

**CITY OF MARATHON, FLORIDA
RESOLUTION 2007-52**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING CITY MANAGER TO ENTER INTO A SECOND AMENDMENT TO A LEASE AGREEMENT WITH OXFORD BUSINESS III, CORP., A FLORIDA CORPORATION, AS SUCCESSOR-IN-INTEREST TO THE DEWEY BROBERG, JR. TRUST AND MARY LOU BROBERG TRUST, FOR TRAILER SPACE AT CITY HALL IN THE AMOUNT OF \$573.30 PER MONTH.

WHEREAS, the City currently leases from Oxford Business III, Corp., a Florida Corporation, space behind City Hall to place an office trailer; and

WHEREAS, on or about June 8, 2004, Lessor and Lessee entered into that certain Lease (the "Lease") concerning real property located at 100th Street Center, Back Parking Lot, Marathon, Monroe County, Florida (the "Premises"); the term of the Lease expired on May 1, 2005 (the "Term"); and

WHEREAS, thereafter, on or about May 26, 2005 the parties entered into the First Amendment to the Commercial Lease (the "First Amendment") extending the term of the Lease from May 1, 2005 to May 1, 2007 (the "Term") (among other things more specifically recited therein). The original Lease and the First Amendment shall hereinafter collectively be referred to as the "Lease"; and

WHEREAS, the Parties have agreed to enter into this Second Amendment to extend the Term of the Lease and modify certain terms and conditions of the Lease; and

WHEREAS, the second amendment gives the city the right to terminate the lease on four months notice, such termination to be effective no earlier than six months into the lease term; and

WHEREAS, a security deposit in the amount of \$600.00 will be delivered to lessor and retained by lessor if the lease is terminated prior to April 30, 2008; and

WHEREAS, the rent shall increase by 573.30 per month for the first year of the lease, and shall increase by 5% for the second and third year of the term unless terminated earlier in accordance with the termination clause.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. The City Manager is authorized to enter into a second amendment to a lease agreement for trailer space behind City Hall for \$573.30 per month, a copy of which is attached as Exhibit "A," together with such changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is approved.

Section 3. The City Manager is authorized to execute the lease agreement.

Section 4. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 24th day of April, 2007.

THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor

AYES: Cinque, Tempest, Vasil, Worthington, Bull
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Diane Clavier
City Clerk

(City Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:



City Attorney

SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO LEASE AGREEMENT (the "Second Amendment") is entered into this ___ day of April 2007, by and between **OXFORD BUSINESS III, CORP.**, a Florida corporation, as successor-in-interest to the DEWEY O. BROBERG, JR., TRUST and the MARY LOU BROBERG TRUST (the "Lessor"), and the **CITY OF MARATHON**, a Florida municipal corporation (the "Lessee").

RECITALS

1. On or about June 8, 2004, Lessor and Lessee entered into that certain Lease (the "Lease") concerning real property located at 100th Street Center, Back Parking Lot, Marathon, Monroe County, Florida (the "Premises"); the term of the Lease expired on May 1, 2005 (the "Term"); and

2. Thereafter, on or about May 26, 2005 the parties entered into the First Amendment to the Commercial Lease (the "First Amendment") extending the term of the Lease from May 1, 2005 to May 1, 2007 (the "Term") (among other things more specifically recited therein). The original Lease and the First Amendment shall hereinafter collectively be referred to as the "Lease".

3. The Parties have agreed to enter into this Second Amendment to extend the Term of the Lease and modify certain terms and conditions of the Lease.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee agree as follows:

1. Recitals. The above recitals are true and correct and are hereby incorporated herein by reference.

2. Conflict. In the event of any conflict between the terms of the Lease and the terms of this Second Amendment, the terms of this Second Amendment shall control.

3. This Lease. All references in this Second Amendment to "this Lease" shall include this Second Amendment.

4. Term. The Lease is hereby modified to extend the Term from May 1, 2007 to May 1, 2010 (the "Termination Date").

5. Termination. The Lease is hereby amended by adding the following new Section 1.4 thereto:

1.4 The Tenant shall have the right to terminate the Lease without penalty or premium provided that (i) the Tenant provides notice of such

termination to the Landlord in writing not later than four months prior to the proposed date of termination and (ii) the Tenant may not deliver any such notice of termination until after June 30, 2007. If the proposed date of termination is prior to April 30, 2008, Lessor shall be entitled to retain the security deposit required in Section 2.4 hereof.

6. Rent. (a) Beginning on May 1, 2007, the rent paid for the premises shall be \$573.30 per month, which amount includes additional taxes and maintenance fees. The rent paid shall increase by five percent (5%) for the second year of the Term and for the third year of the Term.

(b) Lessee shall further pay to Lessor the sum of Five Hundred and 00/100 Dollars (\$500.00) per year as "Additional Rent" during the Term. The Additional Rent contained within this paragraph shall be used to partially reimburse Lessor for any and all additional expenses associated with Lessee's use of the premises, including but not limited to items such as garbage, all taxes, etc.

7. Security Deposit. The Lease is hereby amended by adding the following new Section 2.4 thereto:

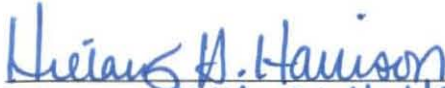
2.4. On or before May 1, 2007, Lessee shall deliver to Lessor a security deposit in the amount of \$600.00 in immediately available funds, to be held by Lessor. Upon the expiration of the Lease at the end of the Term or the termination of the Lease after April 30, 2008 pursuant to Section 1.4 hereof, Lessor shall return the deposit to Lessee after deducting therefrom the costs, if any, incurred by Lessor in repairing any damage to the demised premises caused by Lessee's failure to maintain the demised premises as required by Article 9 hereof.

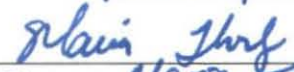
8. Ratification. Except as set forth in this Second Amendment, the Lease shall remain unmodified and in full force and effect and all the terms and conditions set forth in the Lease are ratified by the parties.

9. Counterparts. This Second Amendment may be executed in one of more counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument. A facsimile copy of this Second Amendment and any other signatures hereon shall be considered for all purposes as originals. Except as expressly modified by this Second Amendment, the terms and provisions of the Lease remain unmodified and are in full force and effect.

IN WITNESS WHEREOF, this Second Amendment has been executed by the parties as of the date set forth on the first page hereof.

WITNESSES:


Print Name: Hillary H. Harrison


Print Name: Merr Thorley

Approved at to form:

By: 
City Attorney


WITNESSES:



Print Name: Marilyn Brookes


Print Name: Roberto Olazabal

LESSEE


CITY OF MARATHON, a Florida municipal corporation,

By: 
Print Name: Michael H. Puto
Title: City Manager

Attest: 
Diane Clavier, City Clerk

LESSOR:

OXFORD BUSINESS III, CORP., a Florida corporation

By: 
Name: EDUARDO FERNANDEZ
Title: AUTHORIZED AGENT

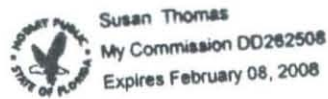
STATE OF FLORIDA)
)ss:
COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this 32 day of April 2007, by Michael H. Puto, who (check one) is [] personally known to me or [] has produced a Florida driver's license s identification.

Susan Thomas
Printed Name of Notary Public

Susan Thomas
Signature of Notary Public

My commission expires:



STATE OF FLORIDA)
)ss:
COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this 22 day of April 2007, by Eduardo Fernando as authorized agent of Oxford Business III, Corp. (the "Company"), on behalf of the Company, who (check one) is [] personally known to me or [] has produced a Florida driver's license s identification.

Marilyn Brookes
Printed Name of Notary Public

Marilyn Brookes
Signature of Notary Public

My commission expires:



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