



## CITY OF ANNA MARIA

P.O. Box 779, 10005 Gulf Drive, Anna Maria, FL 34216  
Phone (941) 708-6130 Fax (941) 708-6134

### AGENDA SEPTEMBER 30, 2021 AT 10:00 A.M. CITY COMMISSION SPECIAL MEETING

THIS COMMISSION MEETING IS BEING HELD USING OPTIONAL TELECOMMUNICATIONS MEDIA TECHNOLOGY.

Dial in using your phone.

United States: +1 (929) 205-6099

Meeting ID: 853-9200-0280

**\*OUT OF COURTESY TO OTHERS, PLEASE MUTE YOUR PHONE WHEN NOT SPEAKING\*  
IF YOU WISH TO MAKE A PUBLIC COMMENT, PRESS \*9 ON YOUR PHONE**

**Pledge of Conduct:** We may disagree, but we will be respectful of one another. We will direct all comments to the issues. We will avoid personal attacks.

**CALL TO ORDER**

**PLEDGE TO THE FLAG**

**ROLL CALL**

#### SPECIAL MEETING

General Public Comment regarding non-agenda items and items not scheduled for future agendas will be taken at the beginning of the meeting with a limitation of three minutes. The Commission's intent is that General Public comment is to be used for the public to inform the Commission of new issues within the City. Public Comment regarding agenda items will be taken with each agenda item with a limitation of three minutes.

1. General Public Comment
2. Mote Marine Agreement - Mayor

**Press Comment**

**Adjournment**

 (FSS 286.26) IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATE STATUTES, PERSONS WITH DISABILITIES NEEDING SPECIAL ASSISTANCE TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE CITY CLERK FOR ASSISTANCE AT LEAST THREE BUSINESS DAYS PRIOR TO THE MEETING (941) 708-6130. SHOULD ANY INTERESTED PARTY SEEK TO APPEAL ANY DECISION MADE WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, THEY WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS BE MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.



**LEASE OF MOTE MARINE LABORATORY EDUCATION OUTREACH CENTER  
ON ANNA MARIA CITY PIER**

THIS LEASE (the "Lease") is made and entered into as of the Commencement Date of this Lease, by and between Landlord and Tenant.

WITNESSETH:

Subject to, and on the terms and conditions of this Lease, Landlord leases to Tenant and Tenant leases from Landlord the Premises.

1. BASIC LEASE INFORMATION AND DEFINED TERMS.

The key business terms of this Lease and the defined terms used in this Lease are as follows:

1.1 Landlord. CITY OF ANNA MARIA, a municipal corporation under the laws of the State of Florida.

1.2 Tenant. MOTE MARINE LABORATORY, INC., a Florida not for profit corporation.

1.3 Educational Outreach Center. The Educational Outreach Center or "Outreach Center" shall refer to the outreach center/learning lab that Tenant intends to operate in the leased Premises pursuant to this Lease.

1.4 Premises. The Premises is more particularly described in attached Exhibit "A" as the yellow highlighted space. The leased Premises shall include only the interior of the building described in attached Exhibit "A".

1.5 Pier. The Pier shall refer to the Anna Maria City Pier owned by the Landlord, located in the City of Anna Maria, State of Florida, and excludes the Premises for purposes of this Lease.

1.6 Permitted Use of the Premises. Unless otherwise approved in writing by the Landlord, the Premises shall only be used for the following permitted uses: providing education to local residents and tourists of the importance of marine conservation efforts to preserve the natural beauty and continued viability of the City of Anna Maria and the marine life along Florida's west coast as further detailed in Article 4 of this Lease regarding use of the Premises and related incidental retail sales.

1.7 Commencement date. The Commencement date of this lease shall be the date this lease is approved by the City Commission. The City Commission shall not consider the approval of this lease until after such lease is signed by the Tenant.

1.8 Lease Term. The Lease Term shall be a term commencing on the first day of the first month after the date on which the City turns over the building to the Tenant to begin buildout and continuing for sixty (60) full calendar months (plus any partial calendar month in which the Lease Term begins), renewable for an additional 60 months at tenant's option or sooner terminated under the terms of this Lease.

1.9 Tenant's Notice Address. c/o Dr. Michael P. Crosby, or his successor, 1600 Ken Thompson Parkway, Sarasota, Florida 34236 or to other such addresses as the Tenant shall notify the Landlord in writing.

1.10 Landlord's Notice Address. c/o Mayor, City of Anna Maria, P.O. Box 779, Anna Maria, Florida 34216-0779, with a copy to Vose Law Firm, LLP, 324 W. Morse Blvd., Winter Park, Florida 32789, or to other such addresses as the Landlord shall notify the Tenant in writing.

1.11 Business Days. All days other than Saturdays, Sundays, or Legal Holidays observed by the Landlord in the conduct of its business.

1.12 Contract Administrator. Landlord shall be the Contract Administrator for this Lease of Mote Marine Laboratory Education Outreach Center on Anna Maria City Pier, which incorporates a Construction Agreement between Landlord and Tenant.

1.13 Partners. Tenant will endeavor to figuratively partner with, as appropriate, with the AMICC, the Anna Maria Historical Society, and Turtle Watch.

1.14 Rent. There shall be no monetary rent charged under this Lease. References to "rent" shall be considered surplusage.

1.15 Project. The Project shall mean the Anna Maria City Pier.

## 2. TERM / OPTION TO EXTEND LEASE.

Tenant shall have and hold the Premises for the Lease Term. Tenant shall observe and perform all of its obligations under this Lease from the Commencement Date. Provided that Tenant is not then currently in default of the Lease, Tenant shall have the option to extend the Lease Term for an additional sixty (60) month period. The option to extend the Lease Term shall be effective provided that Tenant shall provide written notice to Landlord of its election to extend the Lease Term at least six (6) months, but not more than eighteen (18) months, prior to the expiration of the Initial Lease Term, with time being of the essence as to this notification period. Landlord shall have no obligation to notify Tenant hereafter of the required notification date to extend the Lease Term and Tenant shall be deemed to have waived its extension option(s) in the event Tenant fails to notify Landlord in writing by the required notification date. All terms and conditions of the Lease shall remain unchanged and in full force and effect upon Tenant's extension of the Lease Term.

## 3. LANDLORD IMPROVEMENTS / TENANT BUILDOUT.

Landlord will deliver the leased space to the Tenant per Exhibit "A". Landlord and Tenant shall have all rights and duties with respect to the build-out of the Outreach Center as provided hereinafter under Section 11 (Landlord Improvements) and Section 12 (Tenant Buildout). Landlord shall have the right to approve/disapprove any work and improvements, and the costs of the work and improvements, prior to such work and improvements being done. If the Landlord disapproves of any of the work or improvements, or the costs of the work or improvements, the Landlord and Tenant shall meet to resolve any issues raised by the Landlord. The Landlord shall

have the right at any time to stop any work of any sort that Landlord deems to be damaging to the structural integrity of the building or pier. Once in place, the Tenant may not remove any equipment or fixtures (except for replacement, upgrade or maintenance) without the express written permission of the Landlord or upon the expiration of this agreement. The Tenant is expected to have 180 days to complete the build out of the Educational Outreach Center and then open for business. If Tenant anticipates the build out to extend beyond the 180-day period, Tenant may request, in writing, an extension for the build out. The request must specify an expected date of completion. Landlord will not unreasonably withhold the granting of an extension. If the build out is not completed in 180 days, or by the end of any approved period of extension, the Landlord may declare this lease null and void at the Landlord's sole discretion.

#### 4. USE.

4.1 Permitted Use – Educational Outreach Center. Tenant shall continuously use and occupy the Premises only for the use of an Educational Outreach Center with incidental retail sales, offering education to local residents and tourists as to the importance of marine conservation efforts to preserve the natural beauty and continued viability of the City of Anna Maria and the marine life along Florida's west coast ("Permitted Use"). Tenant shall not use or permit or suffer the use of the Premises for any other business or purpose, unless otherwise approved in writing by Landlord. The provisions of this article are in the nature of restrictive covenants running with the land. Tenant shall warehouse, store, and stock in the Premises only goods and wares that Tenant intends to offer for sale at, in, from, or upon the Premises, or goods and supplies that will be used in educational displays or demonstrations.

4.2 Parking. Landlord shall provide three (3) parking spaces to be used exclusively by Tenant; Tenant's guests, business invitees, licensees, employees, and agents; and visitors to the Educational Outreach Center. Landlord shall have the right to designate which parking spaces are to be used by Tenant. Tenant shall use and occupy the designated parking spaces only for the use of parking for the Educational Outreach Center. Tenant shall not use or permit or suffer the use of the designated parking spaces for any other business or purpose.

4.3 No Offensive or Illegal Use. No use of the Premises during the Lease Term or extension thereof shall be offensive to the public by reason of fumes, noise, or traffic; no illegal activity shall be conducted on the Premises by Tenant or by anyone claiming the right to use the Premises by or through Tenant; and no activities on the Premises shall be permitted by Tenant, or by anyone claiming the right to use the Premises by or through Tenant, which are, in the sole discretion of Landlord, immoral or lewd or capable of subjecting the Premises to an unfavorable reputation or reducing the sale or rental value of the Premises.

4.4 Hours of Operation. Throughout the Lease Term, the common areas of the pier must be open to the general public seven (7) days a week from 7:00 AM to 10:00 PM. The intended hours of operation for the Educational Outreach Center are from 10:00 AM to 6:00 PM, seven (7) days a week, but may be subject to change to meet Tenant's programming needs. Interruption of Tenant's business because of any act of war, strike, fire, the elements, governmental action, or other cause beyond the reasonable control of the Tenant shall not constitute a default under this article, but no interruption of business shall affect the Tenant's responsibility to pay any form of rent due under this Lease except as specifically provided in section 15.6 regarding closure of the Pier. Tenant shall keep the Premises fully staffed with experienced personnel. Adjustments

to days and hours of operation are subject to change due to programming needs and demand as determined by Tenant with written notification to Landlord.

4.5 Common Area Uses and Entertainment. The common areas outside of the Premises as shown in Exhibit "A" are available for use by the Tenants on a first come/first served basis. Tables or benches cannot be reserved. The common area may not be used by Mote for the provision of entertainment such as music without the Landlord's written consent. No attachments of modifications of the exterior of the premises may be made to accommodate entertainment without prior written approval by Landlord.

4.6 E-Verify. Tenant must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Tenant and any subcontractors during the Term of this Lease.

5. AD VALOREM REAL ESTATE TAXES.

The Landlord shall be responsible for Ad Valorem Real Estate Taxes payable relating to the Premises.

6. UTILITIES.

The Landlord will furnish all electrical, gas, water, waste disposal, sewer and fire alarm services to the Educational Outreach Center and bathroom building. Tenant will be solely responsible for the payment of telephone, Internet, and cable television for the Premises.

7. ASSIGNMENT OR SUBLETTING.

Tenant has been chosen to operate an Educational Outreach Center based upon the expertise of the Tenant. The Tenant may neither transfer any of its rights under this Lease, voluntarily or involuntarily, whether by merger, consolidation, dissolution or operation of law, without Landlord's prior written consent. Tenant may not sublease, assign, mortgage or encumber the property. Any transfer by Tenant in violation of this article shall, at Landlord's option, be void.

8. INSURANCE.

8.1 Tenant's Insurance. Tenant shall obtain and keep in full force and effect the following insurance coverages:

8.1.1 Commercial general liability insurance, including contractual liability, on an occurrence basis, on the then most current Insurance Services Office ("ISO") form with combined single limits of \$1 million per occurrence / \$2 million aggregate; property insurance on the ISO causes of loss-special form, in an amount adequate to cover 100% of the replacement costs of all of Tenant's property at the Premises; and, fire legal liability in the amount of at least \$3 million (which may be part of the GL policy); and

8.1.2 Workers' compensation insurance in statutory amounts. Tenant shall comply with all requirements of the Board of Fire Underwriters of Florida any other similar body affecting the Premises and shall not use the Premises in a manner that shall increase the rate of fire insurance or other insurance of Landlord. Tenants insurance shall cover all property located within

the Premises.

8.1.3 Insurance Requirements. All Tenant's insurance policies shall be written with insurance companies and shall have coverage limits acceptable to Landlord and having a policyholder rating of at least "A-" and a financial size category of at least "Class XII" as rated in the most recent edition of "Best's Key Rating Guide" for insurance companies. The commercial general liability insurance policy shall name Landlord as an additional insured. All policies shall provide that they may not be terminated or modified in any way that would materially decrease the protection afforded Landlord under this Lease without 30 days' advance notice to Landlord. Tenant shall furnish evidence that it maintains all insurance coverages required under this Lease with copies of declaration pages for each required policy.

8.2 Landlord's Insurance. The Landlord will insure the Premises and the Pier for fire, wind, and casualty in amounts deemed appropriate by Landlord. Landlord may self-insure at Landlord's discretion.

8.3 Waiver of Subrogation. Landlord and Tenant each expressly, knowingly, and voluntarily waive and release any claims that they may have against the other or the other's employees, agents, or contractors as a result of the acts or omissions of the other party or the other party's employees, agents, or contractors (specifically including the negligence of either party or its employees, agents, or contractors and the intentional misconduct of the employees, agents, or contractors of either party), to the extent any such claims are covered by the worker's compensation, employer's liability, property, rental income, business income, or extra expense insurance described in this Lease, or other property insurance that either party may carry at the time of an occurrence. Landlord and Tenant shall each, on or before the earlier of the Commencement Date or the date on which Tenant first enters the Premises for any purpose, obtain and keep in full force and effect at all times thereafter a waiver of subrogation from its insurer concerning the workers' compensation, employer's liability, property, rental income, and business interruption insurance maintained by it for the Premises and the property located in the Premises. This section shall control over any other provisions of the Lease in conflict with it and shall survive the expiration or sooner termination of this Lease.

## 9. DEFAULT.

9.1 Events of Default. Each of the following shall be an event of default under this Lease: (a) Tenant fails to perform any other obligation under this Lease ); (b) Tenant violates any requirement under the Use article of this Lease; (c) Tenant becomes bankrupt or insolvent or makes a general assignment for the benefit of creditors or takes the benefit of any insolvency act, or if any debtor proceedings be taken by or against Tenant or any Guarantor; surety; (d) a receiver or trustee in bankruptcy is appointed for the Tenant's property and the appointment is not vacated and set aside within 60 days from the date of the appointment; (e) Tenant rejects this Lease in any bankruptcy, insolvency, reorganization, or arrangement proceedings under the Bankruptcy Code or any State insolvency laws; (f) Tenant ceases to conduct business in the Premises for a period of seven (7) consecutive days, unless such cessation is authorized under other provisions of this Lease, or of court order, or request of the Landlord, or pursuant to a governmental Order; (g) Tenant, before the expiration of the Lease Term, and without the written consent of Landlord, vacates the Premises or abandons possession of the Premises; (h) the leasehold estate granted to Tenant by this Lease is taken on execution or other legal process; j) Tenant transfers this Lease in violation of the Assignment or Subletting article; or (k) Tenant fails to deliver an estoppel certificate within the

time period required by the Estoppel Certificates article of this Lease.

9.2 Remedies. If Tenant's default is other than a Monetary Default, Landlord shall deliver to Tenant a Notice of Default, providing that the Tenant shall have thirty (30) days to cure said default. If Tenant's default is a Monetary Default, Landlord shall deliver to Tenant a Notice of Default, providing that Tenant shall have ten (10) days to cure said default. If Tenant remains in material default after thirty (30) days have expired, or ten (10) days for a Monetary Default, in addition to all remedies provided by law, Landlord may declare the entire balance of all forms of Rent due under this Lease for the remainder of the Lease Term to be forthwith due and payable and may collect the then present value of the Rents (calculated using a discount rate equal to the discount rate of the branch of the Federal Reserve Bank closest to the Premises in effect as of the date of the default). In addition, Landlord may institute a distress for rent action and obtain a distress writ under Sections 83.11 through 83.19, Florida Statutes. If this Lease is rejected in any bankruptcy proceeding, Rent for the entire month in which the rejection occurs shall be due and payable in full and shall not be prorated. TENANT EXPRESSLY, KNOWINGLY, AND VOLUNTARILY WAIVES (I) ALL CONSTITUTIONAL, STATUTORY, OR COMMON LAW BONDING REQUIREMENTS, INCLUDING THE REQUIREMENT UNDER SECTION 83.12, FLORIDA STATUTES, THAT LANDLORD FILE A BOND, IT BEING THE INTENTION OF THE PARTIES THAT NO BOND SHALL BE REQUIRED TO BE FILED BY LANDLORD IN ANY DISTRESS ACTION; AND (II) THE RIGHT UNDER SECTION 83.14, FLORIDA STATUTES, TO REPLEVY DISTRAINED PROPERTY.

9.3 Landlord's Right to Perform. If Tenant defaults, Landlord may, but shall have no obligation to, perform the obligations of Tenant, and if Landlord, in doing so, makes any expenditures or incurs any obligation for the payment of money, including reasonable attorneys' fees, the sums so paid or obligations incurred shall be paid by Tenant to Landlord within five days of rendition of a bill or statement to Tenant therefor.

9.4 Limitations. None of Landlord's elected or appointed officials, employees, or affiliates shall ever have any personal liability to Tenant. No person holding Landlord's interest shall have any liability after such person ceases to hold such interest, except for any liability accruing while such person held such interest. No act or omission of Landlord or its agents shall constitute an actual or constructive eviction of Tenant or a default by Landlord as to any of its obligations under this Lease unless Landlord shall have first received written notice from Tenant of the claimed default and shall have failed to cure it after having been afforded reasonable time in which to do so, which in no event shall be less than 30 days. Further, Tenant waives any claims against Landlord that Tenant does not make in writing within 30 days of the onset of the cause of such claim. Landlord and Tenant each waive all rights (other than Article 24, End of Term) to consequential damages, lost profits, punitive damages, or special damages of any kind.

9.5 Security Interest. Tenant hereby grants to Landlord a lien and security interest on all property of Tenant now or hereafter placed in or upon the Premises including, but not limited to, all fixtures, furniture, inventory, machinery, equipment, merchandise, furnishings and other articles of personal property, and all proceeds of the sale or other disposition of such property (collectively, the "Collateral") to secure the faithful performance of all covenants of Tenant under this Lease. Such lien and security interest shall be in addition to any landlord's lien provided by law. This Lease shall constitute a security agreement under the Uniform Commercial Code, so that Landlord shall have and may enforce a security interest in the Collateral. Tenant authorizes Landlord to file a financing statement or statements and any further documents as



Landlord may now or hereafter reasonably require to protect such security interest under such Code. Landlord, as secured party, shall be entitled to all rights and remedies afforded a secured party under such Code, which rights and remedies shall be in addition to Landlord's liens and rights provided by law or by the other terms and provisions of this Lease.

10. LANDLORD IMPROVEMENTS.

10.1 The Landlord will deliver the Premises to the Tenant in accordance with Exhibit "A". Tenant is responsible for the build out as outlined hereinbelow.

11. TENANT BUILDOUT.

11.1 Tenant shall develop plans for the build-out of the 1800 M.O.L. square foot area for the Outreach Center on the Anna Maria Pier. Tenant shall be responsible for the hiring of an architect and engineer, subject to the approval of the Landlord, in order to develop the plans for the build-out of the Outreach Center. After Tenant submits the plans to Landlord for Landlord's approval, Tenant shall not proceed with any construction or further action until such time as the plans are approved by Landlord. If the plans are not approved by Landlord, and issues have not been resolved to the satisfaction of both parties after discussions regarding the plans, this Lease shall be cancelled and neither party shall have any claims against the other relating to such cancellation. Any subsequent proposed changes to the plans (after the plans have initially been approved the Landlord) shall be subject to Landlord's approval. If the Landlord disapproves of any of the proposed work or improvements, or the costs of the proposed work or improvements, the Landlord and Tenant shall meet to resolve any issues raised by the Landlord. If the issues are not resolved to the satisfaction of both parties after discussions regarding the proposed subsequent changes to the plans, this Lease shall be cancelled and neither party shall have any claims against the other relating to such cancellation. Tenant shall be required to complete the full construction of all improvements as shown on the plans approved by the Landlord prior to occupancy of the Outreach Center by the Tenant.

11.2 Tenant shall be responsible for obtaining any permits that may be required with respect to the build-out for the Outreach Center. Tenant shall be responsible for hiring contractors to complete construction of the buildout. Tenant shall supervise the construction of the buildout. If change orders are requested by a contractor with respect to the build-out, Tenant and Landlord shall work together to resolve the issue before work proceeds.

11.3 All expenses associated with the construction of the Landlord approved plans for the Outreach Center, up to an amount not to exceed five hundred thousand dollars (\$500,000), shall be considered reimbursable. Project costs to include, but not be limited to, design, permitting, construction (including plumbing, flooring, HVAC, electrical, etc.) of Mote education facility at the end of the Anna Maria City Pier, and design and installation costs (including labor) of educational exhibits within the Mote education facility. Tenant may, but will not be required to, submit invoices every other week beginning upon Commencement date for reimbursement of completed work, which the invoice will identify. If Tenant chooses to submit invoices to Landlord for reimbursement, Tenant shall submit in addition to any invoice (as applicable) (1) proof of payment, (2) cancelled checks, and (3) wire confirmation from a bank confirming Tenant's payment of the balance due. If Tenant chooses to have some of the construction done by its employees, Landlord will reimburse Tenant based upon the employee's

salary, plus fringe benefits, plus the federally negotiated indirect rate, subject to Tenant submitting the Federal approval letter and the rate at which it was approved, and Tenant submitting a spreadsheet (on a form supplied by Manatee County) showing the employee's salaries and fringe benefits and how many hours each employee worked on the project. At no time will more than one invoice be submitted within a concurrent fourteen (14) calendar day period. The payment terms for all invoices submitted to Landlord will be Net 30 unless Landlord disputes any items included on an invoice. If Landlord disputes any or all items included on a submitted invoice, it must notify Tenant in writing within five (5) business days of receipt. Tenant and Landlord will work together in good faith to resolve any and all disputed invoice items. Any and all costs associated with the Mote portion of the buildout in excess of \$500,000 shall be paid by Mote unless such expenses are directly related to a request made by the Landlord that was not included in the original, or subsequently revised, Landlord approved plans.

11.4 Notwithstanding anything to the contrary herein, in the event that any of Tenant's invoices are rejected by Manatee County or found to be inadequate during an audit by Manatee County or the State of Florida, and Landlord is thereby unable to obtain reimbursement for the balance of the invoice or is required to return the balance of the invoice, Tenant shall reimburse Landlord for the balance of any such invoices.

11.5 Tenant shall do no work on the Premises which affect utility services or plumbing and electrical lines or fire suppression or other systems of the Premises that are exterior to the Premises without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion ("Material Alterations"). Tenant may make non-Material Alterations with Landlord's prior consent which consent shall not be unreasonably withheld.

11.6 All work on the Premises shall be performed in accordance with Landlord's Tenant Work Rules and Requirements attached to this Lease as Exhibit "B" and incorporated herein. Tenant shall ensure that all construction contracts meet the specifications provided under this Section and Exhibit "B". All construction contracts shall explicitly provide for processes of resolution of disputes arising under the contract. Before work commences, the Tenant shall obtain a payment and performance bond in form complying with Section 713.23, Florida Statutes, as amended from time to time. In addition, a copy of the bond, the fully executed contract between Tenant and Landlord, and all building or other governmental permits required for the work shall be delivered to Landlord before commencement of the work. Except as expressly set forth in this Lease, Landlord has made no representation or promise as to the condition of the Premises, Landlord shall not perform any work, additions, or improvements in order to make the Premises suitable and ready for occupancy and use by Tenant, and Tenant shall accept possession of the Premises in its then "as-is", "where-is" condition, without representation or warranty of any kind by Landlord. Except for work to be performed by Landlord, before any work is undertaken by or on behalf of Tenant, Tenant shall require any contractor performing work on the Premises to obtain and maintain, at no expense to Landlord, workers' compensation insurance as required by law, builder's risk insurance in the amount of the replacement cost of the applicable work (or such other amount reasonably required by Landlord), and commercial general liability insurance written on an occurrence basis with minimum limits of \$1 million per occurrence limit, \$1 million general aggregate limit, \$1 million personal and advertising limit, and \$1 million products/completed operations limit; which coverage limits may be effected with umbrella coverage (including contractual liability, broad form property damage and contractor's protective liability coverage). Tenant shall ensure that all contractors and subcontractors engaged to do work at the Premises are licensed under all applicable federal, state, and local laws and regulations, regardless of whether

the contractors are Tenant's employees.

11.7 The build-out of the Educational Outreach Center shall be completed by 180 days after signing of this lease. If Tenant anticipates the build out to extend beyond the 180-day period, Tenant may request, in writing, an extension for the build out. The request must specify an expected date of completion. Landlord will not unreasonably withhold the granting of an extension. If the build out is not completed in 180 days, or by the end of any approved period of extension, the Landlord may declare this lease null and void at the Landlord's sole discretion.

11.8 E-Verify. Tenant must utilize, and must expressly require all contractors and subcontractors working on the Premises to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by contractor and any subcontractors.

## 12. MAINTENANCE AND REPAIR.

12.1 Educational Outreach Center. The Tenant is responsible for all maintenance of the inside of the Premises (including, but not limited to, the Premises cleaning, Tenant's equipment, HVAC units, etc.).

12.2 Common Area and Bathrooms. Landlord will provide for all maintenance of the exterior and common areas of the Premises, to include the bathroom cleaning and repairs through a third party or parties.

## 13. LIENS.

The interest of Landlord in the Premises shall not be subject in any way to any liens, including construction liens, for work done by or on behalf of Tenant. This exculpation is made with express reference to Section 713.10, Florida Statutes. Tenant represents to Landlord that any improvements which may be made by Tenant do not constitute the "pith of the Lease" under applicable Florida case law. If any lien is filed against the Premises for work or materials claimed to have been furnished to Tenant, Tenant shall cause it to be discharged of record or properly transferred to a bond under Section 713.24, Florida Statutes, within ten days after notice to Tenant. Further, Tenant shall indemnify, defend, and save Landlord harmless from and against any damage or loss, including reasonable attorneys' fees, incurred by Landlord as a result of any liens or other claims arising out of or related to work performed in the Premises by or on behalf of Tenant. Tenant shall notify every contractor making improvements to the Premises that the interest of the Landlord in the Premises shall not be subject to liens.

## 14. ACCESS TO PREMISES.

Landlord and persons authorized by Landlord shall have the right, at all reasonable times, to enter and inspect the Premises, to make repairs and alterations Landlord deems necessary, and in the last nine months of the Lease Term to exhibit the Premises to prospective Tenants, with reasonable prior notice, except in cases of emergency. Landlord shall provide Tenant with twenty four (24) hours' notice of its intent to enter and inspect unless except in the case of emergency, in which event no notice shall be required.

## 15. CASUALTY DAMAGE.

If the Premises and/or the Pier are damaged by acts beyond the control of the Tenant and Landlord, the Landlord shall restore, repair and/or reconstruct the Premises and/or the Pier if sufficient net insurance proceeds are received by the Landlord to reconstruct, restore or repair the Premises and/or Pier to substantially the same condition they were in immediately before the happening of the damage but only to the extent of Landlord's obligations as set forth in Article 12 herein on the Commencement Date for the Premises. If insufficient net insurance proceeds are received by the Landlord to reconstruct, restore or repair the Premises and/or the Pier, the Landlord may budget and appropriate funds to reconstruct, restore or repair the Premises and/or the Pier to substantially the same condition they were in immediately before the happening of the casualty but only to the extent of Landlord's obligations as set forth in Article 12 herein on the Commencement Date for the Premises. If the Landlord, in its sole discretion, declines to budget and appropriate funds to reconstruct, restore or repair the Premises and/or the Pier or if insufficient net insurance proceeds are received by the Landlord to reconstruct, restore or repair the Premises and/or the Pier, the Landlord may, within 90 days after the damage, give notice to Tenant of Landlord's election to terminate this Lease, and the balance of the Lease Term shall automatically expire on the tenth day after the notice is delivered. If Landlord terminates the Lease under this Article 15 and thereafter reconstructs, restores or repairs the Premises within five (5) years of the damage to substantially the same condition or a better condition that they were in immediately before the happening of the damage and the total term of this Lease (including all extension options) has not expired, this Lease shall be reestablished at Tenant's written request for the balance of the term of this Lease (including all extension options) plus an extension of the term for the time it took to reconstruct, restore or repair the Premises up to an additional five (5) years. The Tenant's written request to reestablish this Lease must be received by the Landlord no later than ninety (90) days after substantial completion of the reconstruction, restoration or repairs of the Premises. "Net insurance proceeds" as used herein means that amount of funds delivered to the Landlord under any of its insurance policies (if any) for casualty damage to the Premises and/or the Pier after payment of all applicable deductibles and other related fees and charges. In determining whether sufficient net insurance proceeds are received by the Landlord to reconstruct, restore or repair the Premises and/or Pier, the cost, if any, to comply with newer building codes and regulations shall be included.

## 16. CONDEMNATION.

If the whole or any substantial part of the Premises shall be condemned by eminent domain or acquired by private purchase in lieu of condemnation, this Lease shall terminate on the date on which possession of the Premises is delivered to the condemning authority and Rent shall be apportioned and paid to that date. If no portion of the Premises is taken but a substantial portion of the Project is taken, at Landlord's option, this Lease shall terminate on the date on which possession of such portion of the Project is delivered to the condemning authority and Rent shall be apportioned and paid to that date. Tenant shall have no claim against Landlord for the value of any unexpired portion of the Lease Term, nor shall Tenant be entitled to any part of the condemnation award or private purchase price. Notwithstanding the foregoing, if the condemning authority is the Landlord or any agency acting on behalf of Landlord, the Tenant shall be entitled to business damages for the remainder of the Lease.

## 17. OPERATIONS.

17.1 Health Regulations. Tenant shall comply with all Health Department and other

governmental rules and regulations, if any, applicable to Tenant's operations in the Premises and shall promptly (a) furnish or cause to be furnished to Landlord copies of all Health Department and other governmental reports, notices, and citations issued with respect to the Premises, and (b) immediately cure or otherwise eliminate all deficiencies and violations noted by the Health Department and other governmental authorities. Tenant shall maintain the dumpster designated for its sole use by Landlord and the area surrounding the dumpster on a regular basis.

17.2 Health Regulations – Coronavirus Pandemic. Landlord and Tenant acknowledge that this Lease is being entered into during a Pandemic which has resulted in intermittent Orders by various governmental agencies regarding health, sanitation and related issues. Tenant agrees to fully comply with all applicable governmental Orders and the City of Anna Maria as Landlord reserves the right to require Tenant to take all actions deemed appropriate by the Landlord to protect the health and safety of visitors to the Pier and customers and employees of the Tenant.

#### 19. PUBLIC RECORDS COMPLIANCE.

Tenant agrees that, to the extent that it may "act on behalf" of the City/Landlord, which shall only have the potential to occur during Tenant's role in constructing the Outreach Center in accordance with this agreement, but not within any other area of Tenant's operations not covered by this agreement, within the meaning of Section 119.071(1)(a), Florida Statutes under this Lease, it shall:

- (a) Keep and maintain public records required by the public agency to perform the service.
- (b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Tenant does not transfer the records to the public agency.
- (d) Upon completion of the Lease, transfer, at no cost, to the public agency all public records in possession of the Tenant or keep and maintain public records required by the public agency to perform the service. If the Tenant transfers all public records to the public agency upon completion of the Lease, the Tenant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Tenant keeps and maintains public records upon completion of the Lease, the Tenant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- (e) Pursuant to Section 119.0701(2)(a), Fla. Stat., Tenant agrees to indemnify and hold the City harmless against any and all claims, damage awards, and causes of action arising from the Tenant's failure to comply with the public records disclosure requirements of Section

119.07(1), Florida Statutes, or by Tenant's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Tenant authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Tenant in Manatee County Circuit Court on an expedited basis to enforce the requirements of this section.

**IF THE TENANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE TENANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS LEASE, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY OF ANNA MARIA CITY HALL  
P.O. Box 779  
10005 Gulf Drive  
Anna Maria, FL 34216-0779 [amclerk@cityofannamaria.com](mailto:amclerk@cityofannamaria.com)**

18. SUBORDINATION.

This Lease is and shall be subject and subordinate to all ground leases that may now or hereafter affect the Premises and/or the Pier, and to all renewals, modifications, consolidations, replacements, and extensions of the leases. This article shall be self-operative and no further instrument of subordination shall be necessary. However, in confirmation of this subordination, Tenant shall execute promptly any certificate that Landlord may request. If any ground or underlying lease is terminated, or if the interest of Landlord under this Lease is transferred by reason of or assigned in lieu of other proceedings for enforcement to which this Lease is or may be subordinate, then Tenant will, at the option to be exercised in writing by the landlord under any ground or underlying lease or the purchaser, assignee, or Tenant, as the case may be (a) attorn to it and will perform for its benefit all the terms, covenants, and conditions of this Lease on Tenant's part to be performed with the same force and effect as if the landlord or the purchaser, assignee, or Tenant were the landlord originally named in this Lease, or (b) enter into a new lease with the landlord or the purchaser, assignee, or Tenant for the remainder of the Lease Term and otherwise on the same terms, conditions, and rents as provided in this Lease.

19. INDEMNIFICATION.

The Tenant shall indemnify and hold harmless the Landlord, including its officials, employees and agents from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence of the Tenant, its officers, directors, employees, representatives and agents including, without limitation, those representatives and agents employed or utilized by the Tenant, which relates to or arises out of this Lease. The Tenant shall not be responsible for indemnifying or holding harmless that Landlord, its officials, employees and agents for the Landlord's own negligence or the negligence of the Landlord's officials, employees and agents. The Landlord agrees to be responsible for its own negligence. Nothing contained in this Lease shall create a contractual relationship with or a cause of action in favor of a third party against either the Tenant or Landlord, nor shall this Lease be construed as a waiver of sovereign immunity for the Landlord beyond the waiver provided in section 768.28, Florida Statutes. This Indemnification article shall not be construed to restrict, limit, or modify either party's insurance obligations under this Lease and shall not be deemed a waiver of any rights of sovereign immunity that Landlord may have under

applicable law. Either party's compliance with the insurance requirements under this Lease shall not restrict, limit, or modify that party's obligations under this Indemnification article.

## 20. NO WAIVER.

The failure of a party to insist on the strict performance of any provision of this Lease or to exercise any remedy for any default shall not be construed as a waiver. The waiver of any noncompliance with this Lease shall not prevent subsequent similar noncompliance from being a default. No waiver shall be effective unless expressed in writing and signed by the waiving party. No notice to or demand on a party shall of itself entitle the party to any other or further notice or demand in similar or other circumstances. The receipt by Landlord of any Rent after default on the part of Tenant (whether the Rent is due before or after the default) shall not excuse any delays as to future Rent payments and shall not be deemed to operate as a waiver of any then existing default by Tenant or of the right of Landlord to enforce the payment of any other Rent reserved in this Lease or to pursue eviction or any other remedies available to Landlord. No payment by Tenant, or receipt by Landlord, of a lesser amount than the Rent actually owed under the terms of this Lease shall be deemed to be anything other than a payment on account of the earliest stipulated Rent. No endorsement or statement on any check or any letter accompanying any check or payment of Rent will be deemed an accord and satisfaction. Landlord may accept the check or payment without prejudice to Landlord's right to recover the balance of the Rent or to pursue any other remedy. It is the intention of the parties that this article modify the common law rules of waiver and estoppel and the provisions of any statute which might dictate a contrary result.

## 21. SERVICES AND UTILITIES.

21.1 Services Furnished. The Landlord will pay for all electrical, gas, water, waste disposal, sewer and fire alarm monthly usage bills for the Educational Outreach Center and Tenant's use of the bathroom building, and will provide and pay for monthly pest control. Tenant will be solely responsible for the payment of telephone, Internet, and cable television monthly usage bills, and for any upgrade in utility services if desired by Tenant.

21.2 Interruption of Services. In no event shall Landlord be liable for damages resulting from the failure to furnish HVAC, water, electric, or other service, unless caused by the negligence or intentional acts of Landlord, and any interruption or failure shall in no manner constitute an eviction of Tenant or entitle Tenant to abatement of any Rent due under this Lease.

## 22. GOVERNMENTAL REGULATIONS.

Tenant shall promptly comply with all laws, codes, and ordinances of governmental authorities pertaining to Tenant or its use of the Premises, management of the Pier and/or activities on or about the Project, including the Americans with Disabilities Act of 1990 ("ADA") and all applicable environmental laws. The Tenant shall be responsible for compliance with provisions of the ADA within the Premises; the Landlord being responsible for compliance with the ADA on the Pier and all areas within the Project. If Tenant's operations require the ongoing use of hazardous or toxic substances, then Tenant shall supply Landlord with copies of reports and any other monitoring information required by applicable laws. Tenant agrees to pay, and shall indemnify defend, and hold Landlord harmless from and against, any and all losses, claims, liabilities, costs, and expenses (including reasonable attorneys' fees) incurred by Landlord as a result of any breach by Tenant of its obligations under this article, and as a result of any contamination of the Premises

and/or the Pier because of Tenant's use of hazardous or toxic substances on the Premises and/or the Pier. Tenant shall obtain all licenses and permits from time to time required to enable Tenant to conduct its business under this Lease. No failure of Tenant to obtain or maintain any licenses or permits, or extensions or renewals of them, shall release Tenant from the performance and observance of Tenant's obligations under this Lease.

## 23. SIGNS AND EXTERIOR ALTERATIONS

23.1 Landlord's Consent Required. Tenant shall be allowed all permitted building signage subject to compliance with the maximum allowed by applicable ordinance. Landlord recognizes that Tenant will place and maintain signage and advertising on the Premises, which shall be limited to exterior doors and windows and within the Premises. Tenant agrees that it will not permit third-party signage or advertising without first obtaining Landlord's written approval and consent. Landlord retains the right to request that Tenant remove any signage or advertising that it finds offensive or counter to the goals and values of the Landlord. Any signage or advertising that Landlord requests Tenant to remove will be removed within seven (7) calendar days.

23.2 Exterior Alterations/additions. Any signs or other exterior additions, including equipment, entertainment apparatus, awnings, canopies, decorations, lettering, advertising matters, or other things must be approved by Landlord in writing and shall be maintained by Tenant in good condition and repair at all times and shall conform to the criteria established from time to time by Landlord for the Premises and/or Pier. Upon the expiration or sooner termination of this Lease, if Landlord shall so elect, Tenant at its own expense shall remove all exterior alterations/additions signs and restore the exterior of Premises and/or the Pier to its original condition. This obligation of Tenant shall survive the expiration or sooner termination of this Lease.

## 24. BROKER.

Each of the parties represents and warrants to the other that they have not dealt with any real estate salesperson, agent, finder, or broker in connection with this Lease.

## 25. END OF TERM/HOLDOVER.

Tenant shall surrender the Premises to Landlord at the expiration or sooner termination of this Lease in good order and condition, broom-clean, except for reasonable wear and tear. Tenant shall be liable to Landlord for all damages, including any consequential damages and holdover rent in accordance with state law, that Landlord may suffer by reason of any holding over by Tenant, and Tenant shall indemnify, defend, and save Landlord harmless against all costs, claims, loss, or liability resulting from delay by Tenant in so surrendering the Premises, including any claims made by any succeeding Tenant founded on any delay. All work and additions done by Landlord or Tenant to the Premises shall become Landlord's property on the expiration or sooner termination of the Lease Term. On the expiration or sooner termination of the Lease Term, Tenant, at its expense, shall remove from the Premises and/or Pier all of Tenant's personal property, all computer and telecommunications wiring, and all additions that Landlord designates by notice to Tenant. Tenant shall also repair any damage to the Premises and/or Pier caused by the removal. Any items of Tenant's property that shall remain in the Premises and/or Pier after the expiration or sooner termination of the Lease Term, may, at the option of Landlord, be deemed to have been abandoned, and in that case, those items may be retained by Landlord as its property to be disposed



of by Landlord, without accountability to Tenant or any other party, in the manner Landlord shall determine, at Tenant's expense. "Tenant's Property" shall mean all moveable personal property, machinery, furniture, and equipment, including moveable trade fixtures, that are installed in the Premises by or for the account of Tenant without expense to Landlord and that can be removed without damage to the Premises and/or the Pier.

#### 26. ATTORNEYS' FEES.

The prevailing party in any litigation arising out of or in any manner relating to this Lease between the Landlord and Tenant, including the declaration of any rights or obligations under this Lease, shall be entitled to recover from the losing party reasonable attorneys' fees and costs. In addition, if Landlord becomes a party to any suit or proceeding affecting the Premises or involving this Lease or Tenant's interest under this Lease, other than a suit between Landlord and Tenant, or if Landlord engages counsel to collect any of the amounts owed under this Lease, or to enforce performance of any of the agreements, conditions, covenants, provisions, or stipulations of this Lease, without commencing litigation, then the costs, expenses, and reasonable attorneys' fees and disbursements incurred by Landlord shall be paid to Landlord by Tenant. Notwithstanding the foregoing, Tenant shall not owe Landlord for any costs, expenses or attorneys' fee and disbursements for litigation or actions brought by a third party against the Landlord which arises out of Landlord's ownership of the Pier and which does not arise out of or in any manner relate to this Lease or the Tenant's obligations hereunder.

#### 27. NOTICES.

Any notice to be given under this Lease may be given either by a party itself or by its attorney or agent and shall be in writing and delivered by hand, by facsimile, by nationally recognized overnight air courier service (such as FedEx), or by the United States Postal Service, registered or certified mail, return receipt requested, in each case addressed to the respective party at the party's notice address. A notice shall be deemed effective upon receipt or the date sent if it is returned to the addressor because it is refused, unclaimed, or the addressee has moved.

#### 28. IMPOSSIBILITY OF PERFORMANCE.

For purposes of this Lease, the term "Unavoidable Delay" shall mean any delays due to strikes, lockouts, civil commotion, war or warlike operations, acts of terrorism, acts of a public enemy, acts of bioterrorism, epidemics, quarantines, pandemics, invasion, rebellion, hostilities, military or usurped power, sabotage, government regulations or controls, inability to obtain any material, utility, or service because of governmental restrictions, hurricanes, floods, or other natural disasters, acts of God, or any other cause beyond the direct control of the party delayed. Notwithstanding anything in this Lease to the contrary, if Landlord or Tenant shall be delayed in the performance of any act required under this Lease by reason of any Unavoidable Delay, then provided notice of the Unavoidable Delay is given to the other party within ten days after its occurrence, performance of the act shall be excused for the period of the delay and the period for the performance of the act shall be extended for a reasonable period, in no event to exceed a period equivalent to the period of the delay. The provisions of this article shall not operate to excuse Tenant from the payment of Rent or from surrendering the Premises or Pier at the end of the Lease Term, and shall not operate to extend the Lease Term. Delays or failures to perform resulting from lack of funds or the increased cost of obtaining labor and materials shall not be deemed delays beyond the direct control of a party.

29. ADVERTISING.

29.1 Advertised Name and Address. Tenant shall not use the name of the Anna Maria City Pier for any purpose other than as the address of the business to be conducted by Tenant in the Premises and/or Pier and Tenant shall not acquire any property right in or to any name which contains the name of the Pier as a part of the name. Tenant shall not use the name of Landlord in any advertisement or otherwise. Tenant shall use in its advertising and promotional activities for its business in the Premises such references to the name of the Pier and such identifying lettering, logos, marks, or symbols referring to the Pier as Landlord shall specify from time to time. Notwithstanding the foregoing, Landlord shall have the right to prohibit the use by Tenant of the name, marks, and symbols of the Pier in any manner determined to be unacceptable to Landlord in its sole discretion.

29.2 Trademark License. During the Lease Term, Tenant shall make available to Landlord the right to use Tenant's trade names, trademarks, logos, and designs in the printing, publication, and distribution of promotional newsletters, advertisements, marketing brochures, and other materials (the "Marketing Materials") by Landlord and related entities. Prior to any use, Landlord shall seek approval from Tenant for such use, which shall not be unreasonably withheld.

30. MOLD.

Tenant is advised that mold and/or other microscopic organisms ("Mold Conditions") are prevalent in Florida's humid climate and locations, especially in proximity to bodies of water. Mold Conditions may cause allergic reactions, respiratory reactions or other problems, particularly in persons with immune system problems, young children and elderly persons. Tenant acknowledges that it is fully responsible to maintain the proper operation of the HVAC system in the Premises at all times during the Lease Term to inhibit Mold Conditions. Tenant shall ensure property maintenance of the Premises and Pier to limit the accumulation of water and excessive moisture inside the Premises and on the Pier. Tenant shall notify Landlord immediately of any water intrusion conditions arising within the Premises or excessive water intrusion conditions on the Pier. TENANT ACKNOWLEDGES THE FOREGOING, AND AGREES TO ACCEPT FULL RESPONSIBILITY FOR ANY AND ALL RISKS RELATED TO MOLD CONDITIONS IN THE PREMISES AND PIER. TENANT AGREES TO RELEASE, HOLD HARMLESS AND INDEMNIFY LANDLORD, LANDLORD'S OFFICERS, AGENTS, EMPLOYEES, AND SUCCESSORS FROM ANY AND ALL LIABILITY OR DAMAGES, WHETHER FINANCIAL OR OTHERWISE, ARISING FROM OR RELATED TO MOLD CONDITIONS IN THE PREMISES AND ON THE PIER.

31. GENERAL PROVISIONS.

31.1 Construction Principles. The words "including" and "include" and similar words will not be construed restrictively to limit or exclude other items not listed. This Lease has been negotiated "at arm's-length" by Landlord and Tenant, each having the opportunity to be represented by legal counsel of its choice and to negotiate the form and substance of this Lease. Therefore, this Lease shall not be more strictly construed against either party by reason of the fact that one party may have drafted this Lease. If any provision of this Lease is determined to be invalid, illegal, or unenforceable, the remaining provisions of this Lease shall remain in full force, if the essential provisions of this Lease for each party remain valid, binding, and enforceable. The

parties may amend this Lease only by a written agreement of the parties. This Lease shall constitute the entire agreement of the parties concerning the matters covered by this Lease. All prior understandings and agreements had between the parties concerning those matters, including all preliminary negotiations, lease proposals, letters of intent, and similar documents, are merged into this Lease, which alone fully and completely expresses the understanding of the parties. Landlord and Tenant intend that faxed or PDF format signatures constitute original signatures binding on the parties. This Lease shall bind and inure to the benefit of the heirs, personal representatives, and, except as otherwise provided, the successors and assigns of the parties to this Lease. Any liability or obligation of Landlord or Tenant arising during the Lease Term shall survive the expiration or earlier termination of this Lease.

31.2 No Representations by Landlord. Neither Landlord nor Landlord's agents have made any representations or promises concerning the physical condition of the Pier or the Premises, Tenant's ability to use the Premises or the Pier for the uses permitted under this Lease, the area of the Premises or Pier or the manner of calculating such area, anticipated Operating Costs, or any other matter affecting or relating to the Premises or Pier, except as expressly set forth in this Lease and no rights, easements, or licenses are acquired by Tenant by implication or otherwise except as expressly set forth in this Lease.

31.3 Radon Gas. The following notification is provided under Section 404.056(6), Florida Statutes: "Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks 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 your county health department."

31.4 JURY WAIVER; COUNTERCLAIMS. LANDLORD AND TENANT KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM INVOLVING ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE. TENANT FURTHER WAIVES THE RIGHT TO INTERPOSE ANY NON-COMPULSORY COUNTERCLAIM OF ANY NATURE IN ANY ACTION TO OBTAIN POSSESSION OF THE PREMISES.

31.5 SDN COMPLIANCE. Tenant hereby represents, warrants and certifies that neither (i) Tenant, nor (ii) any of persons or entities that control or are controlled by Tenant (each a "Tenant Party"), has been, is currently, or at any time in the future shall be listed on the Specially Designated National list ("SDN List") maintained by the United States Department of the Treasury Office of Foreign Assets Control ("OFAC"). At its option, Landlord shall have the right to immediately terminate this Lease if any Tenant Party becomes listed on the SDN List.

31.6 VENUE/CHOICE OF LAW: Any action brought under this action shall be brought in Manatee County, Florida. The choice of law shall be the laws of the State of Florida.

31.7 PUBLIC ENTITY CRIMES. Tenant acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies

on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Tenant will advise the Landlord promptly if it becomes aware of any violation of this statute.

31.8 PREPARATION. This Lease shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

31.9 TIME OF ESSENCE. Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

31.10 NON-DISCRIMINATION. The parties agree that no person shall, on the grounds of race, color, sex, age, national origin, disability, religion, ancestry, marital status, sexual orientation, or gender identity or expression, be excluded from the benefits of, or be subjected to any form of discrimination under any activity carried out by the performance of this Lease.

31.11 INCORPORATION BY REFERENCE. Exhibits attached hereto and/or referenced herein shall be deemed to be incorporated into this Lease by reference.

31.12 EFFECTIVENESS. This Lease is expressly contingent upon the approval of the Landlord's City Commission and shall become effective only when signed by all parties and approved by the Landlord's City Commission. Except where specifically authorized in this Lease, all modifications to this Lease require approval of the Landlord's City Commission.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below.

Mote Marine Laboratory, Inc.

City of Anna Maria, Florida

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

\_\_\_\_\_  
Dan Murphy, Mayor  
Date

**EXHIBIT "A"  
PREMISES**

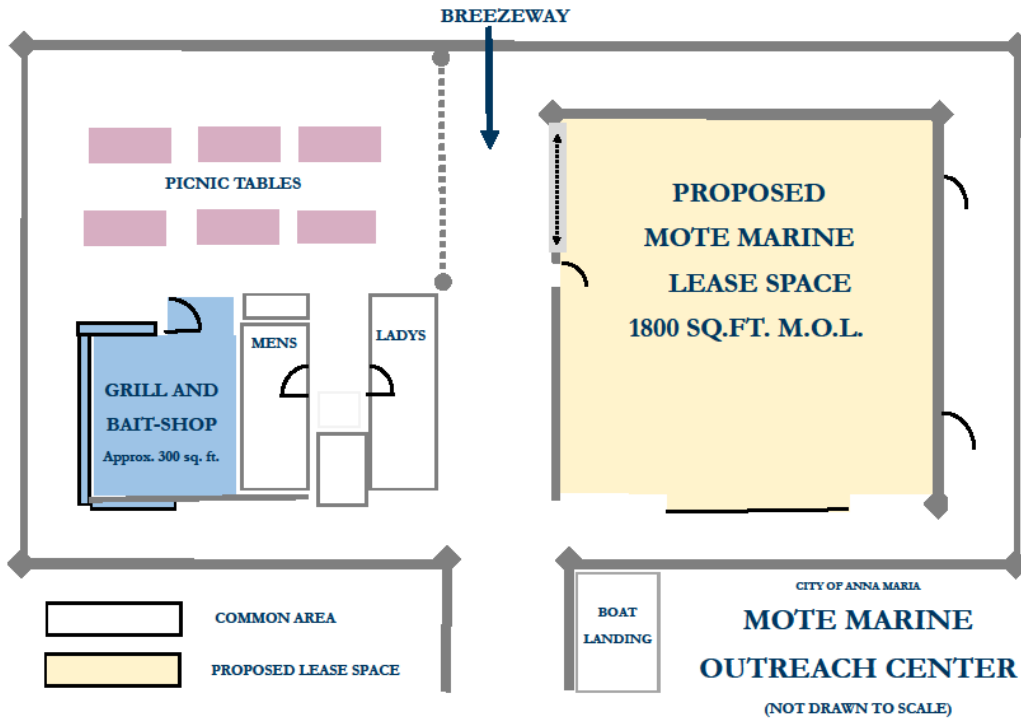


EXHIBIT "A"

**EXHIBIT "B"**  
**TENANT WORK REQUIREMENTS**

A. Requirements Prior to Commencement of Any Work in the Premises:

1. Two (2) copies of Tenant's general contractor's or any subcontractor, as may apply, liability insurance naming Landlord as additional insured.
2. Two (2) copies of approved building permit.
3. Prepare two (2) copies for Landlord's approval of a recordable "Notice of Commencement" executed by Tenant as "Owner".
4. Two (2) copies of Contractor "Certificate of Liability Insurance" prepared in accordance with the requirements of the City, and evidencing the existence of builder's risk, commercial general liability, and workers' compensation insurance complying with the requirements of the Insurance article of this Lease.
5. One (1) copy of the Contractor's Florida Contracting License.
6. Two (2) copies of the work/project's completion schedule.
7. Two (2) copies of project vendor list with contact information.
8. Tenant, at its expense, will provide and furnish to Landlord payment and performance bonds (or other similar assurances agreed by Landlord), by a surety company reasonably acceptable to Landlord, in amounts equal to 150% of the costs and expenses of the work to be performed by the Tenant.

B. General Requirements:

1. Tenant and all construction personnel shall abide by Landlord's job site rules and regulations and fully cooperate with Landlord's construction representatives in coordinating all construction activities in the Premises, including rules and regulations concerning working hours, parking, and use of the Pier.
2. Tenant shall supervise all construction work done on the Premises.
3. Tenant shall be responsible for cleaning up any refuse or other materials left behind by construction personnel at the end of each workday.
4. At all times during construction, Tenant shall allow Landlord access to the Premises for inspection purposes. On completion of any work and Tenant Improvements, Tenant's general contractor shall review the Premises with Landlord and Tenant and secure Landlord's and Tenant's acceptance of the Tenant Improvements and work.
5. Workers shall provide their own temporary toilet facilities, trash facilities, water coolers, and construction materials dumpsters and shall locate them along with any construction trailers or field offices in areas specifically designated by Landlord.

6. No painting or spraying of chemicals, varnishes, lacquers, finishes, or paint will be allowed during normal business hours. Such activities shall only occur during days and times specifically preapproved by Landlord.

7. If a shutdown of plumbing, electrical, and/or other equipment becomes necessary in connection with Tenant's work, Tenant will notify Landlord in advance and Landlord will determine when such shutdown may be made, and at Landlord's election any such shutdown will be done only when a representative of Landlord is present. In all instances where this is done, the system shall not be left inoperable overnight or over a prolonged period.

8. If applicable, all equipment installed shall be compatible with any existing fire alarm system and the contractor shall warrant that any connection to the existing fire alarm system shall only occur after proper notification to Landlord and on an after-hours basis. Any disruption to the existing fire alarm system or damage as a result of contractor's work will be the sole responsibility of Tenant.

9. All additional electrical circuits added to existing electrical panels or any new circuits added to new electrical panels will be appropriately labeled as to the area or equipment serviced by the circuit in question. Any electrical panel covers removed to facilitate installation or connection shall be reattached.

10. All workers must stay in their designated work areas and the use of radios, loud music, alcoholic beverages, narcotics, or cigarette smoking is prohibited in the Premises.

11. Any roof opening required at the Premises shall be performed by Landlord's roofing contractor if Landlord so demands, at Tenant's expense. Such openings shall include supporting structures, angles, curbs, and flashing ducts. Landlord may refuse to approve such roof opening request if it may affect the roof's structural system, may void the roof warranty, or may otherwise affect the integrity of the roofing system.

12. Any damage to any part of the Premises or Pier that occurs as a result of any work performed by Tenant shall be promptly repaired by Tenant to the reasonable satisfaction of Landlord.

13. Tenant, at its expense, will promptly repair or replace, or at Landlord's election reimburse Landlord for the cost of repairing or replacing, property of Landlord that may be damaged, lost or destroyed in the performance of the work or as a result thereof.

14. Landlord will have no responsibility for or in connection with the work. Tenant, at its expense, will remedy and be responsible for all defects in the work, whether appearing during its progress or after completion and whether the same affect the Premises in particular or any of portion of the Premises or the Pier.

15. Demolition of partitions and removal of rubbish will be done during hours first approved by Landlord's Mayor in writing. All such materials are to be taken from the Premises at a time and under such conditions as required by the Landlord's Mayor.

16. Electrical and power panel balancing will be maintained by and at the expense of Tenant during the entire period of Tenant Work.

17. Tenant and its contractors will not demolish or remove any of the Premises' or Pier's structure.

18. Roof openings (including, supporting structures, angles, curbs, flashing, ducts, and vents) are subject to Landlord's Mayor's prior written consent in each instance, which consent will not be unreasonably withheld. Notwithstanding the foregoing, Landlord's Mayor may refuse to give its consent to any roof opening that in Landlord's Mayor's judgment exceeds the capability of the structural system. Any roof openings consented to by Landlord's Mayor must be made only by Landlord's roofing contractor at Tenant's expense, or such duly licensed roofing contractor as Landlord's Mayor may designate or approve in writing in its sole discretion.

19. All Pier finishes require protection during construction.

20. There is a Two Hundred Fifty and 00/100 Dollar (\$250.00) penalty for "false alarms".

C. Upon Completion of the Work, Tenant Shall Provide to the Landlord:

1. Two (2) copies each of final inspection report and Certificate of Occupancy or Completion indicating that the work has been completed in accordance with the permit issued by the applicable Building Department.

2. Two (2) copies each of "as-built" drawings indication the alterations and relocating of existing construction (mechanical, electrical, etc...) if applicable, in PDF file format or on CD's.

3. Two (2) copies each of "Final Releases" in accordance with the Florida Lien Laws from general contractor, subcontractors, vendors, and suppliers associated with the work and Contractor's Final Affidavit indicating that all subcontractors have been paid in full for the work.

4. Two (2) copies each of permit plans including approved fire sprinkler drawings.

5. Two (2) copies of all equipment operating and maintenance manuals and demonstration of any equipment that will become the property of Landlord.

6. Two (2) copies of all other manufacturer guarantees/warranties on the improvements. Manufacturer's guarantees/warranties shall name Landlord as beneficiary where Landlord is or shall become responsible for the repair and maintenance of the installation.

7. Two (2) original copies of a letter from the architect of record indicating that the improvements have been installed in accordance with the approved plans and specification for the Building.

8. Two (2) copies of Tenant's completed "punch list" signed off by the Architect or Tenant's representative that the work has been satisfactorily completed by the Contractor.

9. Two (2) copies of an independent HVAC Test and Balance report, if applicable.



D. Sustainability Requirements:

1. Tenant shall comply with any recycling requirements enacted by Landlord, including the separation of construction materials/debris, paper, cardboard, plastics and glass.

2. Tenant shall provide all contractors performing work with a copy of these Rules and Regulations and a copy of the Lien section of the Lease indicating that no liens may be placed against Landlord's interest in the Premises or Pier for work performed by Tenant.

E. Non-interference with other tenant on Project.

Tenant shall take all reasonable actions to ensure that Tenant's construction activities, including, but not limited to utility shutdowns, will not interfere with the business operations of the other tenant on the Project.