

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
KEY WEST, FLORIDA, DIRECTING THE CITY ATTORNEY TO
SEARCH OUT SPECIALIZED LEGAL COUNSEL TO RENDER
LAND USE AND TAKINGS LITIGATION OPINION(S)
CONCERNING TRUMAN HARBOR; PROVIDING FOR AN
EFFECTIVE DATE**

WHEREAS, in 2002, the City of Key West was transferred certain valuable properties in the Truman Harbor area declared surplus property by the United States Navy; and

WHEREAS, these properties include the East Quay, the Truman Harbor Development Zone, Truman Harbor Boat Ramp and adjacent 65 foot southern portion of the NOAA Pier; and

WHEREAS, in 2013, said Truman Harbor was closed by the United State Navy to all non-federal vessels, thus denying the City of Key West access to and use of these valuable marine harbor properties; and

WHEREAS, the City of Key West is aware that there are certain statutes of limitations which could be deemed applicable to bar any lawsuit that could be brought seeking redress for this wrongful close of Truman Harbor, which has the effect of taking away the City of Key West's valuable marine harbor properties and depriving the City of its valuable riparian rights as the owner of upland properties bordering navigable water; and

WHEREAS, in an abundance of caution, the City, in order to guard against the loss of a means to redress the denial of access and use of property, it is therefore most prudent to employ specialized trial

counsel as soon as possible so that adequate study and an opinion could be rendered to the City of Key West in a timely manner; and

WHEREAS, the City of Key West has done everything in its power to avoid the resort to litigation and remains willing to sit down with representative of the United States Navy to arrive at an amicable solution mutually beneficial to both the Navy and the residents and citizens of the City of Key West, but do date, our efforts have met with no success; and

WHEREAS, the Mayor and City Commissioner of the City of Key West are the elected guardians of the City, whose duty it is to act as a fiduciary with respect to safeguarding and protecting property belonging to the City of Key West; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA AS FOLLOWS:

Section 1: That the City Attorney is hereby directed (1) to conduct a national search to find a recommend for contract employment by the City a law firm having the experience and expertise in land use matters and litigation relating to action against the federal government; and (2) Report back to the Commission his recommendation to us.

Section 2: That the outside counsel, if engaged by the City, is hereby directed to determine: (1) a legal opinion as to whether or not the City has incurred any legally compensable loss by reason of the Navy's closure of Truman Harbor February 25, 2013 to all but federal ships; (2) If there is a compensable loss, determine whether

legal action must be commenced before February 25, 2017, the four-year anniversary of the closure or if the matter is governed exclusively by the Tucker Act; And (3) Recommend appropriate type of legal action in light of the law, location of the occurrence which gave rise to the cause of action, jurisdiction of said action and the possible cost of same to the City.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this _____ day of _____, 2016.

Authenticated by the Presiding Officer and Clerk of the Commission on _____ day of _____, 2016.

Filed with the Clerk on _____, 2016.

Mayor Craig Cates	_____
Vice Mayor Clayton Lopez	_____
Commissioner Sam Kaufman	_____
Commissioner Richard Payne	_____
Commissioner Margaret Romero	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK