto or from the Subject Property after the commencement date of this lease or commencement date of this Lease or commencement of construction by Lessee, whichever occurs first; or (ii) any arrangement by Lessee, its affiliates, successors, agents, tenant transferees or tenants of transferees, for the treatment, recycling, storage or disposal of any facility owned or operated by any person or entity of a hazardous or toxic substance, waste, constituent or other substance which is present on the Subject Property, or which has been or may be deposited at, disposed on, or released onto the Subject Property; and (c) claims related to demolition, clean up or other remedial measures with regard to environmental conditions on or around the Subject Property by Lessee, its affiliates, successors, agents, tenants, transferees or tenants of transferees. Notwithstanding the foregoing, Lessee does not indemnify Lessor, and Lessor shall indemnify Lessee, for claims related to the environmental conditions caused prior to the initial date of Marina Lease (with respect to the Subject Property originally leased under the Marina Lease) or Commercial Lease (with respect to the Subject Property originally leased under the Commercial Lease), whichever is applicable, except and only to the extent such conditions are not made worse by the negligent or unreasonable acts or omissions of Lessee, its affiliates, successors, agents, tenants, transferees or tenants of transferees. Lessor and Lessee, prior to seeking indemnity hereunder, shall first give the other party prior reasonable notice of and a reasonable opportunity to defend, cure or litigate (including all appeals) with third parties, all matters for which indemnification is

sought hereunder.

#### **XIV. CONTROL AND SAFETY**

The Lessee shall retain reasonable control over its employees, agents, servants, subcontractors, guests, invitees and its activities on or about the Subject Property and shall exercise reasonable caution for the reasonable protection of the general public. The parties acknowledge and agree that the Lessee shall not be deemed an agent of the Lessor.

#### **XV. INSURANCE REQUIRED**

Lessee shall, at its sole cost and expense, maintain insurance and provide Lessor with certificates of insurance in accordance with the Schedule of Insurance as shown on Exhibit "F" to the Marina Lease during the life of this Lease Agreement. The Lessee will not take possession of the Subject Property or commence construction activities on the Subject Property until certificates have been approved by the Lessor's Department of Risk Management. The Lessor shall have the right to make reasonable periodic increases to the minimum required limits of insurance on Exhibit "F" of the Marina Lease during the term of this Lease Agreement, but in any event said increases shall occur no more frequently than once on each second annual anniversary of the prior increase or commencement of coverage.

#### **XVI. SPECIAL PROVISIONS**

A. Lessee, its successors, and assigns may assign its interest in this Lease Agreement provided that Lessee is not in default of any of its obligations under this Lease Agreement and provided further that the Lessee obtains the prior written consent of the Lessor to such assignments, which consent shall not be unreasonably withheld, delayed, or conditioned. Lessor shall provide such estoppels or certifications as Lessee may reasonably require in connection with any intended assignment. Upon any such assignment, the assigning party shall no longer remain obligated hereunder.

B. The Lessee shall have the right to collaterally assign its interest in this Lease subject to all the terms of this Lease Agreement. There shall be no subordination of this Lease Agreement.

C. The Subject Property shall be placed on the city and county tax rolls for the purpose of levying the full amount of ad valorem taxes that would be due as if Lessee owned the fee simple title to the Subject Property, which amount is hereinafter referred to as the "Full Measure". The Lessee shall pay the Full Measure of any and all ad valorem real property taxes or other taxes that may be levied against the Subject Property during the term of this Lease Agreement. In the event that at any time during the period of this Lease, the law of Florida or interpretation of the law of Florida by an appropriate appellate court is altered so that less than the Full Measure is required to be paid on the Subject Property, then, and in that event, the Lessee shall pay to the Lessor on an annual basis, as additional lease payments, an amount equivalent to the difference between the Full Measure and any other tax or levy paid in lieu of the Full Measure. "Ad valorem taxes" shall mean city, county and state taxes on improved and unimproved real property.

D. The Lessee shall post or cause to be posted a construction bond reasonably suitable to Lessor, at the commencement of any construction of Improvements on the Subject Property and said bond shall remain for the duration of the construction.

E. The Lessor and Lessee agree to cooperate and use their respective best efforts to assist the Lessee under the Marina Lease and such lessee's immediate and remote successors and assigns (herein referred to as the "Marina Owner") in securing in the name of the Lessor, any modification to permits and approvals received to construct piers, docks, boat slips, and all other marina facilities pursuant to the Marina Lease.

F. Lessee agrees that it will not discriminate upon the basis of race, creed, color,

national origin, age, or sex in the construction, subleasing, use, occupancy, or *operation of the* Subject Property *or in the improvements to be* erected thereon and that each contract, sublease or agreement with respect thereto shall specifically contain substantially the following provision:

**EQUAL OPPORTUNITY PROVISION:**

In the construction and operation of the improvements, neither the lessee nor any contractor or manager employed by Lessee shall discriminate against any employee or applicant for employment because of race, color, religion, age, sex or national origin, and they shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, age, sex or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by Lessee setting forth the provisions of the Equal Opportunity Provision and to cause any contractor, subcontractor or manager to do likewise.

The Lessee, its Sublessee and any contractor or manager shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, age, sex or national origin. They shall send to each labor union or representative of workers with which they, or any of them, have a collective bargaining agreement or other contract or understanding, a notice, to be provided by Lessee, advising the labor union or workers' representative of their commitments under this Equal opportunity Provision and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

Lessee certifies it does not maintain or provide for its employees any segregated facilities at any of its establishments and it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Lessee certifies further

that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom or otherwise. Lessee further agrees that it will obtain identical certificates from proposed sublessee, contractors, subcontractors and managers prior to the award of any contracts or subleases, and that it will retain such certificates in its files.

G. Intentionally Omitted.

H. The Lessee, the Lessor, and its or their respective transferees, grantees, successors, and assigns irrevocably releases the Lessor, its agents or assigns, and the Marina Owner, from any and all claims for damages resulting from dredging operations by the Lessor or Marina Owner from any and all claims for damages resulting from dredging operations by the Lessor or Marina Owner now or during the term of the Lease or any extension thereof, including the incidental depositing of dredged materials resulting from dredging, bulk heading, and/or rip rapping, except as may result from the gross negligence of intentional misconduct of the Lessor, Marina Owner, or its respective agents or subcontractors

I. Lessor and Lessee acknowledge that the Marina Owner shall have the right to own and operate a marina on parcels adjacent to the Subject Property pursuant to the Marina Lease and that Marina Owner shall have the right to establish and impose reasonable rules and



regulations pertaining to the nature, type, and number of such transient, commercial and special purpose vessels permitted in the marina, as well as to establish, impose, and enforce reasonable rules, regulations, conditions, or limitations of use of the marina and related facilities.

J. It is specifically understood, acknowledged and agreed that except as specified in this Section J: this Amended and Restated Lease Agreement does not amend nor modify Lessee's or Developer's parking rights as granted in the Marina Lease or Commercial Lease; nor does this Amended and Restated Lease Agreement make specific provision for parking rights with respect to the Subject Property described herein; and parking rights, if any, with respect to the Subject Property described herein, shall be represented if at all, by a separate instrument executed by Lessee or Developer granting such rights with respect to the Subject Property.

Lessee, its successors, and assigns shall have exclusive use of the five (5) southernmost parking spaces located on the west side of the north-bound side of South Palafox Street as depicted in Exhibit "B" hereto.

K. Lessee shall have the right, at the Lessee's sole cost and expense to relocate utility service equipment serving the improvements on the Subject Property to the south end of the landscaping island or median strip in the center of South Palafox Street, subject to prior approval of Lessor, which shall not be unreasonably withheld.

L. Lessee and Lessor covenant and agree to provide prior notice to each other, reasonable under the circumstances, of special events being conducted from time to time on the Public Property, and to coordinate such events with each other for the purpose of maintaining traffic flow to and from the Subject Property, and minimizing adverse impacts of such events on Lessee's activities on the Subject Property.

**XVII. ENFORCEMENT OF LEASE; FORFEITURE DEFAULT;  
REMEDIES; NONWAIVER**

Lessor may enforce the performance of this Lease Agreement in any manner not prohibited by law:

A. If Lessee shall abandon, desert, or vacate the Subject Property or any portion thereof.

B. If default shall be made by Lessee in the payment of the lease payments (from any source) as specified in this Agreement.

C. If default shall be made by Lessee in the performance of any of the terms or conditions of this Agreement that Lessee is to perform.

D. If Lessee shall fail to comply with any of the statutes, ordinances, rules or regulations of any governmental body governing or regulating the Subject Property or the Lessee's business.

E. If Lessee shall file a petition in bankruptcy, or make an assignment for the benefit of creditors, or be adjudicated a bankrupt, or take advantage of any insolvency act, Lessor shall notify Lessee of any such default and of Lessor's intention to declare this Lease Agreement forfeited. The notice from Lessor shall be sent as specified in this Lease Agreement or may be delivered to Lessee personally, and unless Lessee shall have removed or cured the default or commenced taking action that will result in the default being removed or cured within ninety (90) days (five (5) days for defaults in the payment of Lease Payments, Taxes or to provide insurance required hereunder from the date of Lessor's notice of intention to declare the Lease Agreement forfeited (unless extended by written agreement of Lessor and Lessee), this Lease Agreement shall come to an end, as if the date established by notice of forfeiture were the day originally fixed herein for the expiration of the term of this Lease Agreement without any further notice from Lessor to Lessee. Lessor's agent or attorney shall have the

right, without further notice or demand, to re-enter and remove Lessee and Lessee's property from the leased property without being deemed guilty of any trespass.

The failure of either party to insist, in any one or more instances, on a strict performance of any of the terms or conditions of this Lease Agreement or to exercise any option set forth in this Lease Agreement shall not be construed as a future waiver or a relinquishment of the provision or option, but it shall continue and remain in full force and effect. The receipt by Lessor of rent, with knowledge of the breach of any term or condition hereof, shall not be deemed a waiver of the breach and no waiver by Lessor of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Lessor.

#### **XVIII. WASTE**

Lessee shall repair, replace and maintain the Subject Property and all improvements placed thereon in reasonably good condition and shall use all reasonable precaution to prevent waste, damage or injury to the Subject Property or to any third parties. In the event of damage to or destruction of any improvements hereafter constructed on the Subject Property by fire, windstorm, flood, water or any other cause whatsoever, Lessee shall, within a reasonable time, repair or rebuild such structures so as to place the same in as good and tenable condition as existed before the event causing such damage or destruction; failure to do so shall constitute a breach of this Lease. Lessee shall maintain the Subject Property in any event to preserve the initial intended uses in good repair throughout the term of the lease and any extension hereof.

#### **XIX. ATTORNEY'S FEES**

If default be made by Lessor or Lessee in the performance of any of the terms, covenants, agreements or conditions set forth in this Lease Agreement so that it becomes necessary to place the enforcement of this Lease Agreement or any part of this Lease Agreement, or the collection of any rent due or to become due hereunder or the recovery or possession of the leased property

in the hands of an attorney or to file suit upon this Lease Agreement, the prevailing party shall be entitled to recover all the costs incurred in such action, including a reasonable attorney's fee, including those incurred on appeal.

## **XX. NOTICES**

All notices provided in this Lease Agreement shall be deemed sufficient when sent via U.S. Certified Mail, Return Receipt Requested, postage prepaid, to the following addresses:

<u>Lessor:</u>	CITY OF PENSACOLA c/o City Manager City Hall Pensacola, Florida 32501
<u>Lessee:</u>	Marina Management, Corp. c/o Daniel R. Lozier, Esquire 24 West Chase Street Pensacola, Florida 32502
<u>Sublessee:</u>	Harbourmaster Building, LLC c/o Daniel R. Lozier, Esquire 24 West Chase Street Pensacola, Florida 32502
<u>Sublessee:</u>	Icehouse Property, LLC c/o Daniel R. Lozier, Esquire 24 West Chase Street Pensacola, Florida 32502

## **XXI. PROVISIONS BINDING**

The terms and provisions of this Lease Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns, respectively.

## **XXII. AMENDMENT**

This Lease Agreement may not be altered, changed or amended except by an instrument in writing approved by Lessor's City Council, signed by the parties hereto.

## **XXIII. SEVERABILITY**

If any provision of this Lease Agreement shall be declared in contravention of law or

void as against public policy, such provisions shall be considered severable and the remaining provisions of this Lease Agreement shall continue in full force and effect.

#### **XXIV. PARAGRAPH HEADINGS**

The paragraph headings in this Lease Agreement are intended for convenience only and shall not be taken into consideration in any construction or interpretation of this Lease Agreement or any of its provisions.

#### **XXVI. ENTIRE AGREEMENT**

This instrument constitutes the entire agreement between Lessor and Lessee on the subject of this Lease Agreement in so far as it relates to the Subject Property and all prior or contemporaneous oral or written agreement or representations of any nature with reference to the subject matter of this Lease Agreement in so far as it relates to the Subject Property are canceled and superseded by the provisions of this Lease Agreement.

#### **XXVII. WAIVER**

Failure on the part of either party to complain of any action or non-action on the part of the other, no matter how long it may continue, shall never be deemed to be a waiver by said party of any of its rights under this Lease Agreement. Further, it is covenanted and agreed that no waiver at any time of any of the provisions of this Lease Agreement by any party shall be construed as a waiver at any subsequent time of the same provisions.

The consent or approval by either party to or of any action by the other requiring said party's consent or approval shall not be deemed to waiver or render unnecessary said party's consent or approval to or of any subsequent similar act.

#### **XXVIII. TIME OF THE ESSENCE**

Time is of the essence of each and every provision, covenant and condition of this Lease Agreement on the part of Lessor and Lessee to be done and performed.

**XXIX. GOVERNING LAW**

This Lease Agreement is subject to and shall be governed by the laws of the State of Florida.

**XXX. RADON GAS**

Radon Gas is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risk to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida.. Additional information regarding radon and radon testing may be obtained from the Escambia County Public Health Unit.

**XXXI. LEASE RENEWAL**

While this language shall not operate as a renewal of the lease or a promise to renew the lease after the expiration of the term, if the governing body of the Lessor is and has been satisfied with the performance with the Lessee during the one hundred (100) year term hereof, the governing body of the Lessor is encouraged to consider an arrangement which would extend and renew the relationship with Lessee, its successors and assigns, as herein established on such terms as shall at the time be deemed appropriate by the governing body of the Lessor.

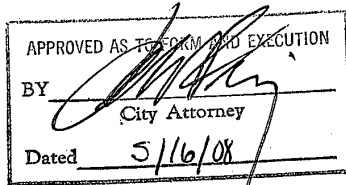
**XXX. CROSS DEFAULTS/SUPERSEDURE/SUBLEASE TERMINATION**

Notwithstanding anything in the Commercial Lease, the Marina Lease, the Condominium Assignment, the Icehouse Assignment, or herein to the contrary, a default under any lease of any parcel of property described in the Marina Lease or Commercial Lease shall not constitute a default hereunder or under any other lease of any other parcel of property leased under the Marina Lease or Commercial Lease, nor shall a default under the Marina Lease or Commercial Lease constitute a default hereunder. Solely with respect to the Subject Property described on Exhibit A attached hereto, this Amended and Restated Lease Agreement supersedes and replaces the Marina Lease and the Commercial Lease.

BK: 6330 PG: 107

Sublessee acknowledges and agrees that the Sublease shall be deemed terminated and replaced with this Lease Agreement at such time as this Lease Agreement is executed by all parties hereto, and thereafter assigned by Lessee to Sublessee and Sublessee covenants and agrees to execute and deliver such documents as Lessor may request for the purpose of documenting such termination and replacement.

EXECUTED in multiple original copies to be effective as of the day and year first above written.



CITY OF PENSACOLA,  
a municipal corporation of Florida, Lessor

By: Thomas J. Bonfield  
City Manager  
Thomas J. Bonfield

Ericka L. Burnett  
City Clerk/ Ericka Burnett

{SEAL}

MARINA MANAGEMENT CORP.  
a Florida Corporation, Lessee

By: Leo Pagan  
Its: PRESIDENT

Meredith Wilkin  
Witness  
Print Name: Meredith Wilkin  
Joshua J. Hesse  
Witness  
Print Name: TOSHIA HESSE

BK: 6330 PG: 108

HARBOURMASTER BUILDING, LLC  
a Florida limited liability company, Sublessee

By: [Signature]Its: PRESIDENT

[Signature]  
Witness

Print Name: Meredith Wilkinson

[Signature]  
Witness

Print Name: TOSHIA HASSE

ICEHOUSE PROPERTY, LLC  
a Florida limited liability company, Subsidiary

By: [Signature]Its: PRESIDENT

[Signature]  
Witness

Print Name: Meredith Wilkinson

[Signature]  
Witness

Print Name: TOSHIA HASSE

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 16<sup>th</sup> day of May, 2008, by TOM BONFIELD and ERICKA BURNETT, the City Manager and City Clerk, respectively, of the CITY OF PENSACOLA, a municipal corporation of Florida, for and on behalf of the City. Said persons (✓) are personally known to me or ( ) have produced \_\_\_\_\_ as identification.

(seal)

NOTARY PUBLIC

Commission No.: DD 684667My Commission expires: June 12, 2011



BK: 6330 PG: 109

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 5 day of May, 2008 by Leo Cyr, President, on behalf of MARINA MANAGEMENT CORP., a Florida Corporation who (✓) is personally known to me or who ( ) has produced \_\_\_\_\_ as identification.



*Meredith Wilkinson*  
NOTARY PUBLIC

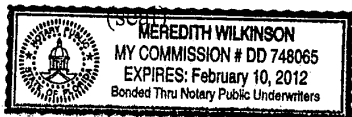
Commission No.: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 5 day of May, 2008 by Leo Cyr, President, on behalf of HARBOURMASTER, LLC, a Florida limited liability company, who (✓) is personally known to me or who ( ) has produced \_\_\_\_\_ as identification.



*Meredith Wilkinson*  
NOTARY PUBLIC

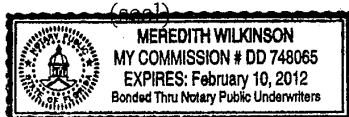
Commission No.: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 5 day of May, 2008 by Leo Cyr, President, on behalf of ICEHOUSE PROPERTY, LLC, a Florida limited liability company, who (✓) is personally known to me or who ( ) has produced \_\_\_\_\_ as identification.



*Meredith Wilkinson*  
NOTARY PUBLIC

Commission No.: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

O:\DRLFiles\RUSSENBERGER\PALAFOX\ORIG+Amend\MarinaLeaseBLKHrbmstrClean1.28.08.rtf

**EXHIBIT A****Parcel 1**

That certain parcel known as and referred to as "Marina Lease Area B-2" or the "Harbourmaster Building", the legal description for which is as follows:

Commence at the Northwest corner of Lot 1, Block 34, of the Waterfront Tract or Pintado Grant according to the map of the City of Pensacola copyrighted by Thomas C. Watson in 1906; thence South 10 degrees 34'11" East along the Westerly line of said Block 34 and the extension thereof for a distance of 257.00 feet; thence North 78 degrees 25'49" East for a distance of 8.12 feet; thence North 79 degrees 23'15" East for a distance of 117.00 feet; thence South 10 degrees 36'45" East for a distance of 642.43 feet; thence North 79 degrees 29'51" East for a distance of 288.58 feet; thence South 10 degrees 37'31" East for a distance of 520.29 feet; thence South 79 degrees 29'22" West for a distance of 114.07 feet; thence South 10 degrees 44'42" East for a distance of 10.79 feet for the Point of Beginning.

Thence continue South 10 degrees 44'42" East for a distance of 125.00 feet; thence North 79 degrees 15'18" East for a distance of 40.00 feet; thence North 10 degrees 44'42" West for a distance of 83.00 feet; thence North 79 degrees 15'18" East for a distance of 20.00 feet; thence North 10 degrees 44'42" West for a distance of 17.00 feet; thence North 79 degrees 15'18" East for a distance of 18.00 feet; thence North 43 degrees 43'22" East for a distance of 25.81 feet; thence North 10 degrees 44'42" West for a distance of 10.00 feet; thence South 79 degrees 15'18" West for a distance of 99.00 feet to the point of Beginning.

Containing 0.15 acres, more or less and all lying and being in Section 46, Township 2 South, Range 30 West, Escambia County, Florida.

which property is also depicted and described in Official Records Book 4575 at Page 0783 of the Public Records of Escambia County, Florida, and on Attachment "A" hereto.

**Parcel 2**

All areas north and west of brick wall and brick pavers as depicted on Attachment "A" hereto, the legal description for which is as follows:

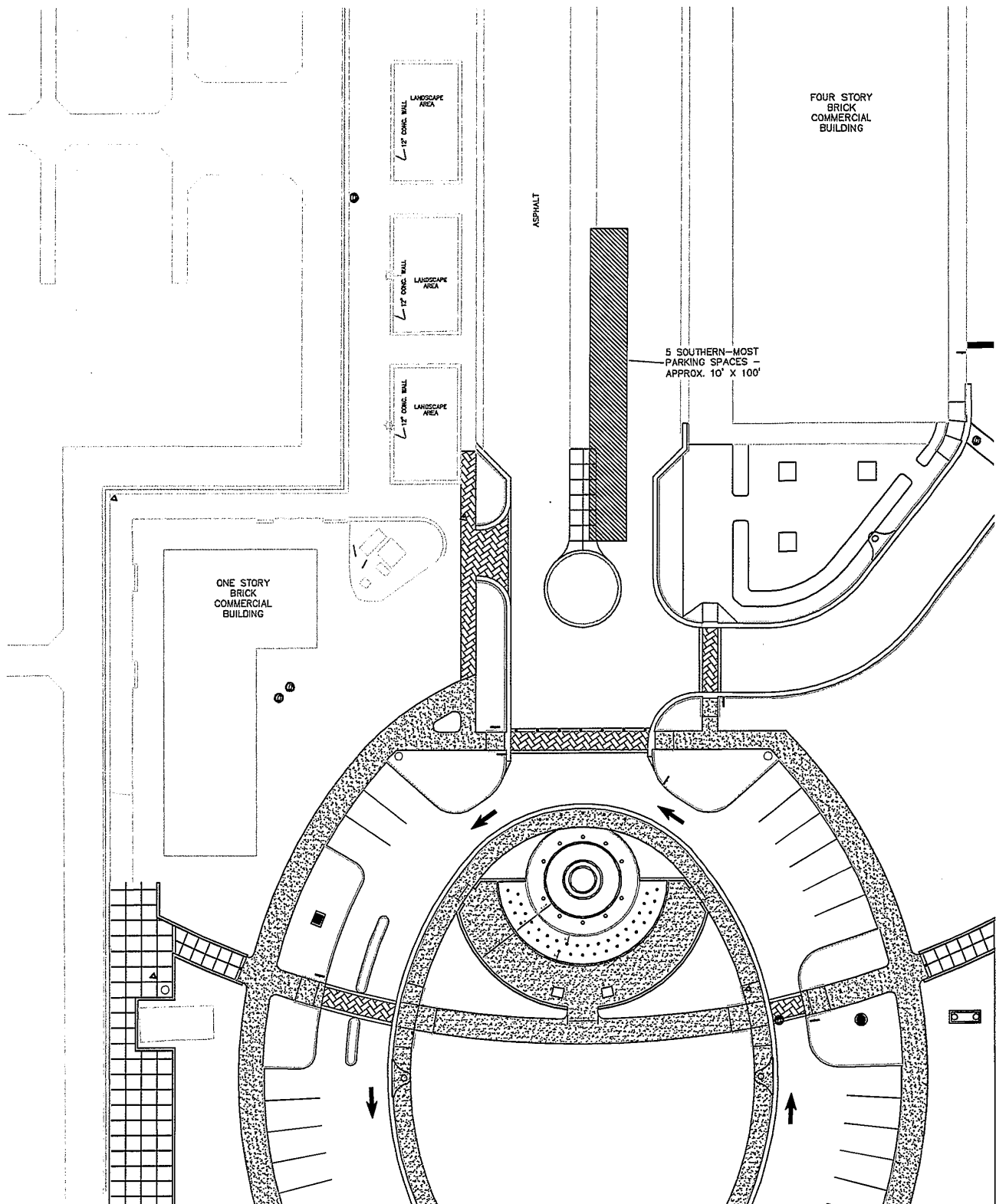
Lots 11, 12, 13, 14, and 15, and the South 95 feet of Lots 28 and 29, and the South 95 feet of the East 14 feet of Lot 25, all in Block 35, of the Waterfront Tract in the City of Pensacola, Escambia County, Florida, according to map of said City copyrighted by Thomas C. Watson in 1906; together with that certain strip of hard-surfaced land

BK: 6330 PG: 111

25 feet in width, used as a parking area, adjoining and lying North of the North line of the building located on said Lot 11, extended on the East to Palafox Street and on the West to the waters of Baylen Street Slip, and on the West of the waters of Baylen Street Slip, and which said land is located between the West line of Palafox Street on the East and the waters of Baylen Street Slip on the West. (Formerly conveyed by previous deeds of realty recorded in Official Record book 4079 at pages 1467, 1469, and 1471 and Book 5234 page 1462.)



## EXHIBIT B



Recorded in Public Records 04/09/2014 at 04:37 PM OR Book 7156 Page 1324,  
Instrument #2014024718, Pam Childers Clerk of the Circuit Court Escambia  
County, FL Recording \$44.00

### **Amendment to Amended and Restated Lease Agreement**

Whereas, City of Pensacola, Florida ("Lessor") and Marina Management Corp. ("Lessee") entered into an Amended and Restated Lease Agreement dated May 16, 2008; recorded in O.R. Book 6330 at page 87 of the public records of Escambia County, Florida as joined in by HARBOURMASTER BUILDING, L.L.C., a Florida limited liability company ("Sublessee") and ICEHOUSE PROPERTY, L.L.C. a Florida limited liability company ("Subsidiary"); and

Whereas, it was determined that the legal description set forth in Parcel 2 in O.R. Book 6330 at page 110 and 111 was in error;

It is therefore, for good and valuable consideration, agreed as follows:

1. The legal description in Parcel 2 as set forth in Parcel 2 in O.R. Book 6330 at page 110 and 111 is deleted and the following description is inserted as Parcel 2:

That certain Parcel known as and referred to as "Marina Lease Area B-1" described as follows:

Commence at the Northwest corner of Lot 1, Block 34, of the Waterfront Tract or Pintado Grant according to the map of the City of Pensacola copyrighted by Thomas C. Watson in 1906; thence South 10 degrees 34 minutes 11 seconds East along the Westerly line of said Block 34 and the extension thereof for a distance of 257.00 feet; thence North 78 degrees 25 minutes 49 seconds East for a distance of 8.12 feet; thence North 79 degrees 23 minutes 15 seconds East for a distance of 117.00 feet; thence South 10 degrees 36 minutes 45 seconds East for a distance of 642.43 feet; thence North 79 degrees 29 minutes 51 seconds East for a distance of 288.58 feet; thence go South 10 degrees 37 minutes 31 seconds East for a distance of 520.29 feet; thence go South 79 degrees 29 minutes 22 seconds West for a distance of 114.07 feet; thence South 10 degrees 44 minutes 42 seconds West for a distance of 10.79 feet; Thence continue South 10 degrees 44 minutes 42 seconds East for a distance of 125.00 feet; thence go North 79 degrees 15 minutes 18 seconds East for a distance of 8.98 feet to the point of beginning; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 4.52 feet; thence go South 76 degrees 07 minutes 18 seconds East for a distance of 41.79 feet to a point on a Non-Tangent curve being concave Southeasterly and having a radius of 137.68 feet; thence go Northeasterly along the arc of said curve having a radius of 137.68 feet for an arc distance of 83.81 feet (Delta= 34 degrees 52 minutes 38 seconds, Chord Bearing=N 18 degrees 32 minutes 15 seconds East, Chord Distance = 82.52 feet) to a Point of Non-Tangency; thence go North 47 degrees 08 minutes 36 seconds East for a distance of 23.83 feet; thence go North 11 degrees 01 minutes 20 seconds West for a distance of 62.36 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 8.21 feet; thence Go South 10 degrees 44 minutes 42 seconds East for a distance of 10.00 feet; thence go South 43 degrees 43 minutes 22 seconds West for a distance of 25.81 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 18.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 17.00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 20.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 83.00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a

BK: 7156 PG: 1325

distance of 31.02 feet to the point of beginning. The above described parcel of land is situate in a portion of Section 46, Township 2 South, Range 30 West, Escambia County, Florida.

The above described property is set forth on that survey by Northwest Florida Land Surveying, Inc. Dated July 9, 2007 as Project Number 17437-BNDY, a copy of which is attached hereto.

2. Except as amended herein, the Agreement remained in full force and effect.

Executed 14<sup>th</sup> day of March, 2014.

CITY OF PENSACOLA,  
a municipal corporation of Florida, Lessor

By: Colleen M. Castille for  
Mayor: Ashton J. Hayward III  
Print Name: Ashton J. Hayward, III

Ericka L. Burnett  
City Clerk/ Ericka Burnett

(SEAL)

*Signed, sealed and delivered*

*in the presence of:*

Crystal Stearns  
Print Name: Crystal Stearns

April L. Swift  
Print Name: April L. Swift

MARINA MANAGEMENT CORP.,  
a Florida Corporation, Lessee

By: Leo J. Cyr  
Leo J. Cyr, its President


Crystal Stearns  
Print Name: Crystal Stearns

April L. Swift  
Print Name: April L. Swift

HARBOURMASTER BUILDING, L.L.C.,  
a Florida limited liability company, Sublessee

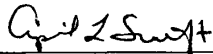
By: Leo J. Cyr  
Leo J. Cyr, its Managing Member

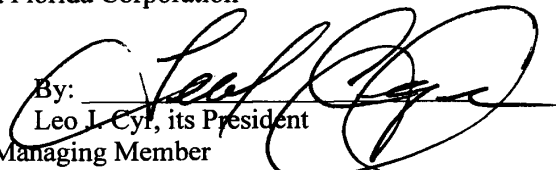
BK: 7156 PG: 1326

  
 Print Name: Crystal Stearns

ICEHOUSE PROPERTY, L.L.C.,  
 a Florida limited liability company, Subsidiary

By: MARINA MANAGEMENT CORP.,  
 a Florida Corporation

  
 Print Name: April L. Swift

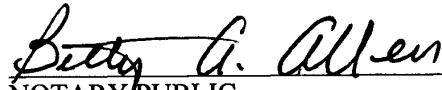
By:   
 Leo J. Cyr, its President  
 Managing Member

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 14<sup>th</sup> day of March, 2014, by Colleen M. Castille and ERICKA BURNETT, the City Administrator and City Clerk, respectively, of the CITY OF PENSACOLA, a municipal corporation of Florida, for and on behalf of the City. Said persons (☒) are personally known to me or ( ) have produced \_\_\_\_\_ as identification.

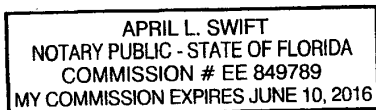


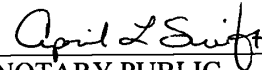
  
 NOTARY PUBLIC  
 Commission No.: EE 139747  
 My commission expires: 10/20/15

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 13<sup>th</sup> day of March AS, 2014, by Leo J. Cyr as President of MARINA MANAGEMENT CORP., a Florida corporation, on behalf of said corporation. Said person ( ) is personally known to me or (X) has produced FL DL as identification.



  
 NOTARY PUBLIC  
 Commission No.: \_\_\_\_\_  
 My commission expires: \_\_\_\_\_

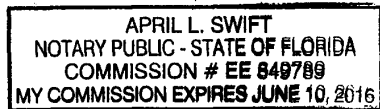


BK: 7156 PG: 1327

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 13<sup>th</sup> day of March, 2014, by Leo J. Cyr as Managing Member of HARBOURMASTER BUILDING, L.L.C., a Florida limited liability company, on behalf of said company. Said person ( ) is personally known to me or ( ☒ ) has produced FL DL as identification.

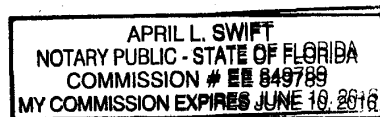


April L. Swift  
NOTARY PUBLIC  
Commission No.: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

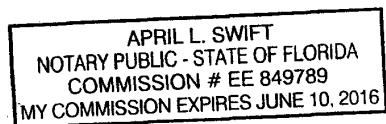
STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 13<sup>th</sup> day of March, 2014, by Leo J. Cyr as President of MARINA MANAGEMENT CORP., a Florida corporation, as managing member of ICEHOUSE PROPERTY, L.L.C. on behalf of said companies. Said person ( ) is personally known to me or (X) has produced FL DL as identification.



April L. Swift  
NOTARY PUBLIC  
Commission No.: \_\_\_\_\_  
My commission expires: \_\_\_\_\_





Recorded in Public Records 04/09/2014 at 04:57 PM OR Book 7156 Page 1450,  
Instrument #2014024761, Pam Childers Clerk of the Circuit Court Escambia  
County, FL Recording \$44.00 Deed Stamps \$14700.00

Prepared by:  
Charles L. Hoffman, Jr., of  
SHELL, FLEMING, DAVIS & MENGE  
226 Palafox Place, 9<sup>th</sup> floor  
Pensacola, Florida 32501  
SFD&M File No.: H5236.00000

#### ASSIGNMENT OF AMENDED AND RESTATED LEASE AGREEMENT ("Assignment")

Harbourmaster Building, L.L.C., a Florida limited liability company ("Harbourmaster"), 1901 Cypress Street, Pensacola, FL 32502, is the current Sublessee under a Sublease dated May 1, 2006, and recorded in O.R. Book 5928 at page 1065 of the public records of Escambia County, Florida, and an Assignment of Sublease dated May 18, 2007 and recorded in O.R. Book 6147 at page 1161 of the public records of Escambia County, Florida; and

Marina Management Corp., a Florida corporation ("Marina Management"), 1901 Cypress Street, Pensacola, FL 32502, is the owner and holder of a Lessee interest under the Amended And Restated Lease Agreement dated May 16, 2008 and recorded in O.R. Book 6330 at page 87 of the public records of Escambia County, Florida and the amendment thereto recorded in O.R. Book 7156 at page 1324 of the public records of Escambia County, Florida ("Amended And Restated Lease") which pertains to property described on Exhibit A; and

Whereas, Harbourmaster and Marina Management desire to assign the Amended and Restated Lease to Downtown Property Group USA LLC, a Florida limited liability company ("Downtown Property"), 997 South Palafox Street, Pensacola, FL 32502, with Harbourmaster receiving a purchase money mortgage and security agreement for \$2,025,000.00 from Downtown Property; and

Whereas, the Assignment has been approved by the City of Pensacola;



It is therefore, for ten dollars (\$10.00) and other good and valuable consideration, agreed as follows:

1. Harbourmaster and Marina Management ("Assignors") do transfer, assign and convey all of their interest in Amended and Restated Lease to Downtown Property Group USA LLC, a Florida limited liability company ("Assignee"). Assignee hereby assumes and covenants to comply with the provisions of the aforesaid Amended and Restated Lease from the date of this Assignment. Assignors covenant that Assignors are the owners of the leasehold estate set forth in the Amended and Restated Lease, that Assignors have the right to transfer the same and have received prior approval of the City of Pensacola with regard to this Assignment, that this Assignment is free and clear of any liens or encumbrances subject to the matters set forth on Exhibit B; that Assignee may at all times peaceably and quietly enter upon, hold, occupy and enjoy said leasehold estate subject to the matters set forth on Exhibit B, that Assignors shall make such further assurances as to protect the Assignee in the leasehold estate under the Amended and Restated Lease and Assignors shall defend the same against the lawful claims of all persons, except as otherwise provided herein.

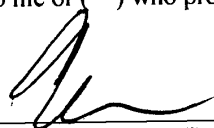
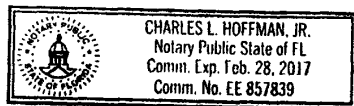
BK: 7156 PG: 1451

Executed on April 9th, 2014.

Witness:

  
\_\_\_\_\_  
Charles L. Hoffman, Jr.  
\_\_\_\_\_  
Charlene C. MabireHarbourmaster Building, L.L.C., a Florida  
limited liability companyBy:   
\_\_\_\_\_  
Leo J. Cyr, Its Managing MemberMarina Management Corp., a Florida  
corporationBy:   
\_\_\_\_\_  
Leo J. Cyr, Its PresidentSTATE OF FLORIDA  
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 9th day of April, 2014, by Leo J. Cyr, Managing Member of Harbourmaster Building, L.L.C., a Florida limited liability company and Leo J. Cyr, President of Marina Management Corp., a Florida corporation on behalf of the company and corporation ( ☒ ) who is personally known to me or ( ☐ ) who produced a valid driver's license as identification.

  
\_\_\_\_\_  
NOTARY PUBLIC - STATE OF FLORIDA  
Typed Name: Charles L. Hoffman, Jr.  
My Commission Expires: 02/28/17

BK: 7156 PG: 1452

## Exhibit "A"

Property as described in: Amended and Restated Lease Agreement dated May 16, 2008 and recorded in O.R. Book 6330, Page 87, Public Records of Escambia County, Florida and the amendment thereto recorded in O.R. Book \_\_\_\_\_, Page \_\_\_\_\_, Public Records of Escambia County, Florida. (As to Parcel 1. Parcel 2 is not conveyed herein as it is only subject to being Additional Property under the terms of the Amended And Restated Lease.)

## Parcel 1

That certain parcel known as and referred to as "Marina Lease Area B-2" or the "Harbourmaster Building", the legal description for which is as follows:

Commence at the Northwest corner of Lot 1, Block 34, of the Waterfront Tract or Pintado Grant according to the map of the City of Pensacola Copyrighted by Thomas C. Watson in 1906; thence South 10 degrees 34 minutes 11 seconds East along the Westerly line of said Block 34 and the extension thereof for a distance of 257.00 feet; thence North 78 degrees 25 minutes 49 seconds East for a distance of 8.12 feet; thence North 79 degrees 23 minutes 15 seconds East for a distance of 117.00 feet; thence South 10 degrees 36 minutes 45 seconds East for a distance of 642.43 feet; thence, North 79 degrees 29 minutes 51 seconds East for a distance of 288.58 feet; thence South 10 degrees 37 minutes 31 seconds East for a distance of 520.29 feet; thence South 79 degrees 29 minutes 22 seconds, West for a distance of 114.07 feet; thence South 10 degrees 44 minutes 42 seconds East for a distance of 10.79 feet to the Point of Beginning. Thence continue South 10 degrees 44 minutes 42 seconds East for a distance of 125.00 feet; thence North 79 degrees 15 minutes 18 seconds East for a distance of 40.00 feet; thence North 10 degrees 44 minutes 42 seconds West for a distance of 83.00 feet; thence North 79 degrees 15 minutes 18 seconds East for a distance of 20.00 feet; thence North 10 degrees 44 minutes 42 seconds West for a distance of 17.00 feet; thence North 79 degrees 15 minutes 18 seconds East for a distance of 18.00 feet; thence North 43 degrees 43 minutes 22 seconds East for a distance of 25.81 feet; thence North 10 degrees 44 minutes 42 seconds West for a distance of 10.00 feet; thence South 79 degrees 15 minutes 18 seconds West for a distance of 99.00 feet to the point of Beginning.

Containing 0.15 acres, more or less and all lying and being in Section 46, Township 2 South, Range 30 West, Escambia County, Florida.

Which property is also depicted and described in Official Records Book 4575 at Page 0783 of the Public Records of Escambia County, Florida.

Parcel 2 (This parcel is not conveyed herein as it is only subject to being Additional Property under the terms of the Amended And Restated Lease)

That certain Parcel known as and referred to as "Marina Lease Area B-1 "

Described as follows:

Commence at the NorthWest corner of Lot 1, Block 34, of the Waterfront Tract or Pintado Grant according to the map of the City of Pensacola copyrighted by Thomas C. Watson in 1906; thence South 10 degrees 34 minutes 11 seconds East along the Westerly line of said Block 34 and the extension thereof for a distance of 257.00 feet; thence North 78 degrees 25 minutes 49 seconds East for a distance of 8.12 feet; thence North 79 degrees 23 minutes 15 seconds East for a distance of 117.00 feet; thence South 10 degrees 36 minutes 45 seconds East for a distance of 642.43 feet; thence North 79 degrees 29 minutes 51 seconds East for a distance of 288.58 feet; thence go South 10 degrees 37 minutes 31 seconds East for a distance of 520.29 feet; thence go South 79 degrees 29 minutes 22 seconds West for a distance of 114.07 feet; thence South 10 degrees 44 minutes 42 seconds West for a distance of 10.79 feet; Thence continue South 10 degrees 44 minutes 42 seconds East for a distance of 125.00 feet; thence go North 79 degrees 15 minutes 18 seconds East for a distance of 8.98 feet to the point of beginning; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 4.52 feet; thence go South 76 degrees 07 minutes 18 seconds East for a distance of 41.79 feet to a

BK: 7156 PG: 1453

point on a Non-Tangent curve being concave Southeasterly and having a radius of 137.68 feet; thence go Northeasterly along the arc of said curve having a radius of 137.68 feet for an arc distance of 83.81 feet (Delta= 34 degrees 52 minutes 38 seconds, Chord Bearing=N 18 degrees 32 minutes 15 seconds East, Chord Distance = 82.52 feet) to a Point of Non-Tangency; thence go North 47 degrees 08 minutes 36 seconds East for a distance of 23.83 feet; thence go North 11 degrees 01 minutes 20 seconds West for a distance of 62.36 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 8.21 feet; thence Go South 10 degrees 44 minutes 42 seconds East for a distance of 10.00 feet; thence go South 43 degrees 43 minutes 22 seconds West for a distance of 25.81 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 18.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 17.00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 20.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 83.00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 31.02 feet to the point of beginning. The above described parcel of land is situate in a portion of Section 46, Township 2 South, Range 30 West, Escambia County, Florida.

## Exhibit B

1. Subject to Road right of ways for Hickory Street and Palafox Street and Juniper Street as shown on the Waterfront or Pintado Grant according to the Map of the City of Pensacola copyrighted by Thomas C. Watson in 1906.
2. Terms and Conditions of Amended and Restated Lease Agreement recorded in O.R. Book 6330, Page 87, as amended, and Fourth Amendment recorded in O.R. Book 6343, Page 1672, of the South Palafox Commercial Lease Agreement dated November 30, 1998, by and between the City of Pensacola, Florida and Palafox Pier & Yacht Harbor, Inc., recorded April 15, 1999 in O.R. Book 4396, Page 733, with First and Second Amendment to Lease recorded in O.R. Book 4575, Page 768, Third Amendment to Lease recorded in O.R. Book 4684, Page 932, and Partial Assignment of Lease recorded in O.R. Book 4720, Page 1945, Public Records of Escambia County, Florida, together with the South Palafox Marina Lease Agreement recorded in O.R. Book 4203, Page 1071, and Second Amendment recorded in O.R. Book 4720, page 1937 and 1941, and Third Amendment recorded in O.R. Book 5303, Page 1691, with Partial Assignment of Lease O.R. Book 5672, Page 402.
3. Sublease Agreement from Marina Management Corp., a Florida corporation and Harbourmaster Building, LLC, a Florida limited liability company in favor of Marina Management Corp., a Florida corporation.
4. Sub-Sublease Agreement from Marina Management Corp., a Florida corporation in favor of Palafox Ventures, L.L.C., a Florida limited liability company.
5. Easement Agreement from Assignee in favor of Marina Management Corp., a Florida corporation and Harbourmaster Building, LLC, a Florida limited liability company.
6. Declaration of Covenants and Restrictions document from Assignee in favor of Marina Management Corp., a Florida corporation and Harbourmaster Building, LLC, a Florida limited liability company.
7. Nonexclusive Revocable Parking License recorded in O.R. Book 5027, Page 847, Public Records of Escambia County, Florida.
8. Riparian and littoral rights are not insured.
9. Those portions of the property herein described being artificially filled in land in what was formerly navigable waters, are subject to the right of the United States Government arising by reason of the United States Government control over navigable waters in the interest of navigation and commerce.
10. Rights of the lessees under unrecorded leases.
11. Actual Acreage Content is neither insured nor guaranteed.