

ORDINANCE NO. 2013-22

**CITY OF POMPANO BEACH
Broward County, Florida**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A SECOND AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND THE SAMPLE-McDOUGALD HOUSE PRESERVATION SOCIETY, INC.; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That a Second Amendment to the Lease Agreement between the City of Pompano Beach and Sample-McDougald House Preservation Society, Inc., a copy of which Amendment is attached hereto and incorporated herein by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Amendment to the Lease Agreement.


SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

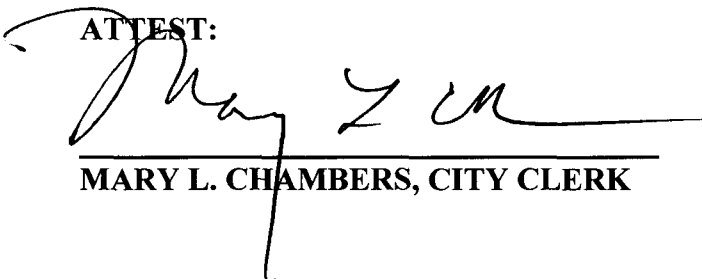
SECTION 4. This Ordinance shall become effective upon passage.

PASSED FIRST READING this 13th day of _____ November, 2012.

PASSED SECOND READING this 27th day of _____ November, 2012.



LAMAR FISHER, MAYOR

ATTEST:


MARY L. CHAMBERS, CITY CLERK

/jrm
7/17/12
L:ord/2012-386

SECOND AMENDMENT TO THE LEASE AGREEMENT
between
CITY OF POMPANO BEACH
and
SAMPLE-McDOUGALD HOUSE PRESERVATION SOCIETY, INC.

This is an Amendment ("Amendment") to the Lease between:

CITY OF POMPANO BEACH, a municipal corporation of the State of Florida, whose address is 100 West Atlantic Boulevard, Pompano Beach, Florida 33060, hereinafter referred to as "CITY,"

and

SAMPLE-MCDOUGALD HOUSE PRESERVATION SOCIETY, INC., a Florida non profit corporation, having a mailing address of P.O. Box 1599, Pompano Beach, Florida 33061, hereinafter referred to as "LESSEE."

WHEREAS, the CITY and LESSEE entered into a Lease Agreement dated November 23, 1999, and a copy of said Lease is attached hereto and made a part hereof as Exhibit "A", hereinafter referred to as the "Lease"; and

WHEREAS, the parties entered into a First Amendment to the Original Agreement on May 26, 2011, approved by City Ordinance No. 2011-45; and

WHEREAS, the Lease provided, in part, for the lease of a certain area of land sometimes referred to in the Lease as the "premises"; and

WHEREAS, the LESSEE has requested that the CITY amend the Lease Agreement to revise conditions and duties required by the Lease; and

WHEREAS, the Parties mutually desire to amend the Lease.

WITNESSETH:

In consideration of the mutual terms, conditions, promises, covenants and payments herein set forth CITY and LESSEE agree as follows:

1. Each "WHEREAS" clause set forth above is true and correct and herein incorporated by this reference.

2. The original Lease Agreement dated on the 23rd day of November 1999 and subsequently amended on May 26, 2011, by Ordinance No. 2011-45, shall remain in full force and effect except as specifically amended hereinbelow. All references in the Lease to "this Lease" should be deemed to mean the Lease as amended by this Amendment.

3. That the Lease is hereby amended as follows:

7. OBLIGATION OF LESSEE.

...

(I) All records of LESSEE shall be made available locally, at LESSEE's expense, for inspection and audit by the City of Pompano Beach Internal Auditor or CITY designee at all reasonable times, and upon reasonable notice, during the period of this agreement, and for three (3) years from the termination of this agreement. However, if an audit has been initiated and audit findings have not been resolved, the records shall be retained until resolution of the audit findings.

All records of LESSEE shall be retained during said time period, or as otherwise required by applicable laws including the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes. Records include, but are not limited to, all business records, bookkeeping and accounting records, sales and income tax records and returns, bank statements, tax deposits, supporting documents, statistical records, sales reports, and any other record pertinent to this agreement.

LESSEE will fully cooperate with the City Auditor or designee. The failure of LESSEE to produce requested records by CITY agents shall be deemed a material breach and CITY may terminate this agreement pursuant to the terms specified in the agreement.

**8. CARE, MAINTENANCE AND REPAIR BY LESSEE
OBLIGATIONS OF THE PARTIES.**

A. LESSEE shall throughout the term of this Lease assume the entire responsibility and shall relieve CITY from all responsibility for all repair and maintenance whatsoever on the historic home structure on the premises; and, ~~without limiting the generality hereof, shall:~~ ——— (1) — keep at all times in a clean and orderly condition and appearance the historic home structure premises and all LESSEE's fixtures, equipment and personal property which are located in any parts of the premises which is open to or visible by the general public; and

B. ~~(2)~~ LESSEE CITY shall be responsible for the maintenance and repair of all utilities service lines ~~except common utilities, if any, including, but not limited to, service lines~~ for the supply of water, gas service lines, electrical power and telephone conduits and lines, sanitary sewers and storm sewers which are now or which may be subsequently located upon the premises leased to LESSEE and used by LESSEE exclusively; and

C. ~~(3)~~ At all times during the letting CITY, take such appropriate anti-erosion measures with respect to all portions of the premises not paved or built upon.

D. CITY to pay for water, sewer and electrical services, maintenance of grounds, irrigation, and garbage removal.

E. CITY shall be responsible for the maintenance and repair of the exterior bathroom facilities including plumbing, paper towels, toilet paper, and regular cleaning services.

F. CITY shall be responsible for the regular maintenance and repair of pavilion(s), perimeter fencing and well house #2.

G. CITY to generate detailed rental application in collaboration with the LESSEE.

H. LESSEE shall be authorized to charge admission during special events held on facility grounds and to tour the historic structure.

I. LESSEE agrees to pay for monthly telephone, installation of alarm system, monthly alarm costs, inside pest control.

J. All special events and rentals will need to be approved via Public Event application.

K. Centennial Park including the Sample McDougald House will be open to the public on a regular basis with the exact times and dates to be determined by the LESSEE in consultation with the City of Pompano Beach Parks Recreation & Cultural Arts Department.

L. Unless a special event or rental of the Sample-McDougald House has been scheduled and approved by CITY, the premises, including the House, shall be open to the general public no less than a minimum of eight hours Monday through Friday and six hours on a weekend.

M. The CITY agrees that during approved special events or rentals of the Sample McDougald House, alcohol will be permitted in concurrence with applicable state and CITY applicable rules and regulations.

B M. CITY may, at its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the structures and/or premises, and the cost thereof shall be added to the rent due and payable the month following completion of such work by CITY and shall be paid by LESSEE to CITY, if either:

...

4. This Amendment may not be modified or amended except by the written agreement of the parties.

5. The provisions of this Amendment shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.


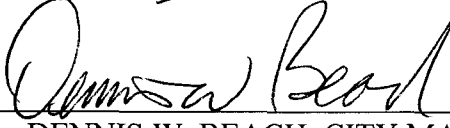
IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

"CITY":

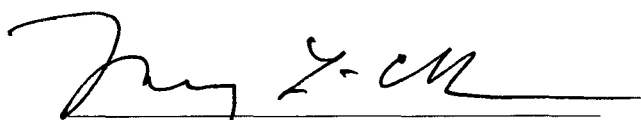
Witnesses:

CITY OF POMPANO BEACH

Betty J. Moniz
Shelly R. Bartholomew

By: 
LAMAR FISHER, MAYOR
By: 
DENNIS W. BEACH, CITY MANAGER

Attest:


MARY L. CHAMBERS, CITY CLERK

(SEAL)

Approved by:


GORDON B. LINN, CITY ATTORNEY

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 4th day of December, 2012 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 is personally known to me.

NOTARY'S SEAL:


NOTARY PUBLIC, STATE OF FLORIDA

Kervin Alfred


(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

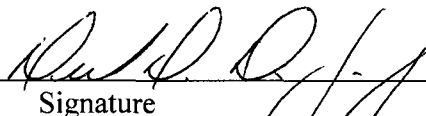


"LESSEE":

Witnesses:



SAMPLE-MCDOUGALD HOUSE
PRESERVATION SOCIETY, INC.

By: 
Signature

DIRK DOUGLAS DEJONG

Typed, Stamped or Printed Name

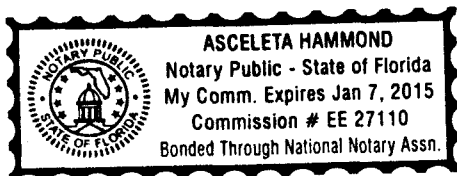
President

Title

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 30th day of
November, 2012 by Dirk Douglas DeJong as President
of SAMPLE-MCDOUGALD HOUSE PRESERVATION SOCIETY, INC. on behalf of the
corporation. He/She is personally known to me or who has produced Florida Drivers License
_____ (type of identification) as identification.

NOTARY'S SEAL:




NOTARY PUBLIC, STATE OF FLORIDA

Asceleta Hammond

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

GBL/jrm
11/28/12
l:agr/2012-1343