

Council Agenda Report

Date: February 17, 2016

Submitted by: Sandra Tripp-Jones, City Manager

SUBJECT: Lease Agreement with Yacht Maintenance Company

Recommendation: That Council approve a Lease Agreement for an unimproved 2 acre parcel, which is part of the Cambridge Port Property (a/k/a Sailwinds property), to be leased to Yacht Maintenance Company, or approved assigns, for a term of 30 years.

DISCUSSION:

Per direction of Council, City Attorney Rob Collison and City Manager Sandra Tripp-Jones, with guidance from the Sailwinds Committee, negotiated an agreement with Yacht Maintenance Company, Inc. (YMC) for a long-term lease of approximately 2 acres of Sailwinds property. YMC owns adjacent property on which it has operated a yacht and boat maintenance company for over 30 years. Approximately 1.6 acres had been leased from the State and used for that business. When the Sailwinds property was transferred to the City, the City continued leasing 1.6 acres (approx.) to YMC. In the last year, YMC has requested that the City lease an additional .4 acres (approx.) to YMC and its successors, in that YMC is selling the property and business to Mr. George Robinson.

- On Jan. 27, 2016 in closed session, City Council discussed and generally agreed with the lease terms listed below.
- On Feb. 4, 2016 Ordinance 1069, finding the two acre parcel no longer needed for public use, was published giving public notice for 20 days, expiring On Feb. 24, 2016.
- On Feb. 8, 2016, Council adopted Ordinance 1069 Finding that a 2-acre parcel of property is no longer needed for public use and terminating the City's right to use or improve said two-acre parcel of property located on the Cambridge Port Property (also known as Sailwinds Property) for a period of Thirty Years and Authorizing the Mayor to negotiate, execute, and deliver to Yacht Maintenance Company, Inc. or its approved assignees, a lease for the property for a term of not more than 30 years subject to the review and approval of the City Council.

The approved assignee will be Cambridge Shipyard Facility, Inc. (the contract purchaser).

The negotiated lease is attached, and the following are lease terms:

1. Yacht Maintenance Company, Inc. and Cambridge Shipyard Facility, Inc., an entity owned by George Robinson IV.

2. Term: 15 years with 15 year option if lease terms are met.
3. Compensation: \$30,000 year with 2%/year or CPI, whichever is greater.
4. If renewed (option exercised), rent for the 16th year will be determined by fair rental appraisers, but no less than that of the 15th year with the same escalator.
5. Other requirements:
 - a. Minimum employment payroll, initially \$600,000. After expansion, must increase to \$875,000.
 - b. Priority of employment:
 - i. Cambridge first
 - ii. Dorchester County, second
 - iii. Outside Dorchester County
 - c. Pursue internship or training school with local education institutions.
 - d. 5 years to obtain all permits for new travel lift or rails system, plus 2 years to complete installation once permits are acquired.
 - e. Screening of site as required by P&Z.
 - f. Addition of an attractive entrance to the harbor on YMC property as approved by P&Z.
 - g. Must continue operating as marine-related going concern.
 - h. Within same permitting and construction periods, obligation to make shoreline improvements along shoreline of 2 acre parcel.
 - i. Re City's riparian usage. If permitting agencies require different location for travel lift or rails, the location cannot infringe on City's riparian use.

Attach: Lease

LEASE AGREEMENT

Lessor: The Commissioners of Cambridge, a Maryland Municipal Corporation
Lessee: Yacht Maintenance Company, Inc., and Cambridge Shipyard Facility, Inc.,
101 Hayward St., Cambridge, Maryland
Property: 2.0 Acres, more or less, Cambridge Port Property, Hayward Street,
Cambridge, Maryland

THIS LEASE AGREEMENT ("Lease") is made this **25th day of January, 2016**, by and between **The Commissioners of Cambridge**, a Maryland Municipal Corporation, herein called "Landlord" or "Lessor" and **Yacht Maintenance Company, Inc. and Cambridge Shipyard Facility, Inc.**, herein called "Tenant" or "Lessee".

RECITALS

WHEREAS, in connection with the operation of the Lessee's business which is a boatyard and marina, Lessee had been leasing for approximately the past thirty (30) years 1.5 acres of unimproved land, more or less, and for many of those years Lessee leased such demised premises from the State of Maryland, acting through the Maryland Department of Transportation ("MDOT") during its ownership of such demised premises and more recently the Lessee has leased such demised premises from the Lessor; and in the interest of offering more efficient marina and boatyard services, Lessee is desirous of expanding such demised premises to approximately two (2) acres as identified on **Exhibit A** attached hereto (the "Demised Premises"), provided that Lessee undertakes Expanded Operations, as this term is defined below and within the time frame established below, to increase maritime economic development for the City of Cambridge.

WHEREAS, approximately one-third (1/3) of the operations of the Lessee's boatyard and marina business occurs on the Demised Premises and the parties hereto recognize that Lessee's ongoing use and occupation of the Demised Premises is integral to the long-term sustainability of Lessee's boatyard and marina operations;

WHEREAS, Lessor and Lessee agree that for purposes of local maritime economic development it is in the best interests of the citizens of the City of Cambridge and the best interests of the employees and independent contractors who are able to obtain employment from or through Lessee's boat yard and marina operations, that the commercial maritime operations of the Lessee continue as a Going Concern;

WHEREAS, Lessor and Lessee agree that for purposes of re-development of the area of the City of Cambridge known as the Cambridge Marine Terminal/Port Property, is in the best interests of the citizens of the City of Cambridge that the commercial maritime operations of the Lessee continue;

WHEREAS, it is intended that the Lessee, Yacht Maintenance, Inc., will be assigning this Lease to an entity owned and controlled by George Robinson, IV, Cambridge Shipyard

Facility Inc., in order to ensure that the boat yard and marina operations of Yacht Maintenance, Inc. continue as a Going Concern, as this term is defined below, for the foreseeable future.

WITNESSETH, that in consideration of the mutual covenants and agreements contained herein, and the payment of the specified rents by the Lessee, Lessor hereby leases to Lessee and Lessee leases from Lessor, the Demised Premises hereinafter described under the terms and conditions set forth herein:

(1) **DEFINITIONS:** For the purposes of this Lease Agreement, Lessor and Lessee hereby agree that the following terms shall have the indicated meaning:

Business Day: means any day other than a Saturday, Sunday, or other day on which commercial banks are authorized or required to close under the laws of the State of Maryland.

Going Concern: when referring to the operations of the Lessee, this term refers to the continuation of commercial operation of vessel maintenance, repair, storage and slip rentals on the Demised Premises and the adjacent property owned by the Lessee in Cambridge, MD, and also requires the Lessee to maintain a certain Minimum Payroll Requirement and to implement the Expanded Operations within a certain timeframe.

Demised Premises: refers to all of that lot, piece or parcel of land, located in the City of Cambridge, containing approximately two (2) acres of unimproved land, more or less, as outlined and delineated upon **EXHIBIT A** attached hereto and incorporated herein by reference. Lessee shall have the right of ingress and egress to and from the Demised Premises by means of a roadway/right-of-way as shown on **EXHIBIT A**.

Expanded Operations: refers to the Lessee's acquisition of a travel lift and a compatible riparian structure or structures necessary to accommodate removal of vessels up to or exceeding 200 tons from the water to enable Lessee to perform maintenance or repairs on such vessels on fastland. The size and location of the contemplated riparian structure are depicted on Exhibit A which is incorporated herein as a material term of this Lease. Lessor shall have a duty of good faith in connection with all permits or approvals required for lessee to construct the expanded operations, including, but not limited to, executing all permits and applications requiring the signature of the owner of the Demised Premises.

Notwithstanding the foregoing, Lessee may relocate the riparian structure and alter its size provided that any change in size or location of the riparian structure, as shown on Exhibit A, is less intrusive to the riparian rights that the Lessor retains along the adjacent wharf. Any proposed change by Lessee of the location of the riparian structure or alteration of its size must be approved, in writing, by Lessor provided that Lessor shall not unreasonably withhold its approval if the change or changes proposed by Lessee is less intrusive to the riparian rights that the Lessor retains along the adjacent wharf and otherwise conforms to the spirit and intent of this Lease. Similarly, Lessee may substitute a marine railway and related riparian structure for the travel lift and related riparian structure as shown on Exhibit A provided that any such change is less intrusive to the riparian rights that the Lessor retains along the adjacent wharf.

Furthermore, in the event that a riparian structure is constructed on all or a portion of the Demised Premises in connection with Lessee's Expanded Operations, thereafter if Lessee is no longer using the riparian structure either because: (a) Lessee has not extended the term of this Lease under its option right for an additional fifteen (15) years or (b) this Lease has terminated prematurely due to a Lessee default (collectively defined as an "Easement Triggering Event"), Lessee shall provide Lessor with reasonable access over Lessee's real property and riparian rights adequate to permit Lessor, or any subsequent tenant of the Lessor, to have reasonable and complete use of the riparian structure for the duration of the useful life of the riparian structure, not to exceed forty-five (45) years from the commencement date of this Lease. Accordingly, in the event that an Easement Triggering Event occurs, Lessee shall be required to grant all easements (both riparian and on fastland) on and relating to Lessee's property that are reasonably necessary to permit Lessor, or any subsequent tenant of the Lessor, to both maintain and utilize the riparian structure for the duration of the useful life of the riparian structure, not to exceed forty-five (45) years from the commencement date of this Lease. In this event, Lessor, or its subsequent tenant, shall be required to name the Lessee as an additional insured on a commercial general liability policy with insurance coverage of at least \$5,000,000.

Fast Land: refers to land that is above the mean high tide that is not normally submerged by the ebb and flow of tides.

Fee Estate: fee simple interest in the Demised Premises.

Leasehold Estate: Lessee's leasehold estate in the Demised Premises created by this Lease.

Leasehold Mortgage: a mortgage encumbering only the Leasehold Estate.

Leasehold Mortgagee: the beneficiary of a Leasehold Mortgage.

Notice of Default: a notice served by Lessor upon Lessee and any Leasehold Mortgagee of which Lessor has notice, upon the occurrence of a default by Lessee in accordance with Section 21.

Minimum Payroll Requirement: refers to the minimum payroll that the Lessee shall be required to maintain each calendar year which includes wages paid to full-time employees, seasonal employees and part-time employees and payments made to sub-contractors and independent contractors (collectively the "Labor Force"). Based upon Lessee's historic operations at the time of execution of this Lease, Lessee shall be required to maintain payroll for its Labor Force of at least \$600,000 annually, adjusted annually by multiplying the minimum payroll amount for the preceding year by the annual increase in the Consumer Price Index for all Urban Consumers for the Washington-Baltimore Area (the "CPI"), as reflected by the annual figures in effect during the preceding month of December each year. Furthermore, based upon the anticipated growth in economic development associated with Lessee's Expanded Operations, beginning at least four (4) years prior to Lessee's right to exercise the Option To Extend Lease,

Lessee will be required to maintain an increase in its Minimum Payroll Requirement of \$275,000 from the amount then in effect.

With respect to all new hires for Lessee's Labor Force, Lessee shall adopt and apply a policy of first giving preference to qualified applicants who are residents of the City of Cambridge, then to qualified applicants who are residents of Dorchester County and thereafter Lessee may hire applicants who reside outside of Dorchester County. In order to maximize the potential for qualified applicants from the City of Cambridge and Dorchester County, Lessee shall work with the local community college or some other educational institution or vocational training facility to develop an apprentice program to assist residents of the City of Cambridge and Dorchester County to become qualified to satisfy Lessee's Labor Force needs. In order for Lessor to monitor compliance with this Minimum Payroll Requirement, Lessor may request financial records from Lessee once each year sufficient to reasonably demonstrate Lessee's compliance with this requirement. Lessor shall have a duty to maintain the confidentiality of Lessee's financial information except to the extent reasonably necessary for Lessor to enforce the Minimum Payroll Requirement.

Permitted Use: subject also to the permitted uses under the applicable City of Cambridge zoning ordinance and all conditions or restrictions on usage imposed by any zoning local authority, marina and boat yard, ground and vertical stacked vessel storage, marine parts sales, chandlery/ship's store, maritime uses and other supporting and accessory uses to the foregoing.

Taking: the acquisition by any Governmental Authority in the legal and valid exercise of its power of eminent domain or by private purchase in lieu thereof.

(2) **TERM.** This initial term of the Lease shall be for a period of fifteen (15) years (the "Initial Term"), commencing on the first day of the first month after both parties have executed this Lease and the attorney for the Landlord has delivered written notice to the Lessee that all of the state and local requirements have been satisfied for this Lease to become legally effective and enforceable (the "Effective Date"), it being understood by the parties that any lease proposal negotiated between the parties must be publically advertised and subject to the opportunity for public bid for at least twenty (20) days before the Lessor has the authority to become legally bound. For example, if the Lessor and Lessee agree to the lease terms on January 25, 2016, the Lease is thereafter publically advertised for bid on January 26, 2016, there are no other bidders by February 15 and the attorney for the Lessor promptly delivers written notice to the Lessee that all of the state and local requirements have been satisfied; this Lease would become effective on March 1, 2016 and would terminate on February 28, 2031, subject to the additional terms herein for premature termination or extension of the term.

(a) **Lessor's Option to Terminate If Lessee Has Not Provided Adequate Screening And Implemented Certain Impact Controls Arising From Lessee's Operations.** Lessor shall have the option to terminate the Lease upon ninety (90) days' written notice to the Lessee if the Lessee has not, within the time periods stated below, made the following improvements on the Demised Premises or imposed the following rules of operation:

(1) **Screening Fence.** At the time Lessee applies for the local zoning permits required for the Expanded Operations, Lessee shall submit a site plan to the Planning

Commission for the City of Cambridge, Maryland proposing to replace the chain link fence that is currently located on the Demised Premises with a new fence with the understanding that the style, material composition and height of the new fence shall be determined by the Planning Commission. (the "Screening Fence"). The term "Screening Fence" is not intended to imply a requirement of this Lease that the fence must completely screen visibility of the Lessee's operations. In the interim, subject to compliance with all applicable local permits, Lessee may relocate the existing chain link fence or a substantially similar replacement chain link fence to the boundary line of the expanded Demised Premises.

(2) **Hours of Operation Restriction.** Effectively immediately, Lessee shall not conduct any outdoor operations on the Demised Premises between the hours of 9:00 PM and 5:30 AM during weekdays or between the hours of 6:00 PM and 6:00 AM on weekends that would unreasonably interfere with the operation of commercial activities occurring on the Lessor's adjacent real property. In the event that Lessee constructs any buildings on the Demised Premises, it may conduct activities within such buildings to minimize what would otherwise be prohibited activities during the Restricted Hours of Operation. Notwithstanding the foregoing, Lessee's operations on the Demised Premises shall comply with all applicable local rules, regulations, restrictions and ordinances. A violation of this provision shall not be grounds for termination unless it occurs with such frequency to rise to a material breach of the intent of this Lease.

(3) **Air Pollution.** All operations conducted by Lessee on the Demised Premises and on the adjacent real estate owned by Lessee sublet by Lessee shall comply with all local, state and federal air pollution requirements including, but not limited to, the Air Emissions standards set forth in COMAR 26.11 .04 (Ambient Air Quality Standards). Lessor shall have a contractual right to enforce all of these standards.

(4) **Noise Control.** All operations conducted by Lessee on the Demised Premises and on the adjacent real estate owned by Lessee sublet by Lessee shall comply with all local, state and federal noise control standards, including, but not limited to, the noise control standards for industrial uses contained in COMAR 26.02.03. Lessor shall have a contractual right to enforce all of these standards.

(b) **Lessor's Option to Terminate If Lessee Is Not Operating As A Going Concern.** Lessor shall have the option to terminate the Lease at any time if the Lessee ceases operating as a Going Concern as defined above for a continuous period of ninety (90) days, regardless of whether the Lessee is making payment of rent under the terms of this Lease, unless Lessee's failure to operate is attributable to substantial damage to the improvements which are necessary for Lessee to operate as a Going Concern at 101 Hayward Street Cambridge, MD and Lessee provides reasonable evidence to Lessor

that Lessee has the financial resources to restore the damaged improvements and that Lessee is promptly and diligently undertaking restoration of the damaged improvements.

(c) **Lessor's Option to Terminate If Lessee Has Not Expanded Operations.** Lessor shall have the option to terminate the Lease upon ninety (90) days written notice to the Lessee if the Lessee has not, within five (5) years of commencement of this Lease, obtained all permitting necessary for the riparian structure or structures necessary to accommodate a travel lift adequate to remove vessels up to or exceeding 200 tons from the water to enable Lessee to perform maintenance or repairs on such vessels on fast land (the "Expanded Operations"). Furthermore, the Lessor shall also have the option to terminate the Lease upon ninety (90) days' written notice to the Lessee if the Lessee has not, within two (2) years after obtaining all permits for the Expanded Operations, completed all construction necessary to commence use of the Expanded Operations. The purpose of this provision is to encourage the Lessee to implement the Expanded Operations to foster maritime economic development for the City of Cambridge, including increased employment opportunities for the citizens of the City of Cambridge, which is a primary reason for Lessor's willingness to execute this Lease.

(d) **Lessee's Shoreline Improvements Obligation.** Simultaneously with construction of the Expanded Operations, Lessee shall be required to make shoreline improvements to the Demised Premises, including incurring the costs therefore, for the purposes of erosion control and aesthetics to render this portion of the shoreline of the Demised Premises substantially similar to the improvements that will, in the future, be made by, or for the benefit of, the Lessor along the public wharf that is adjacent to the Demised Premises. Lessee's Shoreline Improvement Obligation on the Demised Premises shall be located in the area identified as "Lessee's Shoreline Improvements Obligation" on Exhibit A. A condition precedent to Lessee's Shoreline Improvements Obligation shall be the issuance of all permits and approvals necessary for Lessee to implement the Shoreline Improvements Obligation. Lessee shall obtain all such permits and approvals solely at Lessee's cost and Lessee shall keep Lessor fully informed throughout the permitting and approval processes so that Lessor is sufficiently informed to provide all assistance and resources that Lessor determines are appropriate to assist Lessee in obtaining said permits and approvals.. Lessor and Lessee shall mutually cooperate to obtain all permits and approvals necessary for the Shoreline Improvements on the Demised Premises. As explained in the definition of the Expanded Operations above, under certain circumstances the Lessee may relocate the riparian structure that will accommodate Lessee's travel lift in a manner that may increase or decrease the Shoreline area of Lessee's Shoreline Improvements Obligation. In the event a relocation occurs, the shoreline area within the Demised Premises that is subject to Lessee's Shoreline Improvements Obligation shall be adjusted so that the entire shoreline area of the Demised Premises in the area between the Lessor's retained public wharf and the

Lessee's riparian structure is within the Lessee's Shoreline Improvements Obligation.

(e) **Lessee's Option to Extend Lease for the Demised Premises.** Upon expiration of the initial fifteen (15) year term of the lease, Lessee shall have the option to extend the lease for an additional fifteen (15) year period based upon the same terms set forth herein, except with respect to the price to lease the Demised Premises during the option term which is explained in section 2.(f) set forth below, provided that:

(1) Lessee has provided written notice to the Lessor of the Lessee's intention to exercise this option at least NINE (9) months prior to the expiration of the initial term,

(2) at the time Lessee provides Lessor notice of Lessee's intent to exercise this option, Lessee is in compliance with all of the terms of the Lease, (3) Lessee remains in full compliance with all of the terms of the Lease through the end of the initial term, and

(4) Lessee remains in full compliance with all of the terms of the Lease through the end of the additional fifteen (15) year option term, including, but not limited to, the Minimum Payroll Requirement as increased for the Expanded Operations.

Immediately upon Lessee providing to Lessor timely written notice of Lessee's intent to renew the lease, Lessee and Lessor shall each make written request for the completion of an appraisal as set forth in subsection (f) hereinbelow, which appraisals shall be completed at least SIX (6) months prior to the expiration of the initial lease term. In the event either party elects to obtain a third appraisal, said appraisal must be completed at least FOUR (4) months prior to the expiration of the initial lease term. Lessee shall have TEN (10) days from receipt of said third appraisal to elect NOT to renew the lease. In the event the fair market rental value is unacceptable to Lessee, Lessee shall provide written notification to Lessor of Lessee's election NOT to renew the lease, within TEN (10) days of completion of the appraisal. **TIME IS OF THE ESSENCE.**

In the event Lessee elects not to renew the Lease due to the fair market rental values being unacceptable to Lessee, then in such event, Lessee shall reimburse Lessor for the cost of the appraisal which Lessor obtained. Said appraisal cost shall constitute additional rent due and owing to Lessor by Lessee, and shall be due within TEN (10) days of Lessee's notification to Lessor of Lessee's election not to renew the lease.

(f) **Price Term For Option Period.** In the event that Lessee extends the term of this Lease for an additional fifteen (15) year term, at the commencement of the additional fifteen (15) year term the rent shall be the greater of: (a) the rent price then in effect pursuant to Section 3, Term, of this Lease or (b) the fair market rental value of the Demised Premises at the commencement of the option period. Once the rent price has been determined for the additional fifteen (15) year term, thereafter rent shall be adjusted every twelve (12) months based upon adjustments in the CPI, as defined in the definition of the Minimum Payroll Requirement set forth in Section 1, above, or two percent (2%), whichever is greater.

The fair market rental value shall be determined based upon an averaging of the fair

market rental value determined by two (2) MAI commercial appraisers, each having at least seven (7) years of experience, one designated by the Lessor and the other designated by the Lessee. In the event that either the Lessor or Lessee is dissatisfied with the average price determined by this process, the dissatisfied party may pay for a third commercial MAI appraiser having at least seven (7) years of experience, selected by the two (2) commercial appraisers, or by a drawing from a hat from three (3) proposed commercial appraisers proposed by each of the original two (2) commercial appraisers if they are unable to agree, and the third commercial appraiser shall determine the fair market rental value of the Demised Premises based upon an appraisal which shall be restricted to an amount that is no greater than the higher appraisal and no lower than the lower appraisal of the original two (2) commercial appraisers.

(3) **RENT.** Lessee shall pay rent for the said Demised Premises on monthly basis in the amount of TWO THOUSAND Five HUNDRED Dollars (\$2,500) PAYABLE MONTHLY ON OR BEFORE THE FIFTEENTH - (15TH) day of EACH MONTH AND CONTINUING ON THE FIFTEENTH DAY OF EACH MONTH THEREAFTER UNTIL THE END OF THE LEASE TERM. Payments shall be tendered to Lessor at the following address: Commissioners of Cambridge, P.O. Box 255, Cambridge, Maryland 21613, or such other place as Lessor may designate, without any setoff or deduction whatsoever. Rent shall be increased annually for the duration of the Lease based on adjustments in the CPI, as defined in the definition of the Minimum Payroll Requirement set forth in Section 1, above, or by two (2%) each year, whichever is greater. In the event a rent payment is not received by Lessor on or before the Twenty-Fifth Day of the month, then Lessee shall pay to Lessor a late payment fee in the amount of **Two Hundred Fifty Dollars (\$250.00) or Ten Percent (10.0%)** of the overdue installment payment of rent, whichever sum is greater. Lessee shall pay the late charge promptly but only once for each late payment. Any and all late fees shall constitute additional rent due and owing to Lessor by Lessee.

(4) **SECURITY DEPOSIT.** Lessor hereby agrees to WAIVE the payment of a Security Deposit by Lessee.

(5) **EASEMENTS, SUBDIVISIONS, SITE PLAN APPLICATIONS, REZONING.** Lessor agrees to execute any easements, subdivision applications, site plan applications, rezoning applications affecting the Demised Premises in connection with the operation and redevelopment of the Demised Premises and to execute any easements over Lessor's adjoining lands, including without limitation, for utilities, ingress/egress, stormwater discharge, construction and slope in connection with the operation or redevelopment of the Demised Premises.

(6) **OCCUPANCY AND USE.** The Demised Premises and any part thereof shall be occupied only by the Lessee and shall be used solely and exclusively for the Permitted Use. Lessee shall not use the Demised Premises or allow the use of the same, or any part thereof, for any unlawful purpose, or maintain or permit any nuisance to be maintained thereon.

(7) **PAYMENT OF UTILITIES.** Lessee shall be solely liable for, and shall timely pay throughout the term of this Lease, all charges for all utility services furnished to the Demised Premises

(8) **APPROVAL PROCESS/RESPONSIBILITIES.** Lessee shall pursue all approvals of development plans, permits and the like for the Demised Premises competently, diligently and in good faith. Lessor will process all applications for entitlements as expeditiously as is reasonably practicable in light of legal and regulatory requirements. Lessor agrees to execute all applications for the redevelopment of the Demised Premises requiring execution by the fee owner.

(9) **INSURANCE REQUIREMENT.** During the lease term, Lessee shall secure general liability insurance coverage and property hazard coverage in a minimum amount of \$1,000,000.00/claim and \$3,000,000.00/aggregate, through an insurance company acceptable to the Lessor, covering liability and improvements on the Demised Premises. At least with respect to general liability insurance coverage and property hazard coverage pertaining to the Demised Premises, Lessee shall obtain and umbrella or excess liability coverage so that the total liability coverage is \$5 million. Lessee shall list the Lessor as an additional insured on its general liability insurance policy with respect to all liability arising on the Demised Premises.

(10) **INCREASED INSURANCE RATES.** Lessee shall not use the Demised Premises in such a manner so as to increase the existing rates of insurance applicable to the buildings or structures of which the Demised Premises are a part. If it nevertheless does so, then, at the option of the Lessor, the full amount of any resulting increase in premium paid by the Lessor with respect to any improvements on the Demised Premises, may be added to the amount of rent due as hereinabove specified, and shall be paid by Lessee to Lessor upon the monthly rental day next thereafter occurring. Nothing contained herein shall require the Lessor to insure against, or be liable for, any loss occasioned by fire or other casualty to any improvements, tangible personal property or fixtures of Lessee, its agents, employees, invitees, guests, or assignees, or of any other person, firm or corporation upon any part of the Demised Premises.

(11) **ALTERATIONS.** Lessee may make alterations, additions, or improvements in or to the Demised Premises with Lessor's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, and then only by contractors or mechanics approved by the Lessor which approval shall not be unreasonably withheld, conditioned or delayed, and only at Lessee's expense unless otherwise agreed upon. Lessor shall grant approval if the proposed alterations meet all municipal requirements.

(12) **PROVISIONS OF LEASEHOLD MORTGAGE.**

(a) **Right to Mortgage.** Lessee shall have the right and privilege of mortgaging or otherwise encumbering the Leasehold Estate, in whole or in part in the Demised Premises, including Lessee's interest in the improvements thereon only for the term of this Lease or any part

thereof, by executing a Leasehold Mortgage as security for the performance of Lessee's obligations under such Leasehold Mortgage; it being understood at all times that the Fee Estate may not be encumbered by Lessee, the rights of Lessee under this Section being solely to encumber or mortgage the Leasehold Estate. Lessee shall have the right to place more than one Leasehold Mortgage on the Leasehold Estate for the term of this Lease or any part thereof.

(b) Notice of Leasehold Mortgage. Upon the placing or assignment of a Leasehold Mortgage, Lessee or the Leasehold Mortgagee shall give Lessor written notice thereof, of the identity and address of the Leasehold Mortgagee to which notices shall be sent. So long as a Leasehold Mortgage is in effect as to which such notice has been given, and provided that there is no default under this Lease that has not been cured within the period of time set forth herein, no surrender, alteration, material amendment, or material modification of this Lease shall be made without the prior written consent of such Leasehold Mortgagee, such consent not to be unreasonably withheld.

(c) Copy of Notice of Default. When giving notice of default to Lessee, Lessor will also serve a copy of such notice of default upon each Leasehold Mortgagee as to which Lessor has received written notice.

(d) Leasehold Mortgagee's Right to Cure. Upon the occurrence of any Lessee monetary default, each Leasehold Mortgagee shall have the right to cure such default within the same time period given to Lessee plus an additional fifteen (15) days. Upon the occurrence of any Lessee non-monetary default, each Leasehold Mortgagee shall have the right to cure such default within a reasonable period of time but not longer than forty five (45) days. Lessor shall accept any such cure on the part of the Leasehold Mortgagee as though the same had been done or performed by Lessee. During any cure period, the Leasehold Mortgagee shall not be obligated to pay rent that had accrued prior to the date of Lessee's default that triggered the commencement of such cure period, but the Leasehold Mortgagee shall continue to pay rent due as of the first day of the cure period and continuing thereafter and shall otherwise faithfully perform all of Lessee's obligations under this Lease. If the Leasehold Mortgagee decides to cure any such default, it shall promptly pay to Lessor all unpaid rent that had accrued prior to the date of Lessee's default that triggered the commencement of such cure period. If possession of the Demised Premises is required in order to cure the default or if the default is of a nature that it cannot be cured by the Leasehold Mortgagee (such as the bankruptcy of the Lessee), Lessor will not terminate this Lease so long as the Leasehold Mortgagee has commenced to institute and continues diligently to pursue foreclosure proceedings and obtain possession and upon obtaining possession, commences promptly and diligently pursues to completion cure of any default capable of cure by the Leasehold Mortgagee.

(e) Succession to Leasehold Estate. Any Leasehold Mortgagee or its designee may become the legal owner and holder of the Leasehold Estate by foreclosure of its Leasehold Mortgage, or as a result of the assignment of this Lease in lieu of foreclosure, whereupon such Leasehold Mortgagee or its designee shall immediately become and remain liable under this Lease so long as, but no longer than, such Leasehold Mortgagee or its designee is in possession or is entitled to possession of the Demised Premises.

(f) Amendments to this Lease. Lessor and Lessee shall not enter into any amendment of this Lease without the prior written consent of each Leasehold Mortgagee of which Lessor has received Notice. Lessor agrees to enter into any amendment of this Lease requested by a Leasehold Mortgagee provided no such amendment shall diminish Lessor's rights hereunder or increase Lessor's obligations in more than a *de minimis* way.

(13) EFFECT OF TERMINATION OF LEASE ON LEASEHOLD MORTGAGE.

In the event of termination of this Lease, or of any succeeding lease made pursuant to the provisions of this Section, prior to the stated expiration date thereof, Lessor, at the request of the Leasehold Mortgagee, will enter into a new lease of the Demised Premises ("New Lease") with the Leasehold Mortgagee, or, at the request of such Leasehold Mortgagee, to a corporation, partnership or other entity formed by or on behalf of and controlled by such Leasehold Mortgagee, or by and on behalf of the holders of notes secured by the Leasehold Mortgage held by such Leasehold Mortgagee, or purchaser of the Leasehold Estate at foreclosure (collectively "Leasehold Mortgage Interest Holder") for the remainder of the Term, effective as of the date of such termination of this Lease or any succeeding lease, at the rent and upon the terms, covenants, and conditions herein contained, subject to the additional conditions listed below:

(a) Such Leasehold Mortgagee Interest Holder makes written request upon Lessor for such New Lease within sixty (60) days from the date of such termination and such written request is accompanied by payment to Lessor of all amounts then due to Lessor under this Lease.

(b) Such Leasehold Mortgagee Interest Holder pays, or causes to be paid, to Lessor at the time of execution and delivery of the New Lease, any and all sums that would at the time of execution and delivery thereof be due under this Lease, but for such termination, and pays or causes to be paid, any and all expenses including reasonable attorney's fees, court costs, and disbursements incurred by Lessor in connection with any such default and termination, as well as in connection with the execution and delivery of such New Lease, less the net income collected by Lessor from the use of the Demised Premises subsequent to the date of termination of this Lease and prior to the execution and delivery of the New Lease. Any excess of such net income received by Lessor over the aforesaid sums and expenses of Lessor shall be applied in payment of the rent thereafter becoming due under the New Lease.

(c) The tenant under such New Lease executed and delivered in accordance with the provisions of this Section shall recognize all prior subleases; provided that the obligation of the tenant under such New Lease under any covenant of quiet enjoyment, express or implied, contained in the sublease shall be limited to the acts of such tenant and those claiming by, under, or through such tenant. Upon execution and delivery of a New Lease, all subleases that may previously have been assigned and transferred to Lessor shall thereupon be assigned and transferred without recourse by Lessor to the new tenant.

(14) REQUIREMENTS OF LAW. Lessee shall comply with all laws, orders and regulations of Federal, State, County or Municipal authorities, and with any direction of any public officer or officers, pursuant to law, which shall impose any duty upon Lessor or Lessee with respect

to the Demised Premises, or the use or occupation thereof; and shall not do so or permit to be done any act or thing upon said Demised Premises which shall invalidate or be in conflict with hazard or liability insurance policies covering the Demised Premises, and fixtures and property therein, and shall not do or permit to be done, any act or thing upon said Demised Premises which shall or might subject the Lessor to any liability or responsibility for injury to any person or persons or to any property by reason of any business or operation being carried on upon the Demised Premises.

(15) RESERVATIONS BY LESSOR. Lessor and its designated agents, hereby reserves to right to enter upon the Demised Premises during any and all reasonable times throughout the lease term for the purpose of conducting inspections and conducting field survey work, or for making necessary repairs to the property. The right of inspections reserved by Lessor hereunder shall impose no obligation on the Lessor to make inspections to ascertain the condition of the Demised Premises, and shall impose no liability upon the Lessor for failure to make inspections. Lessor shall have the right to place and maintain "For Rent" and "For Sale" signs in conspicuous locations on the Demised Premises, should it become clear that Lessee and the Robinson Entity are no longer interested in obtaining either the contemplated Long Term Lease Agreement for the Demised Premises, or the Lessor's sale of the Demised Premises.

(16) PROPERTY- LOSS OR DAMAGE. Lessor shall not be liable to Lessee, and Lessee hereby releases Lessor, from and for any damage to the property, equipment or fixtures located upon the Demised Premises, or injuries incurred by anyone on the Demised Premises, nor for the loss of any property by theft or otherwise unless caused by Lessor, its agents, contractors or employees.

(17) DESTRUCTION FIRE OR OTHER CAUSE. If any improvements or major equipment such as a travel lift or marine railway on the Demised Premises or on the adjacent property owned by Lessee are destroyed or rendered unusable by fire or unavoidable accident and the destruction prevents the Lessee from operating as a Going Concern, Lessee shall provide written notice to Lessor whether Lessee intends to rebuild or replace same to resume operating as a Going Concern within one hundred and eight (180) days of the occurrence. If the Lessee determines not to rebuild or replace same to resume operating as a Going Concern or based upon clear evidence the Lessor determines that the Lessee lacks adequate resources to rebuild or replace same to resume operating as a Going Concern, then this Lease is hereby terminated, and all liability for rent shall cease upon Lessee's written to Lessor of Lessee's intention not to rebuild or replace same or upon Lessor's written notice to Lessee that Lessor has made a determination that Lessee lacks adequate resources to rebuild or replace same. Lessor may also request information and assurances from Lessee, such as insurance coverage or financing, in order for Lessor to determine whether Lessee has adequate resources to rebuild or replace same to resume operating as a Going Concern.

(18) ASSIGNMENT AND SUBLETTING.

(a) Space Tenant Leases. During the entire term of this Lease, Lessor shall have the right to approve all assignments or subleases with space tenants, which approval shall not be unreasonably withheld. In making its determination of whether or not to approve an assignment or sublease, Lessor shall consider, without limitation, such factors as the economic terms, in

light of the possibility that Lessor and the subtenant may be parties to a direct lease with one another, as hereinafter provided, and whether the uses are a Permitted Use. Lessor shall approve any sublease for a use permitted within the Permitted Use, and where the rent provided for therein is equal to or greater than the rent provided for herein on a per square foot basis. Lessor may also consider whether the proposed assignee or sub-tenant is equal or superior to the credit worthiness of the Lessee and whether the proposed assignee or sub-tenant is qualified to operate the boat maintenance, repair, storage and slip rental business on the Demised Premises as a Going Concern for the duration of the Lease. Lessor may also request information and assurances with regard to these considerations in order for Lessor to exercise its discretion in good faith whether to approve a proposed assignee or sub-tenant. Notwithstanding the foregoing, it is expressly contemplated that the Lessee will be assigning this Lease to an entity owned and controlled by George H. Robinson, IV promptly after this Lease becomes legally enforceable and it is expressly understood that the Lessee has already approved this assignment. Lessor shall have twenty (20) Business Days following receipt of any information provided by the Lessee pursuant to Lessor's request to approve or disapprove an assignment or sublease. Failure of Lessor to respond within such twenty (20) Business Day period shall be deemed approval. In the event, this Lease shall be terminated as a result of a default, provided the subtenant under any sublease permitted by this Lease and approved by Lessor is not then in default of such sublease, Lessor shall automatically and without further written instrument, recognize such sublease as a direct lease between Lessor and such subtenant for the remainder of the present term of such sublease, including any renewal options. It shall be presumed that any decision by the Lessor whether to approve or reject a proposed assignment or sublease was reasonable and made in good faith. The burden shall be on the Lessee to prove otherwise.

(b) Priority of Lease. Any sublease or assignment consented to by Lessor shall be at all times subject to this Lease and the prior right, title, and interest of Lessor in and to the Demised Premises.

(19) DEFAULT

(a) Lessee Default. Any one or more of the following events shall constitute a default hereunder:

(1) If default shall be made by Lessee in the due and punctual payment of any rent or any part thereof payable under this Lease when and as the same shall become due and payable and the same is not cured within fifteen (15) days from the date of receipt of written notice of such from Lessor to Lessee; or

(2) If default shall be made by Lessee in the performance of, or in compliance with, any of the other terms, covenants, or conditions contained in this Lease and the same is not cured within forty-five (45) days from the date of notice of default from Lessor to Lessee, or, in the case of such a default that cannot with due diligence be cured within forty-five (45) days from such notice of default, if Lessee shall not (x) within forty-five (45) days from such notice of default advise Lessor of Lessee's intention to take all reasonable steps to cure such default, and (y) duly commence such cure within such period, and then diligently prosecute such cure to

completion. In the event that Lessee promptly and diligently seeks to cure an event of default outside of its control but cannot reasonably do so within forty-five (45) days and Lessee requests an extension of time to cure, Lessor shall not unreasonably withhold its consent to extend the cure period for a reasonable period of time. Furthermore, Lessor may avoid a Lessee default by curing Lessee's default with Lessor's own resources in which case all reasonable costs incurred by Lessor shall be imposed as additional rent due and owing by Lessee.

(3) If Lessee files a petition in bankruptcy or insolvency or for reorganization under any bankruptcy or insolvency law or act or for the appointment of a receiver or trustee of all or a portion of Lessee's property; or

(4) If Involuntary proceedings are instituted against Lessee under any bankruptcy or insolvency law or act and are not vacated or withdrawn within ninety (90) days after the date of filing thereof; or

(5) If Lessee shall abandon the Premises.

(b) Lessor Default. In the event Lessor shall fail to perform any of its covenants, conditions or agreements contained herein on Lessor's part to be kept or performed, and such failure shall continue for forty five (45) days after notice thereof given by or on behalf of Lessee or shall continue uncured beyond such longer period as shall be reasonably necessary to completely cure the same if any non-monetary default is incapable of practicably being cured with diligence within such forty five (45) day period.

(20) **INDEMNIFICATION AND HOLD HARMLESS.** Lessee hereby agrees to, and shall, defend, indemnify and hold harmless Lessor against and from all costs, expenses, losses, damages, injunctions, suits, actions, fines, claims and demands of every kind or nature, including reasonable counsel fees, by or on behalf of any person, party or governmental authority or other entity whatsoever incurred or suffered by it, or them and/or their servants, employees, agents, visitors or licensees, arising out of, connected or related to Lessee's use of said Demised Premises, or failure to comply with each of the terms, covenants and conditions on its part to be performed hereunder, unless caused by Lessor, its servants, employees, agents, visitors or licensees.

(21) **RECORDING.** Lessor agrees that if so requested by Lessee, Lessor will execute in recordable form for purposes of recordation at Lessee's expense a short form or memorandum of lease containing the names and addresses of the parties; the description of the Demised Premises; the Term of this Lease including the Commencement Date and the termination date; a description of any extension options; a statement regarding the use of the Demised Premises; and such other provisions as either party may reasonably require. Lessee shall be responsible for all costs, expenses, charges, and taxes in connection with the recordation of this Lease or a memorandum thereof. If such a short form or memorandum of this Lease is recorded, upon the termination of this Lease Lessee shall execute, acknowledge, and deliver to Lessor an instrument in writing releasing and quitclaiming to Lessor all right, title, and interest of Lessee in and to the Demised Premises arising from this Lease or otherwise, all without cost or expense to Lessor.

(22) LICENSE FEES/TAXES. Lessee shall be solely liable for, and shall timely pay throughout the term of this Lease, all license and excise fees, business fees, occupation taxes (if any), covering the business conducted on the Demised Premises, and any and all real estate taxes due on the leasehold interest created by this Lease and any other public charges imposed upon the leased Demised Premises. In the event that the Department of Assessments and Taxation does not provide a separate and distinct real estate assessment for the Demised Premises, the Lessee's responsibility for real estate taxes on the Demised Premises shall be assessed *pro rata* relative to the acreage and value of the Demised Premises as a portion of the Lessor's real estate.

(23) INDEPENDENT OPERATION. Nothing in this Agreement or in any other instrument shall cause the Lessor, in any way to be construed as a partner or joint venture with the Lessee in the use of the Demised Premises.

(24) TERMINATION. The Demised Premises are leased for the Term. Neither party may terminate this during the Term unless the other party commits a material breach.

(25) ENCUMBRANCES. Lessee shall keep the Demised Premises free and clear of any liens and encumbrances arising or growing out of the use and occupancy of the premises by Lessee. At Lessor's request, Lessee shall furnish to Lessor, written proof of payment of any item which would or might constitute the basis for such a lien on the leased premises if not paid.

(26) END OF TERM. Upon the termination of the Lease, Lessee shall quit and surrender to Lessor the Demised Premises, in good order and condition, ordinary wear excepted. Lessee shall remove all vehicles, vessels, tangible personal property and any and all chemicals, solvents and other potentially hazardous materials from the Demised Premises, and shall remove and restore any and all contaminated soils. In order to provide reasonable assurances to Lessor that Lessee has satisfied these terms, Lessee shall provide Lessor with a Phase I environmental study that is dated within six (6) months of the date of termination of this Lease. Lessee shall be solely responsible for the costs to remove the aforesaid items and materials and for the costs associated with the removal and restoration of contaminated soils.

(27) HOLD OVER FEES. In the event of a premature termination and Lessee fails to quit and surrender to Lessor the Demised Premises on the date required pursuant to the terms of this Agreement, Lessee shall pay to Lessor the sum of THREE HUNDRED DOLLARS (\$300.00) per day for each day that Lessee holds over and remains in the Demised Premises during the initial term of this Lease, and FIVE HUNDRED DOLLARS (\$500.00) per day for each day that Lessee holds over and remains in the Demised Premises in the event of a premature termination during the additional fifteen (15) year option period of this Lease . Any and all hold over fees shall constitute rent due under this Lease Agreement.

(28) QUIET ENJOYMENT. Subject to the reservation of the right to enter upon the premises for inspection and survey field work, Lessor covenants and agrees with Lessee that upon Lessee paying said rent and performing all of the covenants of this Lease, Lessee shall and may peaceably and quietly have, hold and enjoy the premises hereby demised, for the term aforesaid.

(29) AMENDMENT. This Agreement embodies the entire agreement between the parties hereto as to the subject matter herein contained; and any amendment, modification or supplement to this Agreement must be in writing and signed by all of the parties hereto.

(30) GOVERNING LAW. This Agreement shall be governed exclusively by its terms and the laws of the State of Maryland, without regard to principles of conflict of laws.

(31) EMINENT DOMAIN. If all or any part of the Demised Premises shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, then, and in that event, the term of this Lease shall cease and terminate from the date when possession of the part so taken shall be required for such use or purpose, and without apportionment of the award.

(32) SEVERABILITY. The parties hereto intend that should any provision, covenant, agreement, or portion of this Lease or its application to any person, entity, or property be held invalid by a court of competent jurisdiction, the remaining provisions of this Lease and the validity, enforceability, and application to any person, entity, or property shall not be impaired thereby, but such remaining provisions shall be interpreted, applied and enforced so as to achieve, as near as may be, the purpose and intent of this Agreement to the greatest extent permitted by applicable law.

(33) NO THIRD PARTY BENEFICIARIES. No provision of this Lease is intended to nor shall it inure to the benefit of any third party so as to constitute any such person as a third party beneficiary under this Lease, or of anyone or more of the terms of this Lease, or otherwise give rise to any cause of action in any person not a Party to this Lease.

(34) NOTICES. Any notice provided for in this Lease shall be in writing and shall be duly given, if delivered personally or deposited in the United States mail, enclosed in a registered or certified postpaid envelope, return receipt requested, addressed to the respective addresses below stated:

To Lessor: Mayor Victoria Jackson-Stanley
307 Gay Street
Cambridge, MD 21613

With copy to: Robert Collison, Esquire
311 High Street, STE.1
Cambridge, MD 21613

To Lessee: Yacht Maintenance Company, Inc.
C/o Elizabeth Fago
372 Regatta Drive
Jupiter, FL 33477

Cambridge Shipyard Facility, Inc.
c/o George H. Robinson IV
101 Hayward Street
Cambridge, Maryland 21613

With copy to: Richard DeTar, Esquire
100 North West Street
Easton, Maryland 21601

Either Lessor or Lessee may at any time change such address (physical address or the recipient) by delivering or mailing to the other a statement specifying the new address at least ten (10) days before the effective date of the change in address. Notice is delivered in person shall be deemed delivered upon receipt, and notices sent by mail shall be deemed received three (3) days after the date of mailing thereof.

(35) TIME OF ESSENCE. Time is of the essence of this Interim Lease Agreement and of each and every provision thereof.

(36) GENERAL DUTY OF GOOD FAITH AND COOPERATION: In addition to the duties of good faith and to cooperate that are specifically set forth herein, each of the parties shall have a duty of good faith to the other and a duty to cooperate to achieve the intentions of this Lease, including, but not limited to, the duty to execute all additional documents necessary to fulfill the intentions of this Lease.

IN WITNESS WHEREOF, the Lessor and Lessee have signed and sealed this Interim Lease Agreement, the day and year first above written.

ATTEST:

THE COMMISSIONERS OF CAMBRIDGE

By: _____ (SEAL)
VICTORIA JACKSON-STANLEY, Mayor
Lessor

ATTEST:

YACHT MAINTENANCE COMPANY, INC.

By: _____ (SEAL)
Lessee

ATTEST:

CAMBRIDGE SHIPYARD FACILITY, INC.

By: _____ (SEAL)

GEORGE H. ROBINSON IV

Lessee

STATE OF MARYLAND, DORCHESTER COUNTY, TO WIT:

I hereby certify that on this _____ day of **FEBRUARY**, in the year Two Thousand Sixteen (2016), before the subscriber, a Notary Public in and for the State of Maryland and the County aforesaid, personally appeared **Victoria Jackson-Stanley**, who acknowledged herself to be the Mayor of the City of Cambridge, A Municipal Corporation of the State of Maryland, formally and legally known as "The Commissioners of Cambridge" the within named LESSOR, and that he, as such Mayor, being authorized so to do, executed the foregoing Lease Agreement for the purposes therein contained, by signing in my presence, the name of the corporation by himself in his capacity as Mayor.

Witness my hand and Notarial Seal:

Notary Public

My Commission Expires: _____

STATE OF MARYLAND, DORCHESTER COUNTY, TO WIT:

I HEREBY CERTIFY, that on this _____ day of **FEBRUARY**, in the year Two Thousand Sixteen (2016) before me, the subscriber, a Notary Public in and for the State of MARYLAND, and the County aforesaid, personally appeared, _____, who acknowledged himself to be the _____ for **Yacht Maintenance Company, Inc.** (the "Corporation"), Lessee in the above Lease Agreement, and that he, as such officer being authorized so to do executed the foregoing Lease for the purposes therein contained, by signing, in my presence, the name of the said corporation by himself/herself as such officer.

Witness my hand and Notarial Seal:

Notary Public (Seal)

My Commissions Expires: _____

STATE OF MARYLAND, DORCHESTER COUNTY, TO WIT:

I HEREBY CERTIFY, that on this _____ day of FEBRUARY, in the year Two Thousand Sixteen (2016) before me, the subscriber, a Notary Public in and for the State of MARYLAND, and the County aforesaid, personally appeared, GEORGE H. ROBINSON, IV, who acknowledged himself to be the President for Cambridge Shipyard Facility, Inc. (the "Corporation"), Lessee in the above Lease Agreement, and that he, as such officer being authorized so to do executed the foregoing Lease for the purposes therein contained, by signing, in my presence, the name of the said corporation by himself/herself as such officer.

Witness my hand and Notarial Seal:

Notary Public (Seal)

My Commissions Expires: _____