

**INTERLOCAL AGREEMENT (LEASE AGREEMENT)
BY AND BETWEEN THE CITY OF KEY WEST,
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS
AND MONROE COUNTY HEALTH DEPARTMENT
FOR THE USE OF 830 EMMA ST., KEY WEST, FLORIDA**

THIS Interlocal Agreement (“Agreement”), made and entered into at Key West, Monroe County, Florida, this ____ day of _____, 20____ between THE CITY OF KEY WEST (“CITY” or “LANDLORD”), a municipal corporation organized and existing under the laws of the State of Florida, 1300 White Street, Key West, Florida 33040, the STATE OF FLORIDA, DEPARTMENT OF HEALTH, MONROE COUNTY HEALTH DEPARTMENT (“COUNTY HEALTH DEPARTMENT” OR “CHD” or “TENANT”), 1100 Simonton St., Key West FL 33040, and MONROE COUNTY (“COUNTY”), a political subdivision of the State of Florida, 1100 Simonton St., Key West, FL 33040.

WITNESSETH:

WHEREAS, the CITY and COUNTY are authorized, pursuant to Sections 125.01(1)(p), 163.01(2), and 166.021, Florida Statutes, to enter into Interlocal agreements to provide services and facilities; and

WHEREAS, the COUNTY has the power, pursuant to Section 125.01(1)(e), Florida Statutes, to provide health and welfare programs; and

WHEREAS, the COUNTY is authorized, under Section 154.01(1), Florida Statutes, to cooperate with the State Department of Health to establish and maintain a full-time county health department (“CHD”) for the promotion of the public’s health, control and eradication of preventable diseases, and the provision of primary health care for special populations; and

WHEREAS, pursuant to Section 154.01(3), Florida Statutes, the COUNTY has entered into a contract with the CHD (“core contract”), which lists the services that will be offered by the CHD, the level of funding that will be provided by the COUNTY, and the facilities, equipment and insurance coverage of same that will be provided by the COUNTY for use by the CHD in order to occupy certain administrative space; and

WHEREAS, the CHD previously operated the Roosevelt Sand Center Clinic (“Clinic”) and Health Resource Center in the Frederick Douglass Gymnasium, but in 2016 the CITY notified the CHD and the COUNTY that the gym premises would need to be vacated in order to make way for future construction; and

WHEREAS, thereafter, the CHD relocated the Clinic temporarily to the Gato Building and began operating the Clinic from the Gato Building since that time, however, CHD desires to temporarily relocate certain administrative functions to a location in Bahama Village; and

WHEREAS, the CITY, in its capacity as the LANDLORD, desires to make available certain premises located at 830 Emma Street in Key West owned by the CITY for use, by the CHD, for administrative and related uses; and

WHEREAS, the COUNTY and the CHD are aware of CITY’s plans to demolish and replace the existing structure subject to this ILA beginning in calendar year 2019 and that this ILA is subject to early termination so as not to delay CITY’s plans regarding the subject property:

NOW THEREFORE, in consideration of their mutual promises and covenants contained herein, the parties agree as follows:

1. **LEASED PREMISES.** The CITY does hereby provide to the COUNTY and the CHD, and the COUNTY and CHD do hereby accept from the CITY, the following described premises located at the 830 Emma Street, Key West, situated in the City of Key West, Florida, having an interior area of approximately 1,074.38 square feet, being more particularly described on the drawing attached hereto and incorporated as "Exhibit A" (hereinafter referred to as “Leased Premises”), for the uses described in paragraph (3) of this Agreement.
2. **TERM.** The term of this Agreement shall be for five (5) years, which term shall commence on the date the Agreement is made as stated above, and shall end at the end of the 60th month thereafter. Each party reserves the right to terminate this Agreement, with or without cause, provided that the terminating party gives at least ninety (90) days prior written notice to the other parties.

3. USE OF THE PREMISES. The CHD shall be entitled to use the Leased Premises for administrative purposes, and activities related thereto and for no other purpose. In addition, CHD further agrees:

- A. Not to utilize the premises as a residence or for any living, sleeping or residing overnight;
- B. Not to use the Leased Premises nor permit the same to be used in any manner that violates any law, ordinance, rule, or regulation of the CITY, or other governmental agencies, as existing or promulgated during the term hereof, or in a manner that would constitute a hazardous use of the Premises or violate any insurance policy of the COUNTY or the CITY;
- C. To take no action that would: (i) violate the CITY'S existing contracts with third parties or (ii) cause any work stoppage or cause any manner of interference with CITY;
- D. To abide by and observe all rules and regulations established from time to time by the CITY and the CITY'S insurance carrier; and
- E. To obtain and maintain all licenses, permits, and other approvals necessary to conduct the CHD's business during the term of this Agreement.

4. CITY'S OBLIGATIONS UNDER THE ILA (LEASE)

- A. The parties agree that the CITY shall, upon approval of this Agreement by all parties, prepare and deliver the Leased Premises in "AS IS" condition for occupancy by the CHD. The CITY shall be responsible for maintenance and repair of the exterior walls and roof of the building, as well for maintenance and repair of the mechanical, electrical, heating and air conditioning and plumbing systems, parking lot repair and maintenance (including striped markings) and general landscaping.

B. The City is responsible for any and all property taxes and special assessments for the Leased Premises.

5. COUNTY'S OBLIGATIONS UNDER THE LEASE

A. The COUNTY shall be responsible for operations, maintenance and repair of the interior of the Leased Premises, including any equipment or appliances located on the interior of the building located at 830 Emma St., other than (a) operations, maintenance and repair of non-affixed furniture, fixtures and equipment and (b) routine cleaning of the Leased Premises, both of which shall be the responsibility of the CHD.

6. CHD'S OBLIGATIONS UNDER THE LEASE

A. The CHD shall be responsible for providing any non-affixed furnishings and equipment.

B. The CHD shall be responsible for normal maintenance and cleaning of the interior of the premises. The CHD will maintain the Leased Premises in a clean, neat condition and shall not accumulate or permit the accumulation of any trash, refuse or debris, excluding such trash or refuse placed in an appropriate location for collection, or anything that is unsightly or which creates a fire hazard or nuisance to adjoining or adjacent properties. There shall be no living quarters, nor shall anyone be allowed to live or cook within the Leased Premises.

C. At the conclusion of the term of this Agreement, the COUNTY and the CHD shall surrender the premises to the CITY in good order and condition.

7. DELIVERY OF THE LEASED PREMISES.

A. At the conclusion of the term of this Agreement, the COUNTY and the CHD shall surrender the premises to the CITY in good order and condition, normal wear and tear excepted.

8. HAZARDOUS WASTE. The CHD shall ensure that all hazardous wastes or any other contaminating materials are properly disposed of, and that the Leased Premises are kept free and clear of contamination. If the Leased Premises are contaminated by CHD during the term of this Agreement, the CHD shall bear all costs of required clean-up.

9. COVENANT OF QUIET POSSESSION. So long as the COUNTY is in compliance with its obligations as stated herein, the COUNTY and CHD shall peaceably and quietly have, hold, and enjoy the Premises throughout the term of this Agreement without interference or hindrance by the CITY or the CITY'S agents.
10. UTILITIES. The CHD will pay for all utilities, including but not limited to telephone and internet charges and fees, water, wastewater, solid waste, electricity, and gas. If a separate bill for the Leased Premises is not available for one or more of the utility services required by the Premises, then the CHD shall pay a pro-rated share of that particular utility based on the square footage of the Premises and/or the parties' estimated usage of that particular utility.
11. INSURANCE; INDEMNIFICATION.
 - A. The CHD will provide coverage from the State Risk Management Trust Fund for general liability up to a self-insured retention of Two Hundred Thousand Dollars (\$200,000.00) per person and Three Hundred Thousand Dollars (\$300,000) per occurrence. The original policy or certificate shall be delivered to the CITY within five (5) days of execution of this Agreement. Additionally, the CHD shall provide worker's compensation coverage for all employees where the CHD is obligated to do so by operation of law. This coverage shall be for statutory limits in compliance with applicable state and federal laws. Failure of the CHD to maintain the insurance in full force and effect at any time shall be deemed a material breach of this Agreement, and shall entitle the CITY to terminate the Agreement. Upon such breach, the CHD shall immediately suspend all use of the Premises and shall provide to the CITY written notice of its failure to maintain insurance coverage.
 - B. To the extent permitted by law and subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, the CHD does hereby agree to defend, indemnify and hold harmless the COUNTY and the CITY, its officers or employees, from and against any and all liability, damages, costs (including reasonable attorneys' fees, and costs at both the trial and appellate levels) arising from the acts or omissions of the CHD in connection with this Agreement.

- C. To the extent permitted by law and subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, the COUNTY does hereby agree to defend, indemnify, and hold the CITY and the CHD, including its officers and employees, harmless from and against any and all liabilities, damages, and costs (including reasonable attorneys' fees and court costs at both the trial and appellate levels) arising from the acts or omissions of the COUNTY in connection with this Agreement.
- D. To the extent permitted by law and subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, the CITY does hereby agree to defend, indemnify, and hold the COUNTY and the CHD, including its officers and employees, harmless from and against any and all liabilities, damages, and costs (including reasonable attorneys' fees and court costs at both the trial and appellate levels) arising from the acts or omissions of the CITY in connection with this Agreement.

12. ASSIGNMENT AND HYPOTHECATION. Except as indicated herein, neither the CHD nor the COUNTY shall assign or sublet the Leased Premises or any part thereof. Any assignment or sub-letting, even with the CITY'S consent, shall not relieve the COUNTY and the CHD from the obligation to keep and be bound by the agreements of this Agreement. The acceptance of occupancy of any other person shall not be deemed to be a waiver of any of the agreements of this Agreement or to be consent to the assignment for benefit of creditors or by operation of law and shall not be effective to transfer any rights to any assignee without prior written consent of the CITY, which consent shall not be unreasonably withheld.

13. DEFAULT CLAUSE.

- A. In the event of any failure of compliance by either party hereto with any of its material obligations to the other party as provided for herein, such action shall constitute a default under this Agreement. Upon any such default, the non-defaulting party shall provide to the defaulting party a written Notice of such default (hereinafter "Default Notice"). The Default Notice shall state in reasonable detail the actions the defaulting party must take to cure the same. The defaulting

party shall cure any such default within 30 days following the date of the Default Notice. Notwithstanding the provisions of this Section, if any such default by the defaulting party remains uncured at the conclusion of any specified 30 day cure period, and if the nature of the defaulting party's obligations are such that more than 30 days is required to effect cure, then the defaulting party shall not be in default hereunder and the non-defaulting party shall not have the right to exercise its termination rights granted herein as a result of any such default, if the defaulting party commences cure within the applicable cure period and thereafter diligently pursues cure to completion of performance. In the event the defaulting party fails to affect any required cure as provided for herein, the defaulting party shall be deemed to be in uncured default hereunder, and the non-defaulting party shall have the right, but shall not be obligated, upon written Notice to the defaulting party, to terminate this Agreement. If such Notice is given, this Agreement shall terminate on the date set forth in the Notice and the parties shall be relieved of all rights and obligations hereunder, except for any rights and obligations that expressly survive termination.

- B. All default and grace periods shall be deemed to run concurrently and not consecutively.
- C. It is mutually covenanted and agreed that the various rights, powers, options, elections, privileges, and remedies of the parties contained in this Agreement shall be construed as cumulative and no one of them shall be construed as being exclusive of the other or exclusive of any rights or priorities allowed by law.
- D. It is further covenanted and agreed by and between the parties hereto that the right given to the parties that may be due under the terms of this Agreement by any proceeding under same, or the right to collect any additional money, or payments due under the terms of this Agreement by any proceedings under same, or the right given the parties to enforce any of the terms and provisions of this Agreement shall not in any way affect the right of such party to declare this Agreement void and the terms ended hereby, as herein provided, when default is made by a party in any of the terms and provisions of this Agreement.

- E. If at any time, by reason of the failure of a party to keep and perform any covenant or agreement that, under the terms of this Agreement, the party is bound and obligated to keep and perform, it becomes necessary for the other party to employ an attorney to protect the rights and interests of that party in the property demised or to enforce the Agreement or to proceed under the Agreement, then the prevailing party shall be entitled to receive from the non-prevailing party all court costs and reasonable attorney's fees incurred or expended by the prevailing party in taking such actions, including actions taken in all trial and appellate courts.
14. CHD'S DUTY TO KEEP PREMISES IN GOOD REPAIR. The CHD covenants and agrees that during the term of this Agreement the CHD will keep in good state of repair and in current condition the Leased Premises and all furnishings brought or placed upon the Leased Premises and will not suffer or permit any waste or neglect of any such personal property
- A. The CHD will ensure that the personal property and equipment owned by the CHD will be maintained in accordance with manufacturer specifications for the same. Furthermore, the CHD will repair and replace the personal property and equipment owned by CHD as often as it may become necessary in order to keep the personal property and equipment in good repair and condition.
15. ADDITIONAL COVENANTS.
- A. The COUNTY and CHD covenant and agree with the CITY that, upon termination of this Agreement, the CHD will peaceably and quietly deliver to the CITY possession of the Premises and all improvements located thereon, as well as the CITY'S interest in all fixtures and equipment appertaining thereto.
- B. The COUNTY and CHD agree not to make any permanent changes or alterations to the structure of the Leased Premises without prior written approval of the CITY.
16. CITY'S RIGHT OF ENTRY. The CITY or its agents shall have the right to enter upon the Premises at all reasonable times to examine the condition and use thereof, provided only that such right shall be exercised in such a manner as not to interfere with the COUNTY

or the CHD in the conduct of the CHD'S business on the Premises. The CHD will be given reasonable notice in advance of such entry, unless an emergency condition warranting immediate entry exists.

17. EQUIPMENT, FIXTURES AND SIGNS. All fixtures, equipment, and signs used on the Premises by the CHD but provided by the CITY will remain the property of the CITY. All fixtures, equipment, and signs used on the Premises by the COUNTY or CHD and provided by the COUNTY or CHD will remain the property of the COUNTY or CHD, unless otherwise specified in this section. While this Agreement is in good standing, the COUNTY or CHD will have the right to remove COUNTY or CHD fixtures, equipment, and signs from the Premises during the term of this Agreement, at the expiration thereof, or within a reasonable time thereafter. The COUNTY and CHD agree to not cause any irreparable damage to the Premises upon removal of fixtures, equipment, and signs. If such damage does occur, the COUNTY or CHD shall pay or reimburse the CITY for the reasonable expense of repairing the damage.
18. NO MECHANIC'S LIENS. Neither the COUNTY nor CHD shall have the power to subject the interest of the CITY in the demised premises to any mechanic's or materialmen's lien of any kind. In case of any mechanic's liens placed upon the property, the party whose actions resulted in the mechanics' liens must pay off the same within thirty (30) days of knowledge of the lien. Failure to do so after knowledge of the lien shall constitute a material breach of this agreement. Nothing herein shall be construed to admit that a mechanic's lien may be enforced against municipal property.
19. TAXES. Monroe County is exempt from sales and use taxes.
20. FIRE AND OTHER HAZARDS.
 - A. In the event that the Leased Premises or a major part thereof are destroyed by fire, lightning, storm or other casualty, the CITY at its option may either repair the damage to the Leased Premises at its own cost or terminate this Agreement. Should the Leased Premises be only partly destroyed, such that a major part thereof is still useable, the CITY, at its sole option, may permit the CHD to continue with the Agreement, or terminate the Agreement without penalty.

- B. The CHD shall provide for fire protection on the interior of the Leased Premises in accordance with fire safety standards of the State Fire Marshal. The CHD shall provide maintenance and repair of the fire protection equipment necessary to conform with the requirements of the State Fire Marshal, prior to occupancy by the CHD, and at all times throughout the term of this Agreement.
21. CAPTIONS. The captions appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such Paragraphs of this Agreement or in any way affect this Agreement.
22. EXECUTION IN COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original.
23. NO SOLICITATION/PAYMENT. The parties hereto warrant that, in respect to itself, it has neither employed nor retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement, and it has not paid or agreed to pay any person, company corporation, individual, or firm, other than a bona fide employee working exclusively for it, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the parties agree that the COUNTY shall have a right to terminate this Agreement without liability, and, at its discretion, offset from monies owed, or otherwise recover, the full amount of any fee, commission, percentage, gift or consideration.
24. MISCELLANEOUS PROVISIONS. It is mutually covenanted and agreed by and between the parties as follows:
- A. That no waiver or a breach of any of the covenants in this Agreement contained shall be construed to be a waiver of any or all succeeding breach of the same covenant;
- B. That time is of the essence in every particular, particularly where the obligation to pay money is involved;
- C. That no modification, release, discharge, or waiver of any provision hereof shall be of any force, effect, or value, unless in writing and signed by the parties hereto;

- D. That all covenants, promises, conditions, and obligations contained herein or implied by law, or covenants running with the land, shall attach to and be binding upon the heirs, executors, administrators, successors, legal representatives, and assigns of each of the parties to this Agreement;
- E. That this Agreement cannot be assigned, without the prior written consent of all parties hereto;
- F. That all persons executing this Agreement on behalf of the respective parties have the right, power and authority to execute the Agreement;
- G. That this instrument contains the entire agreement between the parties as of this date, the execution hereof has not been induced by either of the parties by representations, promises, or understandings not expressed herein, and that there are no collateral agreements, stipulations, promises, or understandings whatsoever between the representative parties in any way touching the subject matter of this instrument that are not expressly contained in this instrument;
- H. That when a party's desire to give notice to the other or others in connection with and according to the terms of this Agreement, such notice shall be deemed given when it shall have been deposited via U.S. Registered or Certified mail with sufficient postage pre-paid thereon to carry it to its addressed destination. The notice shall be addressed as follows:

As to the CITY: City Manager City of Key West
 P.O. Box 1409
 Key West, FL 33041

As to the COUNTY: County Administrator
 Monroe County Board of County Commissioners
 1100 Simonton Street
 Key West, FL 33040

At to the CHD: Administrator and Health Officer
 Monroe County Health Department
 1100 Simonton St.
 Key West, FL 33040

This Agreement and the provisions thereof shall be governed by and construed and enforced in accordance with the laws of the State of Florida; venue for any action regarding this Agreement shall be in Monroe County, Florida.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day and year first written above.

ATTEST:

CITY OF KEY WEST, FL

Cheryl Smith, City Clerk

By: Teri Johnston, Mayor

ATTEST: KEVIN MADOK, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By:

By: Sylvia Murphy, Mayor

Deputy Clerk

STATE OF FLORIDA, DEPARTMENT OF
HEALTH, MONROE COUNTY HEALTH
DEPARTMENT

By: Robert B. Eadie, J.D.,
CHD Administrator and Health Officer