

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND THE HILLSBORO LIGHTHOUSE PRESERVATION SOCIETY, INC. TO LEASE PROPERTY FOR A LIGHTHOUSE MUSEUM AND VISITORS CENTER; PROVIDING AN EFFECTIVE DATE.

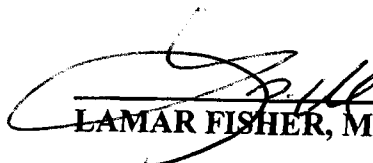
BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That an Agreement between the City of Pompano Beach and the Hillsboro Lighthouse Preservation Society, Inc., to lease property for a Lighthouse Museum And Visitors Center, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Agreement between the City of Pompano Beach and the Hillsboro Lighthouse Preservation Society, Inc.

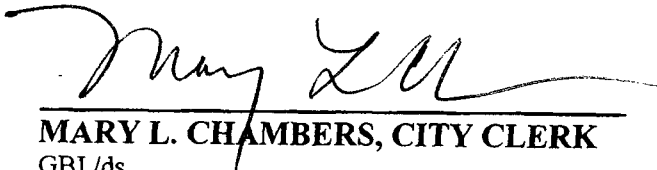
SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this 22nd day of November, 2011.



LAMAR FISHER, MAYOR

ATTEST:



MARY L. CHAMBERS, CITY CLERK
GBL/ds
l:reso/2012-42

LEASE AGREEMENT

THIS IS A LEASE AGREEMENT ("Lease") entered into on November 28, 2011, by and between the CITY OF POMPAÑO BEACH, a municipal corporation of the State of Florida, hereinafter referred to as "CITY," and HILLSBORO LIGHTHOUSE PRESERVATION SOCIETY, INC., a Florida corporation, hereinafter referred to as "LESSEE."

WITNESSETH

WHEREAS, the CITY owns and operates facilities and other improvements at the Hillsboro Inlet Park; and

WHEREAS, the LESSEE is desirous of leasing from CITY certain facilities and improvements at the Hillsboro Inlet Park; and

WHEREAS, the CITY desires to have a Lighthouse Museum and Visitors Center open to the public.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions contained in this Lease and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. PREMISES. CITY leases to LESSEE certain premises delineated in Exhibit "A" attached hereto and made a part hereof, as a portion of the City of Pompano Beach Hillsboro Inlet Property, also described as Lot 32 and 33, Block 10 of HILLSBORO SHORES SECTION "A," according to the Plat thereof, as recorded in Plat Book 21, Page 14 of the Public Records of Broward County, Florida, (the "Premises").

2. PURPOSE. The Premises shall be used as a Lighthouse Museum and Visitors Center, to be operated by the LESSEE to the extent permitted by law. LESSEE shall be allowed to sell, at cost, lighthouse souvenirs that promote the history of CITY and the Hillsboro Inlet Lighthouse. Souvenirs for sale on the Premises are subject to the approval of the City Manager's Office, which shall not be unreasonably withheld.

3. NO ENTRANCE FEE. The LESSEE shall not charge the public an entrance or admission fee for access to the Premises.

4. ACCEPTANCE OF PREMISES. LESSEE acknowledges that it has made a thorough and complete inspection of the Premises, is fully advised of the condition, nature of construction and state of repair, and fully accepts the Premises in the present "as in" condition.

5. NO LIENS CREATED. LESSEE covenants and agrees that LESSEE has no power to incur any indebtedness giving a right to a lien of any kind or character upon the right, title or interest of CITY in and to the Premises. Should any such lien be filed against CITY,

LESSEE shall discharge the same within thirty (30) days thereafter by paying the same or by filing a bond, or otherwise as permitted by law. LESSEE shall not be deemed to be the agent of CITY under any term, paragraph, condition or covenant of this Lease.

6. HOURS OF OPERATION. LESSEE will be permitted to use the Premises between 10:00 a.m. and 4:00 p.m., Monday through Sunday.

7. OPERATING COSTS.

- A. LESSEE agrees to pay promptly all operating costs incurred as a result of LESSEE's business operations on the Premises, which are not by this Lease an expense of CITY.
- B. LESSEE shall deposit all garbage and trash generated by its business operations on a daily basis in enclosed containers located on the Hillsboro Inlet property. LESSEE shall provide for removal, at LESSEE's cost, any garbage and trash that does not fit within the enclosed containers located on the property. Said garbage and trash shall be properly disposed and not be left on the Premises.
- C. CITY shall provide connections for electricity and telephone for LESSEE. CITY shall bill LESSEE for electricity used by LESSEE through the Premises meter(s). LESSEE shall pay directly for telephone services, if such services are desired.
- D. CITY shall be responsible for cleaning the public rest room facilities adjacent to the Premises. LESSEE shall assist the CITY in monitoring the cleanliness of the public rest room facilities.

8. REPAIRS, MAINTENANCE AND SURRENDER. LESSEE agrees at its expense to keep, maintain and clean the Premises except as provided otherwise herein, in the same state of repair and condition as existed on the date of commencement of this Lease, reasonable wear and tear excepted. Such maintenance shall include, but not limited to, cleaning windows, washing and waxing floors, carpet cleaning, light bulb replacement, and sweeping and cleaning of sidewalks. LESSEE at its expense agrees to deliver to CITY, upon the termination of this Lease, the entire Premises, including any improvements and fixtures, in the same state of repair and condition as existed on the date of commencement of this Lease, reasonable wear and tear excepted.

A. CITY shall make all exterior repairs, including repairs of the roof and sidewalks, as well as repairs as required because of water entering the demised premises from the roof or other parts of the building or from other causes not under the control of LESSEE. CITY

shall maintain the exterior of the building in good condition. CITY shall maintain the exterior of the premises so as to maintain the value of the capital asset in a manner consistent with generally accepted landlord/tenant responsibilities. LESSEE shall promptly report, in writing, to CITY any defective or dangerous conditions known to LESSEE.

B. CITY shall not be liable to LESSEE for damage to property of LESSEE resulting from its acts, omissions or neglect in the maintenance and operation of the demised premises and facilities; however, CITY shall be otherwise liable to LESSEE for damage to property of LESSEE caused by the intentional or negligent acts of employees of CITY.

9. TERM. The term of this Lease is for the period of five (5) years commencing when the Lease is fully executed. The term may be extended an additional five (5) years on upon request of LESSEE and written approval from CITY.

10. POSSESSION. Delivery of possession of the premises to LESSEE shall be made at the time this Lease is fully executed, provided that LESSEE has delivered to CITY the certificates of insurance as required herein.

11. RENT. The annual rent for the Premises shall be one dollar (\$1.00) plus any applicable tax. In addition to the annual rent and other charges outlined herein, LESSEE shall pay all fees, sales taxes, charges, license fees and taxes of whatever nature, if necessary, as required by federal and state law or ordinance of the City of Pompano Beach resulting from this Lease. No security deposit shall be required.

12. INSURANCE. Throughout the term of this Lease, LESSEE shall maintain liability insurance in the type and amounts set forth in Exhibit "B" attached hereto.

13. ASSIGNMENT AND SUBLEASING. The LESSEE shall not, without prior approval of the CITY, assign or transfer this Lease nor any share, part or interest in it, nor any of the rights or privileges granted by it, nor enter into any contract requiring or permitting the doing of anything under this Lease by an independent contractor unless otherwise expressly provided in this Lease. LESSEE further agrees that it shall not enter into any agreement of any nature, formal or informal, concerning other business activities at the Premises, with any individual, partnership or corporation without prior approval of CITY, it being understood that the only activity that LESSEE may conduct directly or indirectly, along or through others, on, upon or from said demised premises and facilities located there, be they demised to the others or under the control of CITY, is as authorized under the terms of this Lease.

14. LAWS AND ORDINANCES. LESSEE agrees to comply with all applicable state statutes, Broward County and CITY's ordinances, and any safety requirements of all federal, state and local governments. LESSEE shall maintain all required licenses from governmental agencies in full force and effect during the term of this Lease.

15. INDEMNIFICATION AGAINST CLAIMS. LESSEE shall indemnify and save CITY harmless from and against any and all claims, suits, actions, damages. and causes of action arising during the term of this Lease for any bodily injury, loss of life, or damage to property sustained in or about the premises, or the appurtenances to them, arising out of any alleged act or

omission of LESSEE or its employees, agents or servants, and from and against all costs, counsel fees, expenses and liabilities incurred in and about any such claim, the investigation of them, or the defense of any action or proceeding brought on them, and from and against any orders, judgments or decrees which may be entered in them. LESSEE will further, upon CITY's request, assume and defend any action that may be brought against CITY as the result of any alleged act or omission of LESSEE or employees, agents or servants and shall further assume and pay all associated costs and attorneys' fees which may be incurred by CITY. Notwithstanding, CITY shall be liable for the intentional or negligent acts of its own employees and agents.

16. **OWNERSHIP AT TERMINATION.** All fixtures, alterations, improvements, structures, additions and modifications of every kind now existing or later erected, installed or placed within the Premises shall, at the end of the Term or earlier termination of this Lease, for any reason, be and become the property of CITY and shall be left in good condition and repair, ordinary wear and tear excepted, unless CITY at its option requires LESSEE to remove all or a portion of same. In such event, LESSEE at its sole expense shall promptly remove same. LESSEE further agrees at its sole expense to promptly repair and restore all portions of the entire Premises to good condition upon such removal. A fixture is defined as an article which was a chattel, but which, by being physically annexed or affixed to the Premises by LESSEE and incapable of being removed without structural or functional damage to the Premises, becomes a part and parcel of them. Non-fixture property personally owned by LESSEE at the expiration of the Term or earlier termination of this Lease, for any reason, shall continue to be owned by LESSEE, and at the time of such expiration or earlier termination, LESSEE at its option, may remove all such property, provided LESSEE is not then in default of any covenant or condition of this Lease; otherwise, all property shall remain on the Premises until the damages suffered by CITY from any such default have been ascertained and compensated. Any damage to the Premises caused by the removal by LESSEE of any such property shall be repaired by LESSEE immediately at its expense.

17. **DEFAULT.** It is agreed that upon any default by LESSEE in keeping and performing any and all terms and conditions of this Lease to be kept and performed by LESSEE, CITY may, at its option, declare this Lease terminated and may, after thirty (30) days written notice to LESSEE to cure such default, re-enter and take possession of the Premises. The power granted in this paragraph to the CITY is in addition to any other rights or remedies which CITY may have under the existing laws of the State of Florida with regard to the removal of tenants, distress or other legal recourse. All rights and remedies available to CITY may be exercised concurrently or separately.

18. **NON-WAIVER.** The failure of CITY to insist upon the strict performance of any of the covenants, conditions and agreements of this Lease in any one or more instances shall not be construed as a waiver or relinquishment in the future of any such covenants, conditions and agreements, or as a waiver of any other covenants, conditions and agreements.

19. **DAMAGE TO PREMISES.** In the event the Premises or the building of which the Premises are a part shall be damaged or destroyed by fire or other casualty, the same may be promptly repaired or rebuilt by CITY at its expense as soon as funds are available, but CITY shall not be obligated to repair, rebuild, restore or replace any fixtures, equipment, displays or

other property installed by LESSEE or others pursuant to this Lease. Nor will CITY be liable for damage to the Premises.

A. CITY may elect, at its sole option, not to repair or reconstruct the Premises or the facility which is a part of this Lease, and upon written notice of such election from CITY to LESSEE the obligation of LESSEE shall cease and this Lease shall thereupon terminate. However, if CITY does not give notice of termination, LESSEE's obligation shall abate during the existence of any damage or other casualty which renders the demised premises unsuitable for LESSEE in continued operation of business.

20. IMPROVEMENTS. LESSEE shall be allowed to make improvements to the interior as shown on Exhibit "C" attached hereto. No other improvements shall be done without the permission of the CITY.

A. LESSEE shall not attach, affix or pen it to be attached or affixed, upon the exterior of the premises, or if so attached or affixed, relocate, replace, alter or modify, without the consent in writing in each instance of CITY. CITY may require submission of proposed designs, construction plans, specifications and contract documents therefore and, if then approved, may incorporate all or part thereof within this Agreement as attachments thereto.

B. Any improvements shall only be done by properly licensed persons in accordance with the laws of the State of Florida.

C. LESSEE and any subcontractors shall be responsible for obtaining and paying for all required permits.

21. NOTICE. The parties to this Lease shall be contacted at the following addresses:

CITY: City Manager
City of Pompano Beach
100 West Atlantic Boulevard
Pompano Beach, Florida 33060

LESSEE: Mr. Arthur A. Makenian
Hillsboro Lighthouse Preservation Society, Inc.
P.O. Box 610326
Pompano Beach, Florida 33061

22. RIGHT TO ENTER. CITY may enter the premises at any time upon giving reasonable notice to the LESSEE and so long as the same does not unduly interfere with the LESSEE's conduct of its regular business. In the event of an emergency, CITY shall not be required to give LESSEE notice prior to entering the premises.

23. SIGNAGE. LESSEE, may, at its own expense, erect or place a sign for the advertising of LESSEE on the Premises with the approval of the CITY as to size, location and

content. Thereafter, LESSEE shall maintain said sign in a good state of repair, and shall repair any damage to the sign.

24. INSPECTION. CITY reserves the right to inspect the Premises at all reasonable hours in order to ensure compliance with this Lease Agreement and with leasing rules and regulations in force from time to time and posted in visible locations or given to LESSEE. LESSEE agrees to observe those rules and regulations in connection with the use of the property and LESSEE's obligations and responsibilities under this Lease.

25. RISK OF LOSS. CITY shall not be liable for any loss by reason of damage, theft or otherwise to the tools, equipment, contents, belongings and personal effects of the LESSEE or LESSEE's agents, employees, guests or visitors located in or about the property, or for damage or injury to LESSEE or LESSEE's agents, employees, guests or visitors. CITY shall not be liable if such damage, theft or loss is caused by LESSEE, LESSEE's agents, employees, guests or visitors.

26. SUCCESSORS. This Lease shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

27. TERMINATION. This Lease may be terminated without cause by the CITY with (30) days written notice to the LESSEE.

28. PARAGRAPH HEADINGS. Paragraph headings of this Agreement are not part of the substance of this Agreement and shall have no effect upon the construction or interpretation of any terms, conditions or part of this Agreement.

29. GOVERNING LAW. This Agreement shall be construed and enforced according to the laws of the State of Florida, notwithstanding conflict of law provisions of the State of Florida.

30. SEVERABILITY. The unenforceability, invalidity, or illegality of any provision of this Lease Agreement shall not render the other provisions unenforceable, invalid or illegal.

IN WITNESS WHEREOF, the parties hereto have duly executed this Lease Agreement on the day and year first above written

"CITY":

Witnesses:

CITY OF POMPANO BEACH

Christine Wodke

By: [Signature]
LAMAR FISHER, MAYOR

Christine Wodke

By: [Signature]
DENNIS W. BEACH, CITY MANAGER

Attest:

[Signature]
MARY L. CHAMBERS, CITY CLERK

(SEAL)

Approved as to Form:

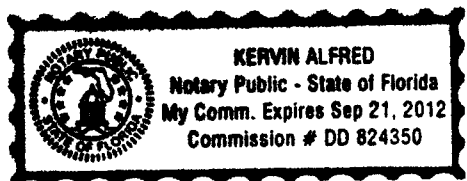
[Signature]
GORDON B. LINN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 28th day of November, 2011 by **LAMAR FISHER**, as Mayor, **DENNIS W. BEACH** as City Manager and **MARY L. CHAMBERS**, as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA



Kervin Alfred
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

"LESSEE":

Witnesses:

**HILLSBORO LIGHTHOUSE
PRESERVATION SOCIETY, INC.,** a Florida
Non Profit Corporation

Elin Cole
Shelly R. Bartholomew

By:

Arthur A. Makenian
ARTHUR A. MAKENIAN

Typed or Printed Name

Title:

PRESIDENT

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 1st day of November, 2011 by Arthur A. Makenian as _____ of HILLSBORO LIGHTHOUSE PRESERVATION SOCIETY, INC. (He/she is personally known to me or who has produced _____ (type of identification) as identification.

NOTARY'S SEAL:

Christine Wodka
NOTARY PUBLIC, STATE OF FLORIDA



Christine Wodka
(Name of Acknowledger Typed, Printed or Stamped)

EE 136205
Commission Number

GBL/jrm
10/28/11
l:agr/manager/2012-109

Exhibit A

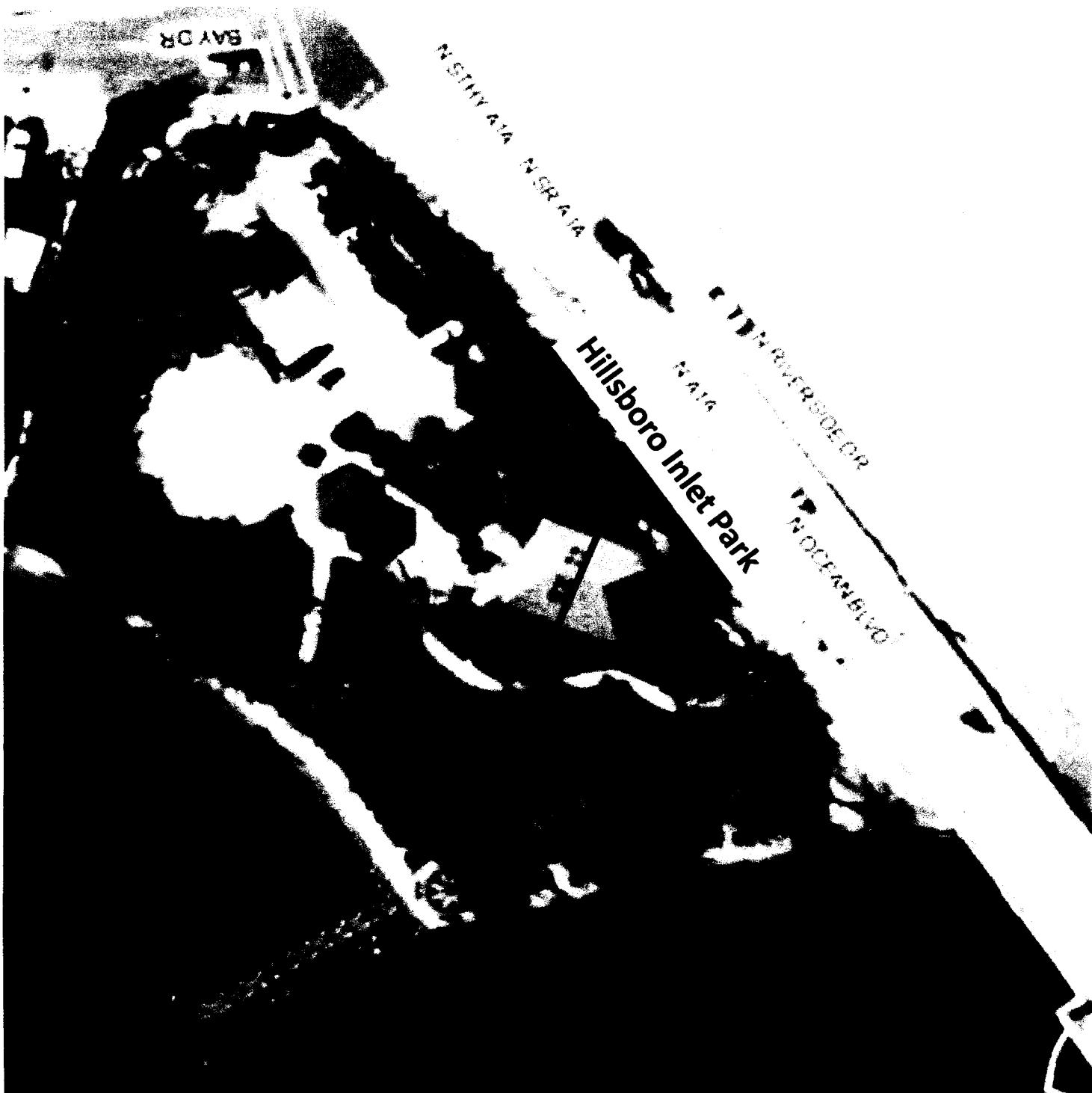


EXHIBIT B: INSURANCE REQUIREMENTS

The Lease Agreement will not commence until the CITY has obtained all insurance required under this Exhibit and such insurance has been approved by the City of Pompano Beach's Risk Manager, nor shall LESSEE allow any Subcontractor to commence work on its sub-contract until the aforementioned approval is obtained.

LESSEE shall provide, pay for and maintain in force at all times during the term of the Agreement, such insurance, including Workers' Compensation Insurance; Liability Insurance; Real and Personal Property; with minimum coverage amounts acceptable to the City as set forth below. Such policy or policies shall be issued by United States Treasury approved companies authorized to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. The policies of insurance shall be primary and written on forms acceptable to the City's Risk Manager, meet a minimum financial A.M. Best and Company rating of no less than Excellent, and be part of the Florida Insurance Guarantee Association Act. No changes are to be made to these specifications without prior written approval of the City's Risk Manager.

During the term of the Agreement, a Certificate of Insurance, reflecting evidence of the required insurance, shall be filed with the City of Pompano Beach's Risk Manager prior to the commencement of the Lease. The Certificate shall contain a provision that coverage afforded under these policies will not be cancelled, will not expire and will not be materially modified until at least thirty (30) days prior written notice has been given to the City.

In the event the Insurance Certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, LESSEE shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed Certificate of Insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect.

LESSEE shall specifically protect the City by naming the City as an additional insured on the Comprehensive General Liability Insurance policies hereinafter described.

1. Worker's Compensation Insurance covering all employees and providing benefits as required by Florida Statute, Chapter 440, regardless of the size of the company (number of employees). LESSEE further agrees to be responsible for employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment and for any and all volunteers involved in the program.

2. Liability Insurance shall include the following checked types of insurance and indicated minimum policy limits.

LIMITS OF LIABILITY

Type of Insurance	Each Occurrence/Aggregate
GENERAL LIABILITY	
<i>MINIMUM \$500,000 OCCURRENCE/AGGREGATE</i>	
* Policy to be written on a claims incurred basis	
XX comprehensive form	
premises - operations	bodily injury
explosion & collapse	
hazard	property damage
underground hazard	
products/completed	
operations hazard	bodily injury and
contractual insurance	property damage
XX broad form property	combined
damage	
XX independent contractors	
XX personal injury	personal injury

REAL & PERSONAL PROPERTY

XX comprehensive form LESSEE must show proof that it has this coverage

LESSEE shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Agreement and shall be solely responsible for payment of all deductibles to which such policies are subject, whether or not the City is an insured under the policy.

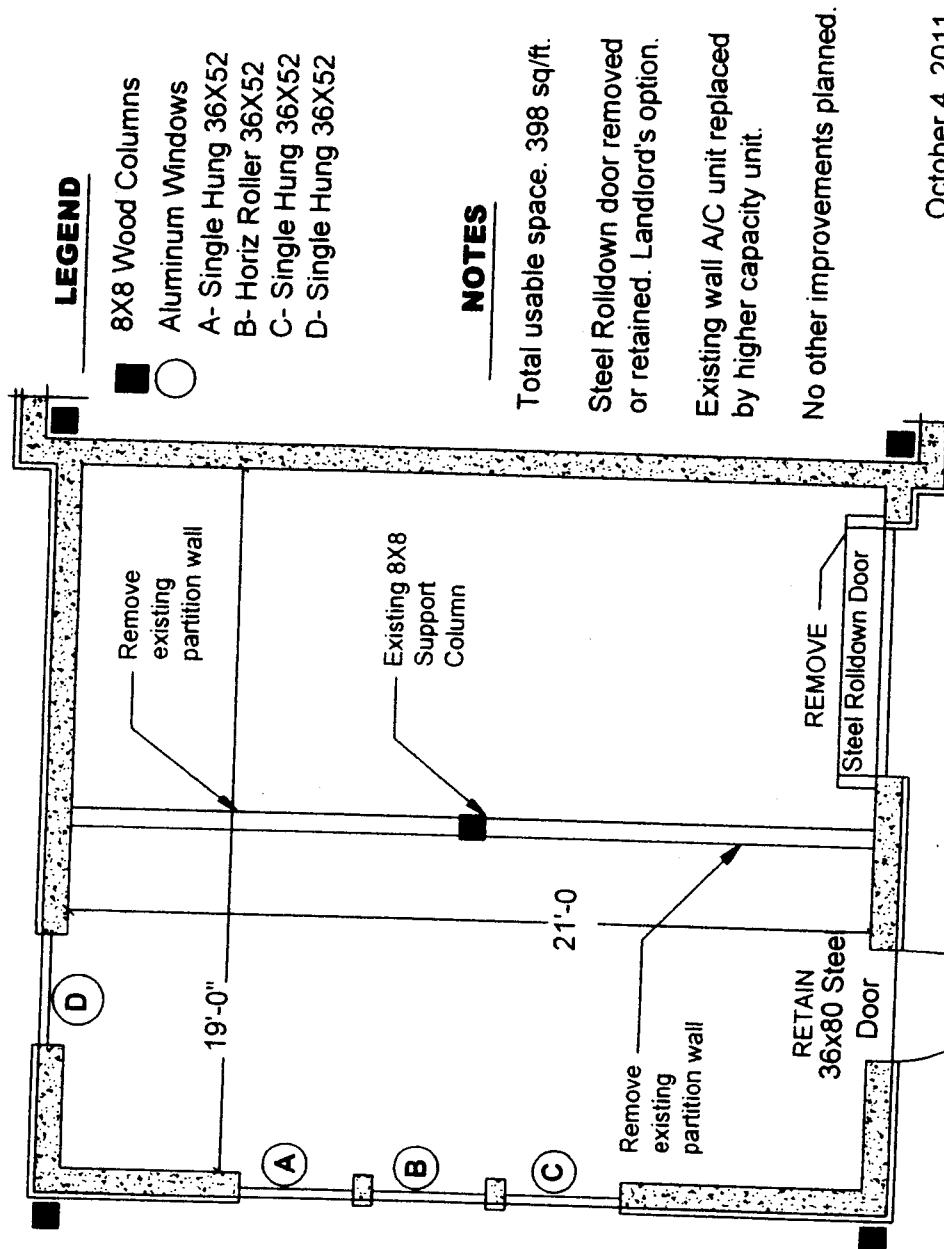
LESSEE shall provide the City's Risk Manager the certification or proof of insurance of all insurance policies required under this Agreement within thirty (30) days after execution of this Agreement. The City's Risk Manager reserves the right at any time to review coverage, form and amount of insurance and also require a certified copy of such policies upon request.

No change(s) to the coverage required under this Agreement shall be made without prior written approval of the City's Risk Manager. All endorsements and certificates shall state that prior to expiration or cancellation of any and all policies required under this Agreement, the City's Risk Manager shall be given thirty (30) days notice by certified mail, return receipt requested to 100 West Atlantic Boulevard, Pompano Beach, Florida 33060.

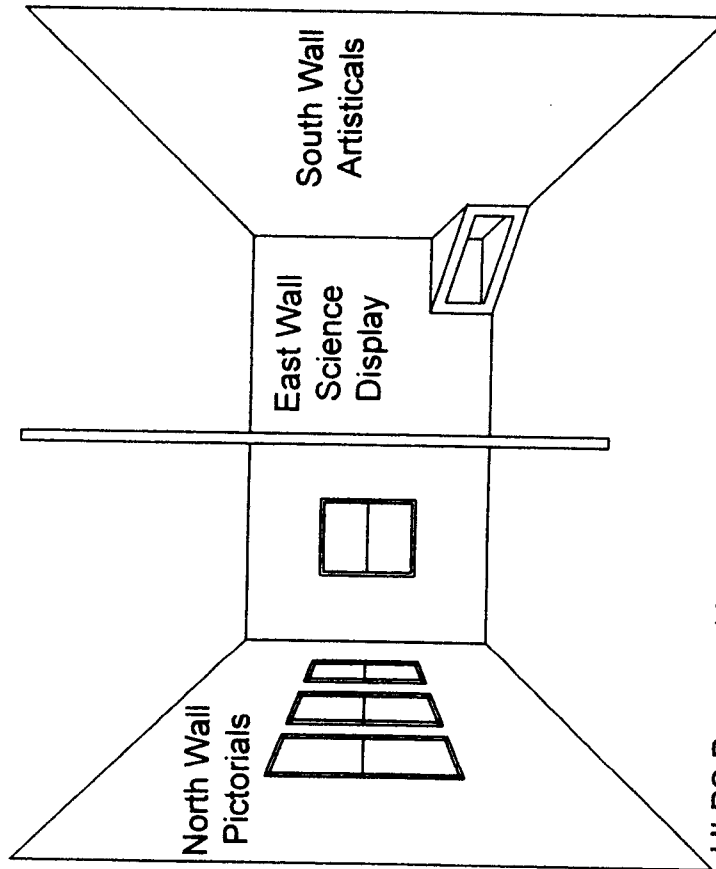
Notice of Accident (occurrence) and Notice of Claims associated with the work being performed under this Agreement, shall be provided to the LESSEE's insurance company and the City's Risk Manager as soon as practical after notice to the insured.

EXHIBIT C: INTERIOR IMPROVEMENTS.

1. LESSEE shall be allowed to make the following improvements to the interior of the Premises:
 - a. Remove the partition wall that currently separates the office space from the storage room.
 - b. Remove the roll-down metal door in the storage room and replace with a new wall the matches the exterior of the Premises.
 - c. Replace wall A/C unit with a higher capacity unit to accommodate the additional office space.



October 4, 2011



HLPS Proposed Inlet Park Museum, Pompano Beach

LEGEND

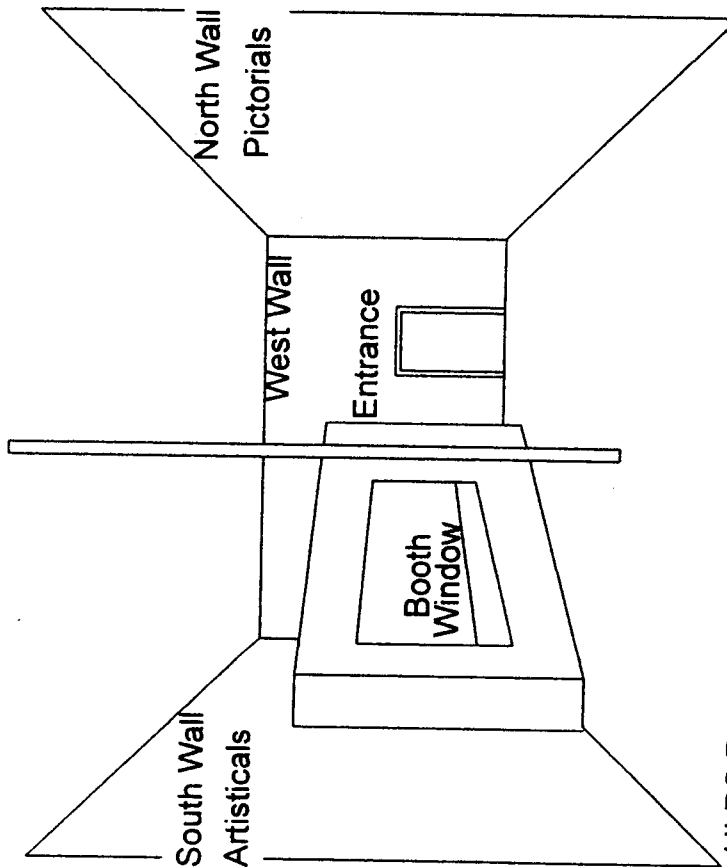
Interior, looking from west to east.

- South wall. Artistic and art effects
Including a 9' lighthouse.
- North wall. Historical Pictures of the
Inlet and the lighthouse.
- East wall. Illumination and Optical
science and physics,
pictures, charts and
tables.

NOTE

A Fresnel Lens resting on a
corner pedestal.

October 4, 2011



HPLPS Proposed Inlet Park Museum, Pompano Beach

LEGEND

Interior, looking from east to west.

South Wall. Artistic and Art effects
Including a 9' lighthouse.

North Wall. Historical Pictures of the
Inlet and the Lighthouse.

West Wall. Museum main entrance
and attendant's booth.

NOTE

Attendant's booth is modular
construction and not part of
the integral building structure.

October 4, 2011