
Amended and Restated Lease Agreement

between

The City of Key West, Florida
as Landlord

and

Monroe County,
as Tenant

Dated _____

This Amended and Restated Lease Agreement is made and entered into in Key West, Monroe County, Florida, this ____ day of ____, 2014, by and between THE CITY OF KEY WEST, FLORIDA, a municipal corporation organized and existing under the laws of the State of Florida, whose mailing address is P.O. Box 1409, Key West, Florida, 33041, (hereinafter "LANDLORD"), and Monroe County, a political subdivision of the State of Florida, whose mailing address is 1100 Simonton Street, Key West, Florida 33040, (hereinafter "TENANT").

Whereas, on December 20, 1985, the LANDLORD and TENANT entered into a 99 year lease agreement for a parcel of land more particularly described on Exhibit "A", which is attached hereto and incorporated by reference, to be utilized for animal control purposes (hereinafter "Original Premises"); and

Whereas, the TENANT agrees to maintain an animal control program and enforce the animal control ordinances of the City of Key West in accordance with the Joint Participation Agreement entered into by the parties simultaneously with this Amended and Restated Lease Agreement; and

Whereas the LANDLORD and the TENANT now desire to relocate the demised premises referred to in the 99 year lease agreement to the parcel of land more particularly described on Exhibit "B", which is attached hereto and incorporated by reference (hereinafter the "Relocated Premises"); and

Whereas, the TENANT, through its animal control contractor, the Florida Keys Society of Prevention of Cruelty to Animal, Inc., shall construct a new animal control facility and animal shelter on the Relocated Premises (hereinafter the "Facility").

Therefore, in consideration of the covenants and promises contained herein, the parties agree as follows:

1. **DEMISE.** The LANDLORD does hereby lease to the TENANT, and the TENANT does hereby lease from the LANDLORD, the Relocated Premises, a parcel of land zoned for light industrial use containing 1.02 acres located on College Road, Key West, Florida (hereinafter referred to as "Relocated Premises"), which is more particularly described on Exhibit B, which is attached hereto and incorporated by reference. The LANDLORD shall have unrestricted access and utilization of the fire road located within the Relocated Premises.

2. **TERM.** The term of this Amended and Restated Lease Agreement shall be for a period of ninety nine (99) years commencing retroactively to the 12th day of November, 1985, and ending at midnight on the 11th day of November, 2084.

3. **RENT.** The TENANT agrees to pay to the LANDLORD an annual rent for the Relocated Premises of Ten Dollars (\$10.00) per year, which rental amount shall be paid on an annual basis each year of the term of this Amended and Restated Lease Agreement and shall be due on the 12th day of November.

4. **USE OF THE PREMISES.** The TENANT shall be entitled to use the Original Premises and the Relocated Premises for the continuous operation of TENANT'S animal control facility, animal shelter and related and associated uses and for no other purpose. TENANT may enter into an agreement with a third party for the operation of the animal control facility and animal shelter and related and associated uses. In the event the TENANT does not operate the Original Premises or the Relocated Premises as an animal control facility, or in the event the TENANT breaches any of the terms or conditions contained in the Joint Participation Agreement entered into by the parties simultaneously with this Amended and Restated Lease Agreement, this Amended and Restated Lease Agreement shall be cancelled, be of no further force or effect, and possession of the Original Premises and Relocated Premises shall revert to the LANDLORD.

In addition, TENANT further agrees:

A. Any banners, pennants, search lights, signs, balloons, or similar temporary media on the Original Premises or Relocated Premises must be in accordance with Key West City Code;

B. Not to commit waste in the Original Premises or Relocated Premises and to keep the Original Premises and Relocated Premises in a safe, neat, clean and orderly condition and to maintain the Original Premises and Relocated Premises in good condition;

C. Not to use the Original Premises or Relocated Premises or permit the same to be used for any residential purpose or permit the same to be used in any manner that violates any law, ordinance, rules, or regulation of the LANDLORD, or other governmental agencies, as existing or promulgated during the term hereof, or in a manner that would constitute a hazardous use of the Original Premises or Relocated Premises or violate any insurance policy of the TENANT or the LANDLORD;

D. To take no action that would: (i) violate the LANDLORD's contracts or (ii) cause any work stoppage or cause any manner of interference with LANDLORD;

E. To abide by and observe all rules and regulations established from time to time by the LANDLORD and the LANDLORD's insurance carrier;

F. To obtain and maintain all licenses, permits, and other approvals necessary to conduct the TENANT's business during the Lease term.

5. **COVENANT OF QUIET POSSESSION.** So long as the TENANT pays all of the rent and charges due herein, TENANT shall peaceably and quietly have, hold, and enjoy the Original Premises and Relocated Premises throughout the term of this Amended and Restated Lease Agreement without interference or hindrance by the LANDLORD or LANDLORD's agents.

6. **INSURANCE; INDEMNIFICATION.**

Insurance: At TENANT'S sole cost and expense, TENANT will secure, pay for, and file with the LANDLORD, during the entire Term hereof, an occurrence form commercial general liability policy, covering the Original Premises and Relocated Premises and the operations of TENANT and any person conducting business in, on or about the Original

Premises and Relocated Premises in at least the minimum amounts with specification amounts, as may be determined from time to time by LANDLORD, to prevail if greater than minimum amount indicated. Notwithstanding any other provision of this Lease, TENANT

shall provide the minimum limits of liability coverage as follows:

Commercial General Liability	\$2,000,000	Aggregate
	\$2,000,000	Products Aggregate
	\$1,000,000	Any One Occurrence
	\$1,000,000	Personal Injury
	\$300,000	Fire Damage/Legal

TENANT shall also procure the following insurance coverage:

(i) "All risk" property insurance, including theft coverage, written at replacement cost value and a replacement cost endorsement insuring TENANT'S improvements and betterments, fixtures, furnishings, equipment and any other property belonging to TENANT.

(ii) Workers compensation coverage as required by the provisions of Florida statute.

Any management agreement used by TENANT must provide that the LANDLORD does not have any liability whatsoever for any damage which may occur on the Original Premises or Relocated Premises. The TENANT must provide the LANDLORD with a copy of any management agreement used by TENANT regarding the Relocated Premises. LANDLORD shall not be responsible for damage to any property belonging to TENANT or Tenant's manager. TENANT completely indemnifies the LANDLORD with regard to any claims made by any manager for any reason. From time to time during this Lease, at LANDLORD's request, TENANT shall (i) procure, pay for and keep in full force and effect such other insurance as LANDLORD shall require and (ii) increase the limits of such insurance as LANDLORD may reasonably require.

Any general liability or other policy insuring the LANDLORD does not provide any contributing or excess coverage for TENANT. The policies TENANT procures for TENANT'S exposure are the only coverage available to TENANT.

While the Facility, or any replacement thereof, is in the course of construction, and whenever appropriate while any alterations or renovations are in the course of being made, the aforesaid fire and extended coverage insurance shall be carried by Tenant in builder's risk form written on a completed value basis.

TENANT shall furnish an original Certificate of Insurance indicating, and such policy providing coverage, to LANDLORD named as "Additional Insured" on a PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its equivalent, INCLUDING A "Waiver of Subrogation" clause in favor of LANDLORD on all policies. TENANT will maintain the General Liability coverage summarized above with coverage continuing in full force including the "additional insured" endorsement until at least 3 years beyond the termination of this Lease.

TENANT'S insurance policies shall be endorsed to give 30 days' written notice to LANDLORD in the event of cancellation or material change, using form CG 02 24, or its equivalent.

All policies of insurance required to be carried by TENANT pursuant to this Lease shall be written by responsible insurance companies authorized to do business in Florida with an AM Best rating of A-VI or better. Any such insurance required to be carried by TENANT hereunder may be furnished by TENANT under any blanket policy carried by it or under a separate policy therefore. Certificates shall be delivered to LANDLORD prior to the commencement of the Term of this Amended and Restated Lease Agreement and, upon renewals, but not less than sixty (60) days prior to the expiration of such coverage. In the event TENANT shall fail to procure such insurance, LANDLORD may, at its option, procure the same for the account of TENANT, and the cost thereof shall be paid to LANDLORD as an additional charge upon receipt by TENANT of bills therefore, together with an administrative fee equal to fifteen (15%) percent to cover the cost of the LANDLORD's efforts to procure such policy.

Certificates of Insurance submitted to LANDLORD will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements,

cancellation/material change notice endorsements, and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements will also be required if necessary.

Indemnification: Subject to 768.28, Florida Statutes, TENANT does hereby agree to indemnify, defend, and save LANDLORD, its respective officers, directors, agents and employees harmless from and against any and all liability for any injury to or death of any person or persons or damage to property (including adjoining property for environmental damage) in any way arising out of or connected with the conditions, use or occupancy of the Original Premises and Relocated Premises, or in any way arising out of the activities of TENANT, its agents, employees, licensees or invitees on the Original Premises and Relocated Premises and/or the building, including reasonable attorney's fees and court costs incurred by LANDLORD in connection therewith, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, excepting, however, only liability caused by LANDLORD's gross negligence in its failure to perform any of LANDLORD's covenants, obligations or agreements of this Lease. Nothing herein is intended to waive the sovereign immunity afforded to LANDLORD pursuant to Florida law, including section 768.28, Florida Statutes.

The indemnification obligations under this Section shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for TENANT under Workers' Compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of TENANT or of any third party to whom TENANT may subcontract work. This indemnification shall continue beyond the date of termination of the Agreement.

7. **ASSIGNMENT AND HYPOTHECATION.** This Lease is not transferable or assignable, except as provided by Resolution of the Key West City Commission, whose consent may be withheld for any reason or no reason. The TENANT may not sublet the Relocated Premises or any part thereof. Any assignment, even with the LANDLORD's consent, shall not relieve the TENANT from the obligation to keep and be bound by the agreements of this Lease. The acceptance of Rent from any other person shall not be deemed to be a waiver of any of the agreements of this Lease 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 consent of the LANDLORD.

8. DEFAULT CLAUSE.

A. It is covenanted and agreed by LANDLORD and TENANT that in case at any time default shall be made in the payment of rent, or in case the TENANT shall fail to keep the required insurance, or shall fail to spend insurance money, as herein provided for, or if the TENANT shall fail to perform any of the covenants of this Lease, including, but not limited to, the provisions pertaining to tenant improvements contained in paragraph 9 herein below, then, in any of such events, TENANT shall be subject to eviction pursuant to Chapter 83, Florida Statutes.

B. Or, the LANDLORD may have such other remedies as the law and this instrument afford, and the TENANT covenants and agrees that upon the termination of the demised term, at such election of the LANDLORD, or in any other way, the TENANT will surrender and deliver up the Original Premises and Relocated Premises and property (real and personal) peaceably to the LANDLORD, its agent, or attorneys, immediately upon the termination of the demised term. If the TENANT, its agents, attorneys, or tenants shall hold the Original Premises or Relocated Premises or any part thereof, one (1) day after the same should be surrendered according to the terms of this Lease, it shall be deemed guilty of forcible detainer of the Original Premises or Relocated Premises under the applicable statute and shall be subject to eviction or removal, forcibly or otherwise.

C. Where the alleged default consists of some alleged violation of any term of this Lease, other than the payments of money, including rent and insurance premiums, the LANDLORD may not declare this Lease in default until such violation shall have continued for thirty (30) days after the LANDLORD shall have given the TENANT written notice of such violation, and TENANT shall not have undertaken, during this thirty (30) days' notice period, to cure said violation by vigorous and affirmative action, provided, however, that nothing herein contained shall be construed as precluding the LANDLORD from having such remedy as may be and become necessary in order to

preserve the LANDLORD'S right and interest of the LANDLORD in the Original Premises and Relocated Premises and in this Lease, even before the expiration of the grace or notice periods provided for in this paragraph, if, under particular circumstances then existing, the allowance of such grace or the giving of such notice would prejudice or endanger the rights and estate of the LANDLORD in this Lease and in the Original Premises or Relocated Premises. With respect to the payment of the insurance premiums, the same must be paid at least thirty (30) days prior to the time when the policies would lapse for the failure to pay premiums thereon, and evidence of such payment given to the LANDLORD without any written notice being required to be served upon the TENANT in connection therewith.

D. All default and grace periods shall be deemed to run concurrently and not consecutively.

E. It is mutually covenanted and agreed that the various rights, powers, options, elections, privileges, and remedies of the LANDLORD contained in this Lease 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.

F. It is further covenanted and agreed by and between the parties hereto that the right given to the LANDLORD in this Lease to collect the rent that may be due under the terms of this Lease by any proceeding under same, or the right to collect any additional rent, money, or payments due under the terms of this Lease by any proceedings under same, or the right given the LANDLORD to enforce any of the terms and provisions of this Lease shall not in any way affect the right of such LANDLORD to declare this Lease void and the terms ended hereby, as herein provided, when default is made in the payment of rent or when default is made by the TENANT in any of the terms and provisions of this Lease.

G. If at any time, by reason of the failure of the TENANT to keep and perform any covenant or agreement which, under the terms of this Lease, the TENANT is bound and obligated to keep and perform, it becomes necessary for the LANDLORD to employ an attorney to protect the rights and interests of the LANDLORD in the Original Premises or Relocated Premises or to enforce the Lease or proceed under it in any

Particular manner, then in any of such events, the TENANT will owe and will pay unto the LANDLORD all costs of Court and reasonable attorney's fees incurred or expended by the LANDLORD in taking such actions, including actions taken in all trial and appellate courts.

9. TENANT IMPROVEMENTS: TENANT agrees to develop and construct an animal control facility and animal shelter (the "Facility") on the Relocated Premises at TENANT'S sole cost and expense and in accordance with all existing permits, restrictions and any other land use requirements including, but not limited to, the Solid Waste Closure Permit attached hereto as Exhibit "C" and incorporated by reference, and the Ground Water Permit attached hereto as Exhibit "D" and incorporated by reference. Building plans and specifications for the Facility must be approved by the LANDLORD and be in compliance with sustainable standards for government buildings as determined by the Florida Green Building Council. TENANT shall pay all fees applicable to development of the Facility, including, but not limited to, impact fees and permit fees. TENANT agrees that the site plan will be designed to provide an acceptable sound buffer from the adjoining school. TENANT shall not place structures or other improvements in that portion of Parcel F labelled "asphalt" and "dirt road" or the parcel identified as parcel "A" on the survey attached hereto and more particularly described as Exhibit "E".

TENANT shall submit an application for development plan approval of the Facility within 8 months of the approval of this Amended and Restated Lease Agreement. Thereafter, TENANT shall secure issuance of a **Planning Board resolution concerning TENANT'S development plan** within 150 days following submission of the application for development plan approval. Thereafter, TENANT shall secure issuance of a City Commission resolution concerning TENANT'S development plan within 60 days following the Planning Board's action on the development plan. Thereafter, TENANT shall submit an application for building permits for construction of the improvements authorized under the development plan within 180 days of the effective date of the development plan approval. ("Effective date of development plan approval" is the date

of any appeal or DEO challenge to development plan approval is finally determined, and if no such appeal or challenge is filed, 60 days following the rendition of the Commission resolution granting development plan approval). Thereafter, TENANT shall secure issuance of a building permit for construction of the improvements within 90 days after the building permit application is deemed complete by the chief building official. Thereafter, TENANT shall secure the issuance of a certificate of occupancy within 365 days of the issuance of the building permit.

Before a building permit will be issued as set forth above, the TENANT shall provide a performance guarantee. The TENANT shall warrant that it has the financial capability to construct and complete the project/the Facility as planned without the need to request further funding. TENANT shall confirm in writing (in the form of bank statements, a signed letter from the bank stating that funds are in the bank for the specified project, documentation provided by a financial institution of a line of credit assigned to the construction of The Facility, and/or a line item budget for the construction and completion of the Facility approved by the Board of County Commissioners of Monroe County that TENANT has the funds in place at the time of issuance of the building permit such to be in a position to construct and complete the Facility.

TENANT shall be permitted to occupy the Original Premises for the period ending 90 days from the completion of the construction of the Facility and receipt of a certificate of occupancy. Thereafter, TENANT shall remove all improvements located on the Original Premises and remediate all environmental contamination on the Original Premises within 180 days of vacating the Original Premises. TENANT shall be solely responsible for all costs and expenses associated with the demolition and removal of the existing improvements including, but not limited to, remediation of any environmental contamination.

10. TENANT'S DUTY TO KEEP PREMISES IN GOOD REPAIR.

The TENANT covenants and agrees with the LANDLORD that while TENANT occupies the Original Premises during the term of this Amended and Restated Lease Agreement, the TENANT will keep in good state of repair, the Original Premises, the

HVAC equipment, and the fixtures serving the Original Premises, and all furnishings brought or placed upon the Original Premises by the TENANT; nor will the TENANT suffer or permit any strip, waste, or neglect of any such property to be committed; and the TENANT will repair, replace, and re-construct the property as often as it may be necessary in order to keep the property in good repair and condition, at TENANT'S sole cost and expense. Tenant shall only utilize licensed contractors and shall apply for all permits, as required, to complete the necessary repairs. The TENANT covenants and agrees with the LANDLORD that while TENANT occupies the Relocated Premises during the term of this Amended and Restated Lease Agreement, the TENANT will keep in good state of repair, the Relocated Premises, the HVAC equipment, and the fixtures serving the Relocated Premises, and all furnishings brought or placed upon the Relocated Premises by the TENANT; nor will the TENANT suffer or permit any strip, waste, or neglect of any such property to be committed; and the TENANT will repair, replace, and re-construct the property as often as it may be necessary in order to keep the property in good repair and condition, at TENANT'S sole cost and expense. Tenant shall only utilize licensed contractors and shall apply for all permits, as required, to complete the necessary repairs.

11. ADDITIONAL COVENANTS OF THE TENANT.

A. The TENANT shall pay for all utilities associated with the use of the Original Premises and Relocated Premises including, but not limited to, water, electricity, sewer gas and solid waste. In the event that a separate bill for the Original Premises or Relocated Premises is not available for one or more of the utility services required by the Original Premises or Relocated Premises, then the TENANT shall pay a pro-rated share of that particular utility based on the square footage of the Original Premises or Relocated Premises and/or the parties' estimated usage of that particular utility, calculation of which to be mutually agreed upon.

B. The TENANT covenants and agrees with the LANDLORD that no damage or destruction to any building or improvement by fire, windstorm, or any other casualty shall be deemed to entitle the TENANT to surrender possession of the Original Premises or Relocated Premises or to terminate this Lease or to violate any of its

provisions or to cause any abatement or rebate in the rent then due or thereafter becoming due under the terms hereof, unless otherwise specifically provided for herein. If the Lease is canceled for the TENANT's default at any time while there remains outstanding any obligation from any insurance company to pay for the damage or any part thereof, then the claim against the insurance company shall, upon the cancellation of the Lease, be deemed immediately to become absolute and unconditional property of the LANDLORD. In the event of destruction of the Premises by casualty or hazard, the LANDLORD will have the option of canceling the Lease.

C. The TENANT covenants and agrees with the LANDLORD that nothing in this Lease shall ever be construed as empowering the TENANT to encumber or cause the TENANT to encumber the title or interest of the LANDLORD.

D. The TENANT covenants and agrees with the LANDLORD that, at the termination of this Lease, the TENANT will peaceably and quietly deliver unto the LANDLORD, possession of the Original Premises and Relocated Premises and all improvements located thereon, as well as all fixtures thereto provided by LANDLORD. TENANT shall retain ownership and possession of all fixtures, equipment, and other tangible personal property located thereto provided by TENANT or its agents..

E. The TENANT agrees not to make any changes or alterations to the Original Premises without written approval of the LANDLORD.

12. **LANDLORD'S RIGHT OF ENTRY.** The LANDLORD or its agents shall have the right to enter upon the Original Premises and Relocated Premises at all reasonable times to examine the condition and use thereof, provided only that such right shall be exercised in such manner as not to interfere with the TENANT in the conduct of the TENANT's business on the Original Premises or Relocated Premises.

13. **FIXTURES, EQUIPMENT AND SIGNS, AND OTHER TANGIBLE PERSONAL PROPERTY.** All fixtures, equipment, signs, and other tangible personal property used on the Original Premises and Relocated Premises by the TENANT but

provided by the LANDLORD will at all times be and remain the property of the LANDLORD. All fixtures, equipment signs and other tangible personal property used on the Original Premises and Relocated Premises by the TENANT and provided by the TENANT, or its agents, will at all times be and remain the property of the TENANT, or its agents. Provided that this Lease is in good standing, the TENANT will have the right to remove any equipment, fixtures signs or other tangible personal property provided by the TENANT, or any part thereof, from the Original Premises and Relocated Premises during the term of this Lease, at the expiration thereof, or within a reasonable time thereafter; provided, however, that the TENANT, in so doing, does not cause any irreparable damage to the Original Premises and Relocated Premises; and provided further, that the TENANT shall pay or reimburse the LANDLORD for the reasonable expense of repairing damage caused by such removal.

14. **ACCEPTANCE IN AS-IS CONDITION.** The TENANT accepts the Original Premises and Relocated Premises in an as-is condition and all improvements and additions shall be at the sole expense of the TENANT.

15. **NO MECHANIC'S LIENS.** It is hereby covenanted, stipulated and agreed by and between the parties hereto that there shall, during the demised term, be no mechanic's liens upon any buildings or improvements that may at any time be put upon the Original Premises or Relocated Premises, and that in case of any mechanic's liens the TENANT must pay off the same; and that if default in payment thereof shall continue for thirty (30) days after written notice, LANDLORD shall have the right and privilege, at its option, to pay off the same or any portion of the same, and the amount so paid, including expenses, shall at the option of the LANDLORD, be so much additional rent due from the TENANT at the next rent due after such payment, with interest thereon at the maximum rate allowed by law. Nothing herein shall be construed to admit that a mechanic's lien may be enforced against municipal property.

16. **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 Lease contained shall be construed to be a waiver of all succeeding breach of the same covenant.

B. That time is of the essence in every particular and particularly where the obligation to pay money is involved.

C. That all arrearages in the payment of rent or in the repayment to the LANDLORD of any sums which the LANDLORD may have paid in order to cure a default of the TENANT (as elsewhere herein provided for), shall bear interest from the date when due and payable at the highest rate permitted by law until paid.

D. 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 persons who are then LANDLORD and TENANT.

E. 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 Lease.

F. That this instrument contains the entire agreement between the parties as of this date, and that the execution hereof has not been induced by either of the parties by representations, promises or understandings not expressed herein, and that there are not collateral agreements, stipulations, promises, or understandings whatsoever between the representative parties in any way touching the subject matter of this instrument which are not expressly contained in this instrument.

G. That when either of the parties desire to give notice to the other or others in connection with and according to the terms of this Lease, such notice shall be deemed given when it shall have been deposited in the 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:

If to Tenant: County Administrator
Monroe County
Historic Gato Building
1100 Simonton Street
Key West, Florida 33040

With a copy to: Monroe County Attorney's Office
P.O. Box 1026
Key West, Florida 33041-1026

If to Landlord: City Manager
P.O. Box 1409
Key West, Florida 33041

With a copy to: City Attorney
P.O. Box 1409
Key West, Florida 33041

When the parties on either side (LANDLORD or TENANT) consist of more than one person, notice or default by one of the persons on that side shall constitute notice or default by all of the persons on that side.

H. This Lease 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 Lease shall be in Monroe County, Florida.

IN WITNESS WHEREOF, the parties hereto have caused the foregoing Amended and Restated Lease Agreement to be executed on the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
MONROE COUNTY, FLORIDA

BY: _____
_____, Mayor/Chairperson

(SEAL)

ATTEST: AMY HEAVILIN, CLERK

BY: _____
Deputy Clerk

THE CITY OF KEY WEST, FLORIDA

BY: _____
Craig Cates, Mayor

ATTEST:

Cheri Smith
City Clerk

(City Seal)

Exhibit "A"
Original Premises

EXHIBIT A

From the intersection of the centerline of the south land of U.S. Highway No. 1 and the easterly abutment of the Cow Key Channel Bridge go North 71 Degrees 19 Minutes East a distance of 300 feet to a point of intersection with the approximate centerline of County Club Road; thence along said approximate centerline North 19 degrees 51 Minutes West a distance of 330 feet to Point #1; thence North 39 Degrees 18 Minutes West a distance of 300 feet to Point #2; thence North 30 Degrees 29 Minutes West a distance of 265 feet to Point #3; thence North 03 Degrees 13 Minutes West a distance of 152 feet of Point #4; thence North 20 Degrees 08 Minutes East a distance of 600 feet to Point #5; thence South 69 Degrees 52 Minutes East, 28.8 feet to the Point of Beginning of the parcel of land herein described; thence continue South 69 Degrees 52 Minutes East, along a cyclone fence, 145.7 feet to a point; thence South 30 Degrees 08 Minutes West, along a cyclone fence, 19.1 feet to a point; thence North 83 Degrees 08 Minutes West, along a cyclone fence, 36.7 feet, to a point; thence South 20 Degrees 08 Minutes West, along a cyclone fence, 120.1 feet to a point; thence North 69 Degrees 52 Minutes West, along a cyclone fence, 119.4 feet to a point; thence Northeasterly, along a cyclone fence, 149.2 feet back to the Point of Beginning, that excepting from any land described herein, the building or trailer currently occupied by Billie Cheek, which property shall not be included in this lease agreement.

Exhibit B
Relocated Premises

LEGAL DESCRIPTION

PARCEL F

A parcel of land on and adjacent to Stock Island, Monroe County, Florida: said parcel being a part of the lands described in T1IF Deed No. 19699 (Deed Book G-52 at Page 32 of the Public Records of the said County, T1IF Deed No. 23257 (Official Record Book 269 at Page 516 of the said Public Records) and T1IF Deed No. 24067 (Official Record Book 355 at Page 32 of the said Public Records; the said parcel of land lying entirely within the composite of the said T1IF Deeds referred to above: the said parcel lying within Sections 26 and 27, Township 67 South, Range 25 East; and the said parcel of land being described by metes and bounds as follows: COMMENCE at the intersection of the easterly right-of-way line of Junior College Road with the northerly right-of-way line of U.S. Highway #1 (State Road #5); thence N18°41'18" W for 36.16 feet to a point of curvature of a curve concave to the Southwest; thence northwesterly on the arc of said curve having a radius of 265.00 feet and a central angle of 35°06'00" for 162.34 feet to a point of tangency; thence N53°47'18" W for 272.56 feet to the point of curvature of a curve concave to the Northeast; thence northwesterly on the arc of said curve having a radius of 361.02 feet and a central angle of 14° 25' 40" for 90.91 feet to a point of tangency; thence N39°21'38" W for 273.51 feet to the point of curvature of a curve concave to the Northeast; thence northwesterly on and northeasterly on the arc of said curve having a radius of 446.85 feet and a central angle of 62°35'30" for 488.15 feet to a point of tangency; thence N23°13'52" E for 1122.43 feet; thence N45°30'07" E for 276.04 feet to a point of curvature of a curve concave to the Northwest; thence northeasterly on the arc of said curve having a radius of 3686.55 feet and a central angle of 3°43'31" for a distance of 239.69 feet; thence N41°46'36" E for a distance of 435.66 feet; thence N48°13'24" W for a distance of 15.00 feet; thence N41°46'36" E for a distance of 253.63 feet to the POINT OF BEGINNING; thence N48°13'24" W for a distance of 206.71 feet; thence N36°55'00" E for a distance of 251.34 feet; thence S27°37'00" E for a distance of 243.58 feet; thence S41°46'36" W for a distance of 164.71 feet back to the POINT OF BEGINNING. Described tract contains 1.02 acres MORE OR LESS.

Exhibit C
Solid Waste Closure Permit



Florida Department of Environmental Protection

South District
P.O. Box 2549
Fort Myers, FL 33902-2549

APPENDIX 10 FDEP Concurrence Letter

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr.
Secretary

April 18, 2011

City of Key West
c/o Jay Gewin, Utilities Manager
E-mailed to: jgewin@keywestcity.com
525 Angela Street
Key West, Florida 33040

Subject: Site Assessment Plan Approval
FDEP Facility ID: WACS 79636
Former Southernmost Waste-to-Energy Facility
5701 College Road
Key West, Florida, Monroe County

Dear Mr. Gewin:

The Waste Management Section has reviewed the Interim Remedial Action Report document (IRAR), submitted for the former Southernmost Waste-to-Energy Facility on behalf of the City of Key West, and prepared by CH2M Hill, dated April 1, 2011; along with supplemental information stored in the Florida Department of Environmental Protection (the Department) OCULUS system for the Facility ID: WACS 79636.

The Department recommends that 2 (two) additional monitoring wells be added to the groundwater monitoring plan and placed outside the footprint of the ash transfer building on the the North West and South East side's as indicated on the attached drawing (Attachment I) and that Thallium and Arochlor (PCB) be added to the list of monitoring parameters.

With the inclusion of the above recommended additional monitoring wells and parameters, the Department finds that the documents submitted are adequate to meet the site assessment requirements of Rule 62-780.600 Florida Administrative Code (F.A.C.). The Department has determined that the actions proposed in this IRAR represent a reasonable strategy toward accomplishing the site assessment objectives of Chapter 62-780, F.A.C. and are compatible with the City's intended future use, which include plans to relocate their existing downtown Key West Department of Transportation bus maintenance building and facilities (Transit Facility) to the Southernmost Waste-to-Energy (SWTE) Facility site located at

City of Key West
FDEP Facility ID: WACS 79636
April 18, 2011
Page 2 of 2

Stock Island. Pursuant to paragraph 62-780.600, F.A.C., The Department approves the IRAR subject to the addition of the recommended groundwater monitoring wells and additional parameters.

Groundwater monitoring at this site shall continue for an indefinite period of time, however; should the City of Key West desire to achieve final closure for the site at some future date and pursue a No Further Action (NFA) in accordance with Chapters 62-780.690 and 62-780.700, F.A.C., a subsequent phase of remedial design will be necessary.

If you have any question, please feel free to call me at (239) 344-5648. Whenever possible, please submit written documentation to james.harcourt@dep.state.fl.us and include the WACS ID number in your correspondence.

Sincerely,

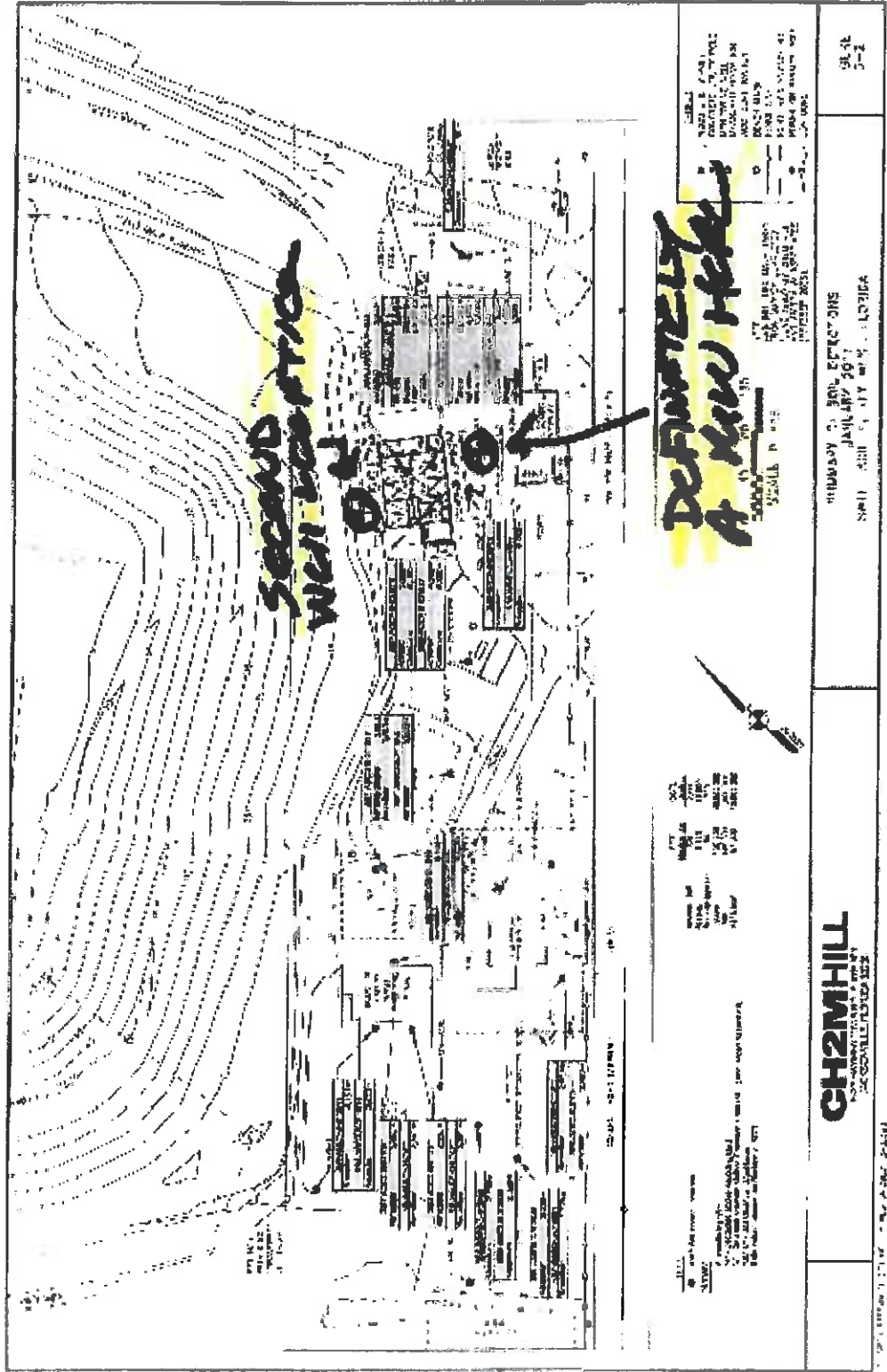


James Harcourt, P.G. II
Florida Department of
Environmental Protection
South District, Waste Management

Attachment

cc: R. J. Bruner III, P.E. CH2M Hill (via e-mail to bo.bruner@ch2m.com)
Bill Krumbholz (via e-mail to bill.krumbholz@dep.state.fl.us)
Barbara Nevins (via e-mail to barbara.nevins@dep.state.fl.us)

Attachment I



SHEET 5-2
 DATE JANUARY 2007
 SMI Hill City, MO, USA

**DEFINITELY
 A NEW HOLE**



Scale: 1" = 1000'

CH2MHILL
 2000 W. WASHINGTON ST.
 COVINGTON, MISSISSIPPI 38932

DATE: JANUARY 2007
 LOCATION: SMI Hill City, MO, USA

Exhibit D
Ground Water Permit



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE
STANDARD GENERAL PERMIT NO. 44-00076-S
DATE ISSUED: August 23, 2010**

Form #0941
08/95

PERMITTEE: CITY OF KEY WEST
604 SIMONTON STREET
KEY WEST, FL 33040

PROJECT DESCRIPTION: Modification of Permit No. 44-00076-S for the construction and operation of a surface water management system to serve a 3.86 acre municipal development known as the City of Key West Public Transportation Facility.

PROJECT LOCATION: MONROE COUNTY, SEC 27 TWP 67S RGE 25E

PERMIT DURATION: See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 090617-6, dated June 17, 2009. This action is taken pursuant to Rule 40E-1.603 and Chapter 40E-40, Florida Administrative Code (F.A.C.).


Based on the information provided, District rules have been adhered to and an Environmental Resource General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 General Conditions (See Pages : 2 - 4 of 6),
3. the attached 14 Special Conditions (See Pages : 5 - 6 of 6) and
4. the attached 2 Exhibit(s)

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 23rd day of August, 2010, in accordance with Section 120.60(3), Florida Statutes.

BY: 
Anita R. Bain
Director - Environmental Resource Permitting Division
Palm Beach Service Center

Certified mail number 7009 2250 0003 1260 9165

GENERAL CONDITIONS

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Certification Form Number 0881A, or Environmental Resource/Surface Water Management Permit Construction Completion Certification - For Projects Permitted prior to October 3, 1995 Form No. 0881B, incorporated by reference in Rule 40E-1.659, F.A.C. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit

GENERAL CONDITIONS

Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit

GENERAL CONDITIONS

application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.

16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on August 23, 2015.
2. Operation of the surface water management system shall be the responsibility of the permittee.
3. Discharge Facilities:
 - 1-2' W X 2' L drop Inlet with crest at elev. 5.65' NGVD 29.
 - 1-2' dia. drop inlet with crest at elev. 3' NGVD 29.

Receiving body : Groundwater Table
Control elev : 2.5 feet NGVD 29. /2.5 FEET NGVD 29 DRY SEASON.
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
8. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
9. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
10. If prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, the permitted project should cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries. The permittee, or other designee, should contact the Florida Department of State, Division of Historical Resources, Review and Compliance Section at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Project activities should not resume without verbal and/or written authorization from the Division of Historical Resources. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, Florida Statutes.
11. The permittee acknowledges that, pursuant to Rule 40E-4.101(2), F.A.C., a notice of Environmental Resource or Surface Water Management Permit may be recorded in the county public records. Pursuant to the specific language of the rule, this notice shall not be considered an encumbrance upon the property.
12. Minimum building floor elevation: 12.0 Feet NGVD
13. Silt fence shall be utilized during construction and shall be installed and properly "trenched" etc, in accordance with Exhibit 2. All areas shall be stabilized and vegetated immediately after construction to prevent erosion into the wetlands and other surface waters.
14. The permittee shall install a chain link fence around the entire perimeter of the project site, which will

SURFACE WATER MANAGEMENT

CHAPTER 40E-4 (4/94)

40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified pursuant to Rules 40E-4.331 and 40E-4.441, F.A.C., the duration of a surface water management permit issued under this chapter is as follows:

(a) Two years from the date of issuance for Conceptual Approval, unless within that period an application for a construction and operation permit is filed for any portion of the project. If an application for a construction and operation permit is filed, then the Conceptual Approval remains valid until final action is taken on the application. If the application is granted, then the Conceptual Approval is valid for an additional two years from the date of issuance of the construction and operation permit. Conceptual Approvals which have no applications for construction and operation filed for a period of two years will expire automatically.

(b) Five years from the date of issuance for a construction permit.

(c) Perpetual for an operation permit.

(2) The Governing Board shall issue permit extensions provided that a permittee files a written request with the District showing good cause. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(3) For a Conceptual Approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive amendment, the duration of the Conceptual Approval shall be two years from whichever one of the following occurs at the latest date:

(a) the effective date of the local government's comprehensive plan amendment,

(b) the effective date of the local government development order, or

(c) the date on which the district issues the Conceptual Approval, or

(d) the latest date of the resolution of any Chapter 120 or other legal appeals.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Modifications to construction permits issued pursuant to a formal permit application extend the duration of the permit for three years from the date of issuance of the modification. Construction permit modifications do not extend the duration of a Conceptual Approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.416(1) F.S. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4/20/94.

UNRECORDED

02/03/2010

09:03

02/03

NOTICE OF RIGHTS

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., following is notice of the opportunities which may be available for administrative hearing or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

RIGHT TO REQUEST ADMINISTRATIVE HEARING

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Fla. Stat. Persons seeking a hearing on a District decision which does or may determine their substantial interests shall file a petition for hearing with the District Clerk within 21 days of receipt of written notice of the decision, unless one of the following shorter time periods apply: 1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Fla. Stat.; or 2) within 14 days of service of an Administrative Order pursuant to Subsection 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of either written notice through mail, or electronic mail, or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action. Any person who receives written notice of a SFWMD decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

Filing Instructions

The Petition must be filed with the Office of the District Clerk of the SFWMD. Filings with the District Clerk may be made by mail, hand-delivery or facsimile. **Filings by e-mail will not be accepted.** Any person wishing to receive a clerked copy with the date and time stamped must provide an additional copy. A petition for administrative hearing is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Any document received by the office of the SFWMD Clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day. Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the SFWMD Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must be delivered to the Office of the SFWMD Clerk. **Delivery of a petition to the SFWMD's security desk does not constitute filing. To ensure proper filing, it will be necessary to request the SFWMD's security officer to contact the Clerk's office.** An employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by facsimile must be transmitted to the SFWMD Clerk's Office at (561) 682-6010. Pursuant to Subsections 28-106.104(7), (8) and (9), Fla. Admin. Code, a party who files a document by facsimile represents that the original physically signed document will be retained by that party for the duration of that proceeding and of any subsequent appeal or subsequent proceeding in that cause. Any party who elects to file any document by facsimile shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the clerk as a result. The filing date for a document filed by facsimile shall be the date the SFWMD Clerk receives the complete document.

Last Date For Agency Action: October 4, 2010

GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: City Of Key West Public Transportation Facility

Permit No.: 44-00076-S

Application No.: 090617-6

Application Type: Environmental Resource (General Permit Modification)

Location: Monroe County, S27/T67S/R25E

Permittee : City Of Key West

Operating Entity : City Of Key West

Project Area: 3.86 acres

Project Land Use: Government

Drainage Basin: GULF OF MEXICO

Receiving Body: Groundwater Table

Class: N/A

Special Drainage District: NA

Conservation Easement To District : No

Sovereign Submerged Lands: No

PROJECT PURPOSE:

This application is a request for modification of Permit No. 44-00076-S for the construction and operation of a surface water management system to serve a 3.86 acre municipal development known as City of Key West Public Transportation Facility.

The surface water management system has been designed to retain the volume of runoff from the 25 year/3 day storm event onsite. Final disposal of the runoff is to a drainage well.

Control Elevation :

Basin	Area (Acres)	Ctrl Elev (ft, NGVD 29)	WSWT Ctrl Elev (ft, NGVD 29)	Method Of Determination
KW Transport Fac.	3.86	2.5/2.5	2.50	Previously Permitted

Receiving Body :

Basin	Str.#	Receiving Body
Kw Transport Fac.		Well Box (G' Groundwater Table

Major Structures: Note: The units for all the elevation values of structures are (ft, NGVD 29)

Inlets:

Basin	Str#	Count	Type	Width	Length	Dia.	Crest Elev.
KW Transport Fac.	Well Box (GW-1)	1	Drainage Well			2'	3
KW Transport Fac.	Well Box (GW-1)	1	Drop Inlet	2'	2'		5.65

WATER QUALITY:

No adverse water quality impacts are anticipated as a result of the proposed project. The surface water management system has been designed to treat a volume of runoff equal to 2.5 inches times the percent impervious area. The treatment is provided within interconnected dry retention areas.

To ensure that proposed construction activities do not degrade adjacent wetlands and surface waters, the permittee will install and maintain temporary silt fences around the limits of construction in accordance with Exhibit 2 and as stipulated in the special conditions of this permit. The temporary erosion control barriers will be installed prior to and will be removed upon completion of construction activities.

Basin	Treatment Method	Vol Req.d (ac-ft)	Vol Prov'd
KW Transport Fac.	Treatment Dry Retention	.45 acres	.24

Wildlife Issues:

The 3.86 acre project site does not contain preferred habitat for wetland-dependent endangered or threatened wildlife species or species of special concern. No wetland-dependent endangered/threatened species or species of special concern were observed on-site and submitted information indicates that potential use of the site by such species is minimal.

This permit does not relieve the permittee from complying with all applicable rules and any other agencies' requirements if, in the future, endangered/threatened species or species of special concern are

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discovered on the project site.

VERIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4.361(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.6107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

SOVEREIGN/SUBMERGED LANDS

The proposed work is not located within and is not anticipated to adversely affect sovereign submerged lands.

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RELATED CONCERNS:

Water Use Permit Status:

The permittee has indicated that dewatering is not required for construction of this project. The permittee has also indicated that landscape irrigation activities are not proposed as part of the project.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation, unless the work qualifies for a No-Notice Short-Term Dewatering permit pursuant to Chapter 40E-20.302(3) or is exempt pursuant to Section 40E-2.051, FAC.

CERP:

The proposed project is not located within or adjacent to a Comprehensive Everglades Restoration Project component.

Potable Water Supplier:

Florida Keys Aqueduct Authority

Waste Water System/Supplier:

Key West Resort Utilities

Right-Of-Way Permit Status:

A District Right-of-Way Permit is not required for this project.

DRI Status:

This project is not a DRI.

Historical/Archeological Resources:

The District has received correspondence from the Florida Department of State, Division of Historical Resources indicating that the agency has no objections to the issuance of this permit.

This permit does not release the permittee from compliance with any other agencies' requirements in the event that historical and/or archaeological resources are found on the site.

DCA/CZM Consistency Review:

The issuance of this permit constitutes a finding of consistency with the Florida Coastal Management Program.

Third Party Interest:

No third party has contacted the District with concerns about this application.

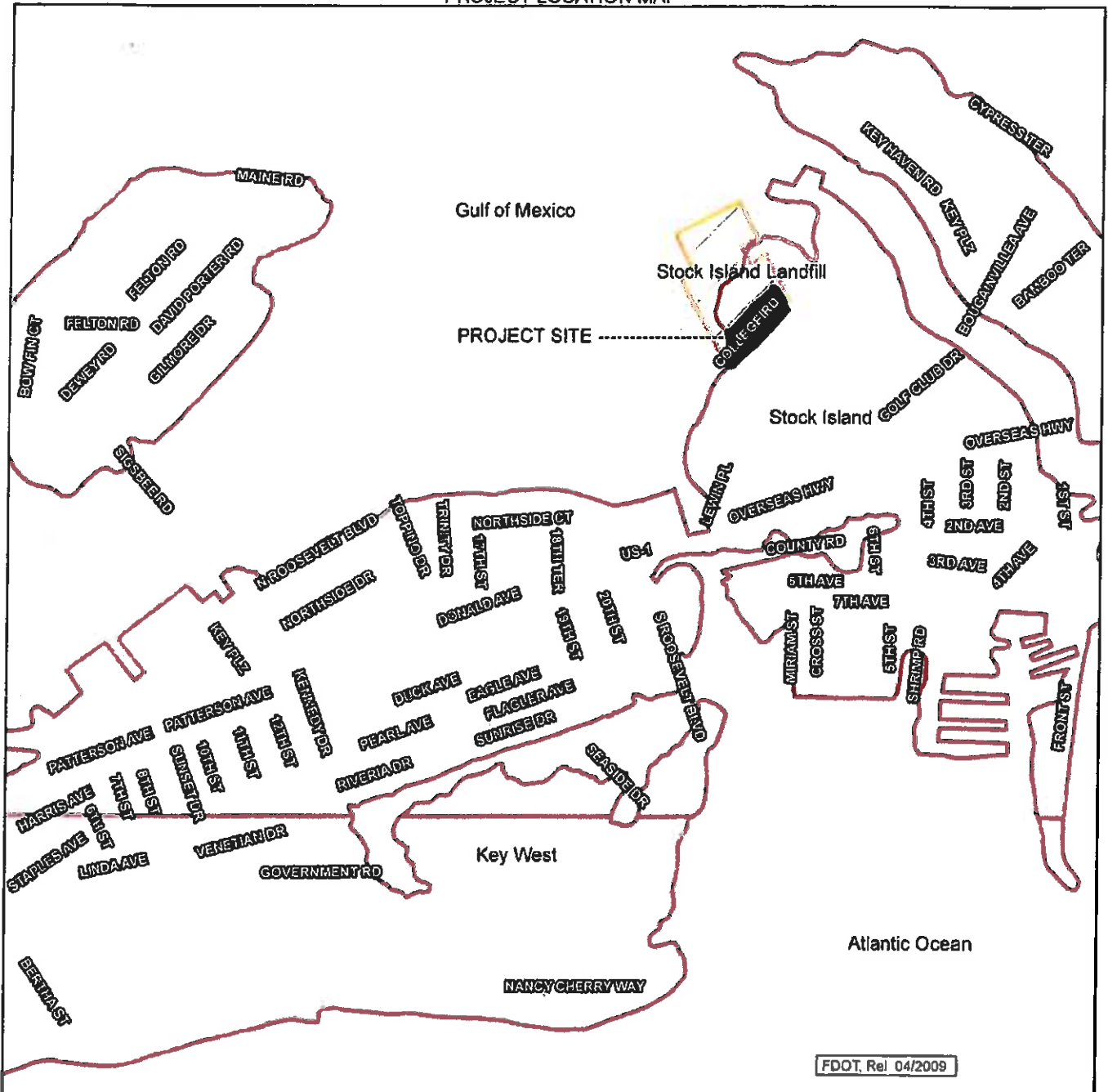
Enforcement:

There has been no enforcement activity associated with this application.

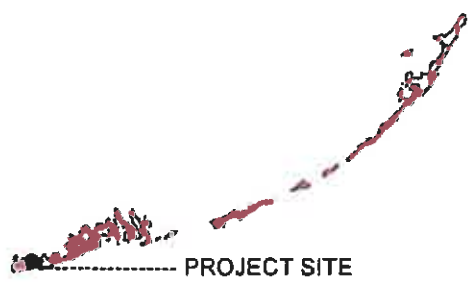
STAFF REVIEW:

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PROJECT LOCATION MAP



FDOT, Rel. 04/2009



MONROE COUNTY, FLORIDA



Legend

 Application

Map Date: 8/9/2010

Application Number: 090617-6

Permit Number: 44-00076-S

Project Name: CITY OF KEY WEST PUBLIC
TRANSPORTATION FACILITY



Exhibit E
Survey

