



Legislation Text

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File #: O-15-16, Version: 1

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**Lease of City Dock Space to Chesapeake Marine Tours** - For the purpose of authorizing for fiscal year 2022 the lease of certain municipal property located at the City Dock to Chesapeake Marine Tours, Inc. for the docking and mooring of certain boats.

**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance 15-16**

**Introduced by: Mayor Pantelides, Alderman Arnett, Alderman Budge,  
Alderman Littmann, Alderman Pfeiffer, Alderwoman Pindell Charles,  
Alderwoman Finlayson and Alderman Paone**

**Referred to  
Economic Matters Committee  
Environmental Matters Committee**

**AN ORDINANCE** concerning

**Lease of City Dock Space to Chesapeake Marine Tours**

**FOR** the purpose of authorizing for fiscal year 2022 the lease of certain municipal property located at the City Dock to Chesapeake Marine Tours, Inc. for the docking and mooring of certain boats.

**WHEREAS**, the City of Annapolis and Chesapeake Marine Tours, Inc., have entered into a series of leases and amendments, the most recent being O-2-15, to lease through June 30, 2021, certain docking space at the City Dock under certain terms and conditions; and

**WHEREAS**, the Annapolis City Council believes that the proposed lease would benefit the City; and

**WHEREAS**, a lease setting forth details of the rental has been prepared and is considered satisfactory; and

**WHEREAS**, Article III, Section 8 of the Charter of the City of Annapolis requires the passage of an ordinance to authorize a lease.

**SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that the proposed Lease, a copy of which is attached hereto and made a part hereof, between the City of Annapolis and Chesapeake Marine Tours, Inc. d/b/a Watermark Cruises, is hereby approved, and the Mayor is hereby authorized to execute the Lease on behalf of the City. It is further expressly found by the City Council that the services to be provided as a result of the Lease will benefit visitors and residents of the City, will generate tax revenues and additional rental income to the City, and will better serve the public need for which the property was acquired.

**AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.

**EXPLANATION**

CAPITAL LETTERS indicate matter added to existing law.

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates amendments.

**CITY OF ANNAPOLIS LEASE AGREEMENT**

This Lease Agreement (“Lease”) is made this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the City of Annapolis, a municipal corporation of the State of Maryland (the “Lessor”), and Chesapeake Marine Tours, Inc., a Maryland corporation, its successors and assigns(collectively, the “Lessee”).

**WHEREAS**, the Lessor is the fee simple owner of the property known and described as the City Dock in Annapolis, Maryland (the “City Dock”), which is improved by docking space, boat slips and a boardwalk, and the Lessor has space therein to lease; and

**WHEREAS**, the Lessee desires to lease certain portions of the City Dock, including docking space, two (2) boat slips and a portion of the boardwalk (collectively, the “Premises”), and as more particularly described in Paragraph 1 of this Lease; and

**WHEREAS**, the Lessee wishes to lease the Premises for the purpose of docking its vessels and carrying on its business of operating a cruise and water taxi service on the Chesapeake Bay and its tributaries; and

**WHEREAS**, the parties desire to enter into this Lease that defines the rights, duties, and liabilities of the parties.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants of this Lease, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Lessor and the Lessee agree as follows:

1. Identification of the Premises.

The Lessor hereby rents and leases to the Lessee, and the Lessee hereby rents and leases from the Lessor, for the Term of this Lease and for the rent and upon the other terms set forth herein, the Premises, consisting of two hundred sixty (260) linear feet of docking space on the City Dock, and as further described

below:

- a. The two (2) end boat slips nearest the channel of Spa Creek known as Slips 21 and 22, both of which are suitable for boats not exceeding sixty five (65) feet in length;
- b. The end of the City Dock adjacent to Slip 22, between two (2) dolphins, for a distance of not more than eighty (80) feet; and
- c. Sixty (60) feet along the boardwalk adjacent to the Lessor's Harbormaster's office.

2. Term.

The Lessor leases to the Lessee and the Lessee hereby leases from the Lessor the Premises for a term of one (1) year commencing on July 1, 2021, and ending June 30, 2022 (the "Term"), unless sooner terminated in accordance with the provisions of this Lease.

3. Rent.

a. The Lessee shall pay unto the Lessor, at a rate of One Hundred Seventy-Seven Dollars and Eighty-Eight Cents (\$177.88) per linear foot, the total sum of Forty-Six Thousand Two Hundred Forty-Eight Dollars and Eighty Cents (\$46,248.80) for the Term of this Lease (the "Rent"). This represents a three percent (3%) per year annual increase, using the same rate per linear foot, from the amount earned by the Lessor from the lease of one thousand four hundred twenty three (1,423) linear feet of total rented dock space at the City Dock during the 2015 calendar year. The Lessee shall pay the Rent not later than July 1, 2021, without deduction, setoff or counterclaim whatsoever, and without demand to the Lessor. Payment shall be made payable to the "City of Annapolis" and shall be sent or delivered to the Finance Director, Finance Department, City Hall, 160 Duke of Gloucester Street, Annapolis, Maryland 21401. Copies of such payment shall be provided to the Lessor's Harbormaster at 1 Dock Street, Annapolis, Maryland 21401.

b. The Lessee shall also pay as additional rent all sums, taxes, assessments, costs, expenses and other payments which the Lessee under any of the provisions of this Lease assumes or agrees to pay (the "Additional Rent"), and in the event of any nonpayment thereof, the Lessor shall have all the rights and remedies provided in this Lease and/or by law or at equity.

c. Except as otherwise provided for in this Lease, any Additional Rent shall be due and payable thirty (30) calendar days after receipt of notice of amount due and payable. All payments shall be made payable to the "City of Annapolis" and shall be sent or delivered to the Finance Director, Finance Department, City Hall, 160 Duke of Gloucester Street, Annapolis, Maryland 21401.

d. In the event the Rent or Additional Rent under this Lease, or any part thereof, shall remain unpaid for a period of fifteen (15) business days after the day on which it is due, then in addition to all other sums due by the Lessee under this Lease, the Lessee shall pay the Lessor as Additional Rent: (1) late fees equal to one percent (1%) of the unpaid amount, and (2) if an action of any type is filed in any court, reasonable attorneys fees.

e. The Lessee shall also pay, from time to time, all state, county and local taxes, and assessments of any kind and nature whatsoever, including all interest and penalties on them, which shall or may accrue or

required by law during the Term of this Lease for the Premises. The Lessee shall pay all such taxes and assessments before any fine, penalty, interest, or cost may be added for nonpayment, and shall furnish to the Lessor, on request, official receipts or other satisfactory proof evidencing such payment. If any tax or assessment is payable in installments over a period of years, the Lessee shall be liable only for payment of those installments falling due and payable during the Term, with appropriate pro-ration in case of fractional years. Taxes and assessments shall not be deemed to include any municipal, state or federal income taxes assessed against the Lessor, or any municipal, state or federal capital levy, estate, succession, inheritance or transfer taxes of the Lessor, or any franchise taxes imposed on the Lessor, or any income, profits or revenues tax, assessment or charge imposed on the Rent received as such by the Lessor under this Lease.

4. Quiet Enjoyment.

The Lessee may peaceably and quietly have, hold and enjoy the Premises for the Term of this Lease subject, however, to the terms of this Lease and compliance with those terms.

5. Utilities.

a. The Lessee may, at its option and at its expense, arrange with Baltimore Gas & Electric (“BGE”) to have electric service for the Premises separately metered and billed directly to the Lessee, and the Lessee agrees to pay all charges therefore directly to BGE. In the alternative, and/or if the Lessee shall fail to arrange separate metering with BGE, the Lessee shall be required to pay monthly as Additional Rent the appropriate monthly winter electric rate, as set by the City Council of Annapolis in its Annual Fee Resolution applicable to the Term of this Lease which, as it pertains to this Lease, for a one hundred (100) amp outlet, shall be twice the rate set in the Annual Fee Resolution for a fifty (50) amp outlet.

b. The Lessee shall pay Two Hundred Fifty Dollars and No Cents (\$250.00) per month as Additional Rent for trash and recycling collection to be provided by the Lessor for the Premises.

6. Vessels Authorized at the Premises.

a. The Lessee shall have authority to dock an office barge at the Premises, plus the passenger vessels Harbor Queen, No. 539448; Annapolitan II, No. 544467; Cabaret II, No. 1039051; Lady Sarah, No. 1160977; Miss Anne, No. 635636; Miss Anne II, No. 672686; Catherine Marie, No. 1082215; Severn Exposure, No. 1146892; Raven, No. 1239100; and four (4) water taxi launches.

b. The Lessee may replace any vessel referenced in this Paragraph; provided that all replacement vessels shall be of the same size, or substantially the same size, and of the same use as Coast Guard certified passenger vessels. The Lessee shall provide the Lessor with prior written notice of its intent to replace a vessel, and all replacement vessels shall be subject to the Lessor’s prior approval, which shall not be unreasonably withheld as long as all replacement vessels meet the standards of Coast Guard certified passenger vessels.

7. Use of the Premises.

a. The Lessee may use and occupy the Premises during the Term of this Lease only for the purpose of docking its vessels and carrying on its business of operating a cruise and water taxi service on the Chesapeake Bay and its tributaries, including passenger vessels for sightseeing, boat charter and water taxi operations, and for office space from which to conduct the business which this Lease authorizes at the Premises, and for no other purpose whatsoever.

b. The Lessee accepts the Premises in “as is” condition. The Lessor makes no representation or warranty with respect to the condition or state of the land, or the Premises, or its fitness for any particular use, and the Lessor shall not be liable for any latent or patent defect thereon. Unless as otherwise expressly provided in this Lease, the Lessor does not make, and specifically disclaims, any representations, warranties or covenants of any kind or character, express or implied, with respect to the nature, condition, economical, functional, environmental or physical condition of the Premises.

c. The Lessee shall not use or occupy or permit the Premises, or any part thereof, to be used or occupied, nor do or permit anything to be done in or on the Premises in a manner which would in any way (1) violate any of the terms of this Lease; (2) make it difficult for either the Lessor or the Lessee to obtain fire or other insurance required by this Lease at standard rates; (3) cause or create a public or private nuisance in or on the Premises or the City Dock; or (4) tend to impair or interfere with the character, reputation or appearance of the Premises or the City Dock.

d. The Lessee shall notify the Lessor’s Harbormaster by e-mail to [harbormaster@annapolis.gov](mailto:harbormaster@annapolis.gov) <<mailto:harbormaster@annapolis.gov>> whenever any of its vessels will be scheduled to be absent from any portion of the Premises for more than seventy-two (72) consecutive hours, during which time the Lessor may utilize any portion of the Premises so vacated for any lawful purpose whatsoever without any abatement of the Rent due pursuant to this Lease. Whenever the Lessee notifies the Lessor’s Harbormaster of such planned absences for more than seventy-two (72) consecutive hours, the Lessee shall also give the Lessor’s Harbormaster twenty-four (24) hour prior written notice by e-mail to [harbormaster@annapolis.gov](mailto:harbormaster@annapolis.gov) <<mailto:harbormaster@annapolis.gov>> of the intended return to the portion of the Premises vacated.

e. The Lessee shall not discharge or board passengers at the plaza located at that portion of the City Dock closest to the Market House, commonly known as the end of Ego Alley.

f. The Lessor shall attempt to keep the Premises free and clear of unauthorized vessels when the Lessee's vessels are away from the Premises, but the Lessor shall be under no obligation or responsibility to do so, nor shall the Lessor assume or incur any liability for failing to do so, and the Lessee hereby unconditionally and completely waives and releases all complaints, claims, suits and actions of all types, both administrative and judicial, against the Lessor in connection therewith.

g. The Lessor shall have the right to remove from the Premises, without any liability whatsoever for so doing, and without prior or subsequent notice to the Lessee, any alterations made by the Lessee which are made without the consent required in Paragraph 11 of this Lease. The cost of removal and/or repairs associated with any such unauthorized alterations, including any administrative costs incurred by the Lessor, shall be billed to the Lessee, and shall be due and payable by the Lessee as Additional Rent.

h. The Lessee shall conduct its business in and about the City Dock and the Premises in an orderly manner, and shall keep its vessels neat and clean and shall maintain the area immediately adjacent to its mooring area on the Premises and the Premises itself in a neat and clean manner.

i. Amplified music or other amplified sound on the Premises shall not exceed the maximum decibel levels specified in Chapter 11.12 of the Code of the City of Annapolis, as may be amended.

8. Lessor’s Right to Temporary Use of the Premises.

a. The Lessor shall have the right and privilege, with the consent of the Lessee, which consent shall not be unreasonably withheld, on not less than seven (7) calendar days prior notice from the Lessor to the Lessee, to reclaim and use all or some of the Premises in order to meet contractual obligations relating to the annual fall boat shows for no more than the number of days specified in the applicable City Council-approved lease for such annual fall boat shows at or on the City Dock, and to accommodate certain other special events, shows or programs conducted from time to time at or on the City Dock. In such event, the Lessee shall vacate the designated portion of the Premises to which the consent applies, and remove all of its vessels from that designated portion of the Premises during the period specified in the Lessor's notice.

b. If the Lessee vacates any portion of the Premises due to any events, shows or programs, other than the annual fall boat shows conducted at or on the City Dock, as described in Paragraph 8(a) above, the Lessee shall be entitled to a pro rata abatement of the Rent due pursuant to this Lease based on the ratio which the number of days of vacancy specified in the Lessor's notice bears to the total Rent, and based on the portion of the Premises vacated.

9. Lessor Rights.

a. The Lessor and its employees, representatives, agents, and servants, including any builder or contractor employed by the Lessor, shall have the absolute unconditional right at any and all reasonable times, after not less than twenty-four (24) hours prior notice to the Lessee (except in the case of an emergency where no such notice is required), to enter the Premises for any of the following purposes: (a) to inspect the Premises; (b) to make such repairs and/or changes in the Premises as the Lessor may deem necessary or proper; (c) to enforce and carry out any provision of this Lease; (d) for any purpose relating to the safety, protection or preservation of the Premises; or (e) for any other purpose related to the enforcement of this Lease.

b. The Lessor shall use reasonable efforts to minimize interference to the Lessee's business or use of the Premises when making inspections or repairs, but the Lessor shall not be required to perform the inspections or repairs at any time other than during normal working hours.

10. Lessee Equipment, Vessels, Personal Property.

The Lessee shall retain ownership of all of its trade and business equipment, vessels and personal property from time to time installed or located on the Premises. The Lessee may remove any such fixtures, equipment or vessels (subject to Paragraph 6 of this Lease) at any such time during the Term, and shall remove all of it prior to the expiration or earlier termination of this Lease. Removal shall not cause any damage to the Premises or the Property.

11. Repairs and Maintenance.

a. The Lessee shall not make or cause to be made any alterations, additions, or improvements to the Premises without obtaining the prior written consent of the Lessor that may be withheld in the Lessor's sole and absolute discretion.

b. Prior to the Lessee repairing, replacing or otherwise altering any aspect of the Premises or the Property, the Lessee shall provide the Lessor with thirty (30) calendar day prior written notice specifying the need for and

nature of any and all such repairs, replacements or alternations, and providing the Lessor with a copy of all applicable contracts or agreements with any third party hired by the Lessee to perform such repairs, replacements or alterations. The Lessee or its contractors shall not start or undertake any such repairs, replacements or alterations without the prior written approval of the Lessor, and without first obtaining all necessary permits and governmental approvals. Such approved repairs, replacements or alterations shall be made and rendered by professional contractors licensed in the State of Maryland, be done in a good and workmanlike manner, and shall comply in all respects with all applicable federal, state, and local laws, ordinances and regulations, including, but not limited to, zoning, building and fire code requirements.

c. If the Lessor is required to make any repairs to such portions of the Premises by reason, in whole or in part, of the negligent or willful act or failure to act by the Lessee or the Lessee's employees, agents, contractors, guests or invitees, the Lessor may collect the cost of any and all such repairs from the Lessee as Additional Rent.

d. The Lessor shall be responsible for the maintenance and repair, including making any necessary replacements of same, of the docks, sidewalks, paving, pilings, dolphins and other structures, improvements, fixtures and equipment owned by the Lessor at the City Dock, in the City's sole discretion, and subject only to applicable laws, regulations and City appropriations. The Lessor shall be responsible for removal of trash and other rubbish from the docks, sidewalks and paving owned by the Lessor at the City Dock, in the City's reasonable discretion, and subject to City staffing and financial restrictions. The Lessor shall arrange for the removal of all snow and ice from the docks, sidewalks and paving owned by the Lessor at the City Dock, which removal shall occur after the City, in its sole discretion, has addressed all other City streets, facilities, and areas that may need snow removal.

e. The Lessor shall have no liability to the Lessee by reason of any inconvenience, annoyance, interruption, or injury to business or other use or occupancy arising from making any repairs or changes that the Lessor is required or permitted to make in or to any portion of the Premises pursuant to this Lease or by law.

## 12. Security, Property Loss Damage.

a. The Lessee assumes all risks associated with the security of the Premises. The Lessor shall have no obligation or duty with regard to security. The Lessee shall police and maintain the Premises in a clean, safe and secure manner.

b. The Lessor, its elected officials, appointees, directors, employees, agents, contractors and representatives (the "Indemnified Parties") shall not be liable for any damage to property of the Lessee or of others located on the Premises or entrusted to its or their employees, nor for the loss of any property by theft or otherwise, nor for any injury or damage to persons or property resulting from theft, casualty, acts of God, fire of every nature and type, the accumulation of snow or ice, explosion, steam, gas, electricity, wind, water, rain or snow, or from the pipes, appliances or plumbing works of the same or from the street or subsurface or from any other place, or from any other cause whatsoever; nor shall the Lessor be liable for any such damage caused by other tenants or persons in the Premises, or for damage caused by operations in construction of any public or quasi-public works. All property of the Lessee kept or stored on the Premises shall be so kept at the risk of the Lessee only and the Lessee shall indemnify, defend and hold the Indemnified Parties harmless from any claims arising out of damage to the same, including subrogation claims by the Lessee's insurance carrier.

## 13. Default, Breach and Termination.

a. In the event the Lessee should materially default in performance of its obligations under this Lease, and such default continues for more than thirty (30) calendar days after the Lessor has given written notice to the Lessee of such default, the Lessor shall have the right to immediately terminate the Lease and/or to pursue reimbursement from the Lessee for any damages to the Lessor resulting from the Lessee's material default of this Lease. For purposes of this Paragraph 13, "materially default" and/or "material default" shall mean one (1) or more of the following:

- (1) If any representation or warranty, expressed or implied, of the Lessee and pertaining to this Lease shall prove at any time to be incorrect or misleading in any material respect either on the date when made or throughout the Term of this Lease; or
- (2) If the Lessee shall fail to comply, fail to fulfill, or otherwise violate any of the terms, conditions, or obligations contained in this Lease; or
- (3) If the Lessee becomes insolvent or generally does not pay its debts as they become due, or if a petition for relief is filed by the Lessee in a bankruptcy court, or if the Lessee applies for, consents to, or acquiesces in the appointment of a trustee, custodian, or receiver for the Lessee or any of its assets and property, or makes a general assignment for the benefit of creditors, or in the absence of such application, consent, or acquiescence, a trustee, custodian, or receiver is appointed for the Lessee or for a substantial part of the assets and property of the Lessee and is not discharged within thirty (30) calendar days; or
- (4) If any bankruptcy, reorganization, debt arrangement, or other proceeding or case under any bankruptcy or insolvency or any dissolution or liquidation proceeding is instituted against the Lessee and is consented to or acquiesced to by the Lessee or remains for sixty (60) calendar days undismissed; or
- (5) If the Lessee loses or forfeits its corporate status, or ceases to be in good standing with the State of Maryland.

b. There are currently in effect leases between the Lessor and the Lessee for the Premises for the years of 2015 through 2021. In the event the Lessee should materially default in performance of its obligations in any one (1) of the above years, such material default shall also constitute a material default in the leases for all years subsequent to it, including this Lease. If the material default continues for more than thirty (30) calendar days after the Lessor has given written notice to the Lessee of such material default, the Lessor shall have the right to terminate any of the leases for any one (1) or more of the years remaining in effect, including this Lease. Otherwise, execution of this Lease shall have no effect on those leases for the years of 2015 through 2021.

#### 14. Signs.

All signs that the Lessee desires to post on the Premises shall be approved in writing and in advance by the Lessor, the Historic Preservation Commission of the City of Annapolis, and any other agency if required by law. The Lessee shall maintain any signs, as may be approved by this Paragraph, and shall repair and replace when necessary to keep in good condition and repair at all times.

#### 15. Compliance with Law.

a. The Lessee, at its sole cost and expense, shall keep in force all licenses, consents and permits necessary for the lawful use of the Premises for the purposes of this Lease. The Lessee, at its sole cost and expense, shall



promptly comply with and do all things required by any notice served upon it or upon the Lessor in relation to the Premises or any part thereof, from any of the departments or agencies of the Lessor, a county, the State of Maryland, or the United States, if the same shall be caused by the Lessee's use of the Premises. The Lessee shall pay all costs, expenses, claims, fines, penalties, and damages that may in any manner arise out of the failure of the Lessee to comply.

- b. The Lessee shall have a reasonable time to correct any violation under this Paragraph.

16. Insurance.

a. The Lessee shall for the duration of this Lease maintain and pay the premiums for a policy of insurance covering liability for personal injury and property damage arising out of its business and operations pursuant to this Lease in the amount of no less than One Million Dollars (\$1,000,000.00) per person for bodily injury and property damage and Three Million Dollars (\$3,000,000.00) for each occurrence in the aggregate.

b. The Lessee shall have adequate workers' compensation insurance covering its employees who enter and/or work on the Premises, and in no event shall the coverage in such policy be less than One Million Dollars (\$1,000,000.00) per person for accidental bodily injury and occupational disease.

c. The insurance policy or policies shall specifically name the "City of Annapolis, its elected officials, appointees, directors, employees, agents, contractors and representatives" as additional insureds.

d. The Lessee's insurer or insurers shall be authorized to write the required insurance, approved by the Insurance Commissioner of the State of Maryland, and subject to the approval of the Lessor's City Attorney. The form and substance of the Lessee's insurance policy or policies shall also be subject to reasonable approval by the Lessor's City Attorney, and shall be submitted to the City Attorney at 160 Duke of Gloucester Street, Annapolis, Maryland 21401, with a copy to the Lessor's Harbormaster at 1 Dock Street, Annapolis, Maryland 21401, for such approval not less than thirty (30) calendar days prior to the Lessee's occupancy of the Premises.

e. The certificate for each insurance policy or policies shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, whether at the request of the Lessee or for any other reason, except after thirty (30) calendar days advance written notice mailed by the insurer or the Lessee to the Lessor's City Attorney, and that such notice shall be transmitted postage prepaid, return receipt requested.

f. The obligations of the Lessee under this Paragraph are part of but do not limit or satisfy the Lessee's obligations under the remainder of this Lease.

17. Surrender of Premises.

a. On the last day or earlier termination of this Lease, the Lessee shall vacate the Premises and leave it in good condition and repair, normal wear and tear excepted. If the Premises are not surrendered when required, the Lessee shall indemnify, defend and hold the Indemnified Parties (as defined in Paragraph 12 of this Lease) harmless against loss or liability resulting from the delay by the Lessee in vacating the Premises, including, without limitation, any claims made by any succeeding tenant or other occupant founded on such delay. Any

holding over with the consent of the Lessor after the termination of this Lease shall be construed to be a tenancy from month-to-month upon the same terms and conditions as provided in this Lease, to the extent applicable.

b. On the last day or earlier termination of this Lease, the Lessee shall, within thirty (30) calendar days and at its own cost and expense, dismantle and remove all of its personal property from the Premises. Any such property not removed at the expiration of this Lease, and the Lessee's continued failure to remove the same within thirty (30) calendar days after receipt of notice from the Lessor, shall be deemed abandoned and, at the election of the Lessor, shall become the property of the Lessor without payment of any kind to the Lessee, without increasing the Lessor's liability to the Lessee, and for any disposition of it as the Lessor decides to make.

c. Within ten (10) calendar days of vacating, the Lessor shall tour the Premises, with the Lessee present if possible, to determine the condition of the Premises. Any items determined to be in need of correction or repair shall be corrected or repaired by the Lessor, and shall be invoiced by the Lessor and paid by the Lessee within thirty (30) calendar days of such invoicing.

18. Indemnification.

a. The Lessee shall indemnify, defend, and hold harmless the Indemnified Parties (as defined in Paragraph 12 of this Lease) from and against any and all actions, suits, causes of action, judgments, claims, and liabilities for loss, injury, damages and/or expenses suffered or alleged to have been suffered by any person or to any property due to or alleged to be due to an act, omission or the negligence of the Lessee, its officers, employees, contractors or other agents, directly or indirectly, in connection with this Lease or the use and occupancy of the Premises or any part of the Premises, whether or not the result of negligence or other fault, during the term of this Lease.

b. In the event the Lessor is required to defend any such actions, suits, causes of action, judgments, claims or other liabilities, the Lessor shall be entitled to participate in its defense, either in whole or in part as it so deems, and to select its own attorneys to provide a defense at the sole expense, for purposes of attorney fees and litigation costs, of the Lessee.

c. The Lessee shall reimburse the Lessor, within thirty (30) calendar days after demand for such reimbursement, for any damage done to the Lessor's buildings, facilities, equipment or property caused by an act, omission or the negligence of the Lessee, its officers, employees, contractors or other agents, during the Lease's Term or the Lessee's use and occupancy of the Premises or any part of the Premises, except for that caused by reasonable and ordinary wear and tear. The Lessee may request the Lessor to provide reasonably sufficient documentation or other proof of such damage prior to any reimbursement. If the Lessee disputes any request for reimbursement, it may appeal such request to the Lessor's City Manager and/or his/her authorized designee for review and reconsideration.

19. Impairment of the Lessor's Title.

The Lessee shall not have the right, power, or permission to do any act or to make any agreement that may create, give rise to, or be the foundation for, any right, title, interest, lien, charge, or other encumbrance on the estate of the Lessor in the Premises. The Lessee shall not permit any part of the Premises to be used by any person or persons or by the public at any time or times during the Term of this Lease, in such manner as might tend to impair the Lessor's title to or interest in the Premises, or in such manner as might make possible a claim

or claims of adverse use, adverse possession, prescription, dedication, or other similar claims of, in, to, or with respect to the Premises.

20. Immunities; Reservation of Governmental Authority.

a. The Lessor reserves and shall be entitled to enforce any and all immunities, partial or total, statutory or common law, in any proceeding that is initiated as a result of this Lease, whether initiated by the Lessor, the Lessee or any third party.

b. The Lessor reserves the right at all times to exercise full governmental control and regulation with respect to all matters connected with this Lease not inconsistent with the terms of this Lease.

c. No remedy provided by this Lease or reserved to the Lessor is intended to be exclusive of any other remedies provided for in this Lease, and each such remedy shall be cumulative, and shall be in addition to every other remedy given under this Lease, or now or hereafter existing at law or in equity or by statute. Every right, power and remedy given to the Lessor shall be concurrent and may be pursued separately, successively or together against the Lessee, and every right, power and remedy given to the Lessor may be exercised from time to time as often as may be deemed expedient by the Lessor.

21. Assignment.

The Lessee shall be entitled to assign its Lease obligations with the prior written consent of the Lessor, which the Lessor shall not unreasonably withhold, but any assignee, to the reasonable satisfaction of the Lessor, shall be financially able to meet the obligations of the Lease, including the payment of all Rent and Additional Rent due timely and the maintenance of the minimum insurance coverage required by this Lease, have the overall capability, expertise and resources to operate a waterfront tour and cruise business of a scale and quality comparable to that of the Lessee, or, in the alternative, to operate a maritime business that qualifies as an "amusement" under the Maryland State tax laws, and to otherwise perform the obligations of the Lease at the same level as the Lessee.

22. Independent Contractor.

Nothing contained in this Lease shall be construed to constitute the Lessee as an agent, representative, or employee of the Lessor, or to create any relationship between the parties other than landlord and tenant.

23. Lessee's Representations.

The Lessee hereby represents and warrants the following:

a. The Lessee is a corporation, duly formed and validly existing under the laws of the State of Maryland and is qualified to do business and is in good standing in the State of Maryland.

b. The Lessee has the power and authority to consummate the obligations and responsibilities contemplated hereby, and has taken all necessary action to authorize the execution, delivery and performance required under this Lease.

24. Notice.

a. All notices pursuant to this Lease shall be by regular mail or email, except notice of termination,

which shall be by certified mail, return receipt requested.

b. Notice to the Lessor shall be to the City Attorney, 160 Duke of Gloucester Street, Annapolis, Maryland 21401, [cityattorney@annapolis.gov](mailto:cityattorney@annapolis.gov) <<mailto:cityattorney@annapolis.gov>>.

c. Notice to the Lessee shall be to Debbie Gosselin at PO Box 3350, Annapolis, Maryland 21403, [Debbie@watermarkjourney.com](mailto:Debbie@watermarkjourney.com) <<mailto:Debbie@watermarkjourney.com>>.

d. The parties shall timely advise each other in writing of any change of address.

25. Venue, Waiver of Jury Trial and Governing Law.

a. Venue for all judicial proceedings which result from this Lease shall be the courts of Anne Arundel County, Maryland.

b. The parties hereby expressly waive trial by jury in any such judicial proceeding.

c. The laws of the State of Maryland shall govern all matters relating to this Lease.

26. Integration; Modification or Amendment.

a. This Lease sets forth the entire agreement between the parties relative to the subject matter of this Lease. No representation, promise or condition, whether oral or written, not incorporated herein shall be binding upon either party to this Lease. This Lease shall not be waived, modified or amended except in a writing signed by both parties and witnessed.

b. No act by any representative or agent of the Lessor, other than such a written amendment and acceptance by the Lessor, shall constitute an acceptance thereof.

27. Binding Effect.

The terms of this Lease shall be binding upon, enforceable against, and for the benefit of the parties and their successors and assigns.

28. Severability.

If any of the provisions of this Lease are declared by a court or other lawful authority to be unenforceable or invalid for any reason, the remaining provisions hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by law.

29. Survival.

Those paragraphs in this Lease which by their nature are intended to survive shall survive the termination of this Lease.

30. Authorization.

This Lease is authorized by the Council of the City of Annapolis pursuant to O-15-16.

IN WITNESS WHEREOF, it is the intent of the parties that the Lessee has signed this Lease under seal and, further, that the parties have executed this Lease the day and year first written above.

CHESAPEAKE MARINE TOURS, INC.

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Debbie Gosselin, President (Seal)

ATTEST:

CITY OF ANNAPOLIS

\_\_\_\_\_  
Regina C. Watkins-Eldridge, MMC,  
City Clerk

By: \_\_\_\_\_  
Michael J. Pantelides, Mayor (Seal)

REVIEWED AND APPROVED BY:

\_\_\_\_\_  
Thomas C. Andrews, City Manager

APPROVED FOR FINANCIAL SUFFICIENCY:

\_\_\_\_\_  
Bruce T. Miller, Director  
Finance Department

APPROVED FOR FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
OFFICE OF THE CITY ATTORNEY