



Kevin Madok, CPA

Clerk of the Circuit Court & Comptroller – Monroe County, Florida

DATE: May 9, 2023

TO: Pedro Mercado,
Assistant County Attorney

Abra Campo,
Contract Administrator

FROM: Liz Yongue, Deputy Clerk

SUBJECT: March 22, 2023 BOCC Meeting

The below item has been executed and added to the record:

T6 Revised Interlocal Agreement (ILA) between the City of Key West and Monroe County setting forth the terms for the conveyance of the Hawk Missile Site from the City of Key West to Monroe County and rescission of the ILA approved at the February 15, 2023 regular meeting, agenda item O-9.

Should you have any questions please feel free to contact me at (305) 292-3550.

cc: Finance
File

KEY WEST
500 Whitehead Street
Key West, Florida 33040

MARATHON
3117 Overseas Highway
Marathon, Florida 33050

PLANTATION KEY
88770 Overseas Highway
Plantation Key, Florida 33070

**HAWK MISSILE SITE/HIGGS BEACH
INTERLOCAL AGREEMENT**

This Agreement is made and entered into by MONROE COUNTY, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West, FL, 33040, (“COUNTY”), and the City of Key West, a municipal corporation of the State of Florida, whose address is 1300 White Street, Key West, Florida 33040 (the “CITY”).

WHEREAS, the CITY, owns two parcels known as the HAWK Missile Site, which is adjacent to the COUNTY owned and operated Key West International Airport “KWIA”; and more specifically identified by Monroe County Property Appraiser parcel i.d. numbers 00066230-000000 and 00065940-000000; and

WHEREAS, the COUNTY desires to acquire the HAWK Missile site property to serve as mitigation for a taxiway extension project at KWIA; and

WHEREAS, Section 7.03(a) of the City Charter authorizes the City to convey City owned property to the County without a referendum; and

WHEREAS, the COUNTY owns and operates Higgs Beach as a public park located within the city limits of Key West that is funded by county-wide ad valorem taxes; and

WHEREAS, in exchange for the Hawk Missile site the COUNTY has offered to develop certain recreational facilities at the Hawk Missile Site or at Higgs Beach in accordance with the CITY’s vision; and

WHEREAS, the parties desire to enter into an interlocal agreement for conveyance of the HAWK Missile site parcels to the COUNTY in exchange for development of certain recreational facilities and for HAWK to be used as mitigation solely for the KWIA improvement project involving the extension of the existing taxi way to match the runway length of Runway 9-27 at 5,076 feet with the only exception being that if mitigation credits are available, the HAWK Missile Site Parcels may also be used for mitigation of the recreational improvements contemplated by this agreement.

NOW, THEREFORE IT IS AGREED:

1. **PROPERTY.** The properties covered by this agreement include the following parcels:

“HAWK Missile Site” – approximately 51.56 acres bordered by the Riviera Canal on the north, Key West International Airport on the South, Little Hamaca Park on the West, and a mangrove covered parcel on the east having parcel ID number 65930-000000. HAWK is comprised of parcel ID numbers 00066230-000000 and 00065940-000000, excluding a .82 acre parcel owned by the U.S. government having a parcel ID number of 00066230-000100 that is surrounded by both parcels, as shown in Exhibit “A”

2. SEQUENCE OF ACTIONS.

A. Within 30 days of the effective date of this agreement, the CITY shall deed the HAWK Missile Site to the County, in a form approved by the National Park Service (NPS) and acceptable to the County Attorney, subject to the covenants and restrictions contained herein.

B. Within 6 months of the effective date of this agreement, the CITY shall relocate the existing City-owned equipment and materials from the HAWK Missile Site offsite to any non-County owned property at the choice of the City. Any remaining materials or equipment shall become the property of the COUNTY;

C. The COUNTY may commence or complete the design and permitting process for using the HAWK Missile Site for the sole use as mitigation for the KWIA project involving the extension of the existing taxiway to match Runway 9-27 as they currently exist at 5,076 feet and for no other purpose except as otherwise provided for in this agreement.

3. **TERM.** Subject to and upon the terms and conditions set forth herein, this Agreement shall continue in force for a term of 5 years commencing as of the 22nd day of March, 2023 and ending on the 21st day of March, 2028.

4. USE AND CONDITIONS.

A. Upon conveyance of the Hawk Missile Site Properties, Monroe County shall be responsible for compliance with the terms of the March 18, 2002 Quit-Claim Deed (recorded in the Official Records of Monroe County Book #1772, Page #1214) which transferred ownership of the Hawk Missile Site from the United States of America to the City of Key West and a restrictive covenant limiting the use of the HAWK conveyance as mitigation for a taxiway extension to match Runway 9-27 at 5,076 feet in a form acceptable to the parties.

B. The responsibilities of the parties in this conveyance are also attached to this ILA as Exhibit "B".

5. **ALTERATIONS AND IMPROVEMENTS.** Within 12 months of the conveyance of HAWK, the CITY shall submit to the County conceptual designs for recreational improvements to be constructed at the Hawk Missile Site parcels and for the elevated bike path connecting the western end of Government Road to South Roosevelt Blvd. All improvements shall be subject to approval by all local, state and federal agencies having jurisdiction.

6. **RECORDS – ACCESS AND AUDITS.** The CITY shall maintain adequate and complete records for a period of four years after termination of this Agreement or as otherwise provided by law. The COUNTY, its officers, employees, agents and contractors shall have access to the CITY's books, records, and documents related to this Agreement upon request. The access to and inspection of such books, records, and documents by the COUNTY shall occur at any reasonable time.

7. **INSURANCE**. The parties to this agreement stipulate that each is a state governmental agency as defined by Florida Statutes and represents to the other that it has purchased suitable Public Liability, Vehicle Liability, and Workers' Compensation insurance, or is self-insured, in amounts adequate to respond to any and all claims under federal or state actions for civil rights violations, which are not limited by Florida Statutes Section 768.28 and Chapter 440, as well as any and all claims within the limitations of Florida Statutes Section 768.28 and Chapter 440, arising out of the activities governed by this agreement.

To the extent allowed by law, each party shall be responsible for any acts of negligence on the part of its employees, agents, contractors, and subcontractors and shall defend, indemnify and hold the other party harmless from all claims arising out of such actions. Nothing contained herein shall be deemed to waive the CITY's or COUNTY's sovereign immunity rights including but not limited to those expressed in Section 768.28, Florida Statutes.

The Parties agree to keep in full force and effect the required insurance coverage during the term of this Agreement. Copies of current policy certificates shall be filed with the COUNTY whenever acquired or amended.

8. **HOLD HARMLESS**. To the extent allowed by law, the CITY is liable for and must fully defend, release, discharge, indemnify and hold harmless the COUNTY, the members of the County Commission, COUNTY officers and employees, and the Sheriff, and Sheriff's Office, and its officers and employees, from and against any and all claims, demands, causes of action, losses, costs and expenses of whatever type – including investigation and witness costs and expenses and attorney's fees and costs – that arise out of or are attributable to the CITY's operations on the Hawk Missile Site except for those claims, demands, damages, liabilities, actions, causes of action, losses, costs and expenses that are the result of the sole negligence of the COUNTY. The CITY's purchase of the insurance required under this Agreement does not release or vitiate its obligations under this paragraph. Neither the County nor the CITY waives any of its respective sovereign immunity rights including but not limited to those expressed in Section 768.28, Florida Statutes.

9. **SUBORDINATION**. This Agreement is subordinate to the laws and regulations of the United States, the State of Florida, the COUNTY and the CITY, whether in effect on commencement of this Agreement or adopted after that date.

10. **INCONSISTENCY**. If any item, condition or obligation of this Agreement is in conflict with other items in this Agreement, the inconsistencies shall be construed so as to give meaning to the intent of this agreement.

11. **GOVERNING LAWS/VENUE**. This Agreement is governed by the laws of the State of Florida and the United States. Venue for any dispute arising under this Agreement must be in Monroe County, Florida. In the event of any litigation, the prevailing party is entitled to a reasonable attorney's fee and costs.

12. **CONSTRUCTION**. This Agreement has been carefully reviewed by the CITY and the COUNTY. Therefore, this Agreement is not to be construed against any party of the basis of authorship.

13. **NOTICES**. Notices in this Agreement, unless otherwise specified, must be sent by certified mail to the following:

COUNTY:

Monroe County Administrator
1100 Simonton Street
Key West, FL 33040

CITY:

Key West City Manager
1300 White St.
Key West, FL 33040

With copies to:

Monroe County Attorney
P.O. Box 1026
Key West, FL 33040

Key West City Attorney
1300 White St.
Key West, FL 33040

14. **FULL UNDERSTANDING**. This Agreement is the parties' final mutual understanding. It replaces any earlier agreements or understandings, whether written or oral. This Agreement cannot be modified or replaced except by another written and signed Agreement.

15. **EFFECTIVE DATE**. This Agreement will take effect upon the second signature of the parties to the Agreement.

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized representatives.



(SEAL)
ATTEST: KEVIN MADOK,
CLERK OF MONROE COUNTY, FL

BY: Ey Abu May
AS DEPUTY CLERK

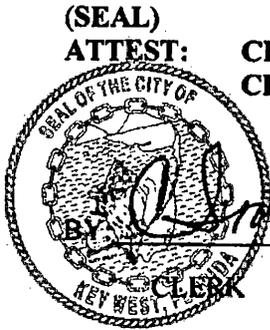
MONROE COUNTY BOARD
OF COUNTY COMMISSIONERS

BY: [Signature]
MAYOR

Approved for form and legal sufficiency for
The sole reliance of the Board of County
Commissioners of Monroe County, FL:

[Signature]

Pedro Mercado
Sr. Assistant County Attorney



(SEAL)
ATTEST: CHERYL SMITH
CITY CLERK

BY: [Signature]
CITY CLERK

CITY COMMISSION
CITY OF KEY WEST

BY: [Signature]
MAYOR

Approved for form and legal sufficiency for
The sole reliance of the City Commission of
The City of Key West, FL

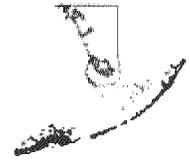
[Signature]

Ronald Ramsingh
Interim City Attorney

FILED FOR RECORD
2023 MAY -9 PM 3:38
CLK. CIR. CL.
MONROE COUNTY, FLA.



Overview



Legend

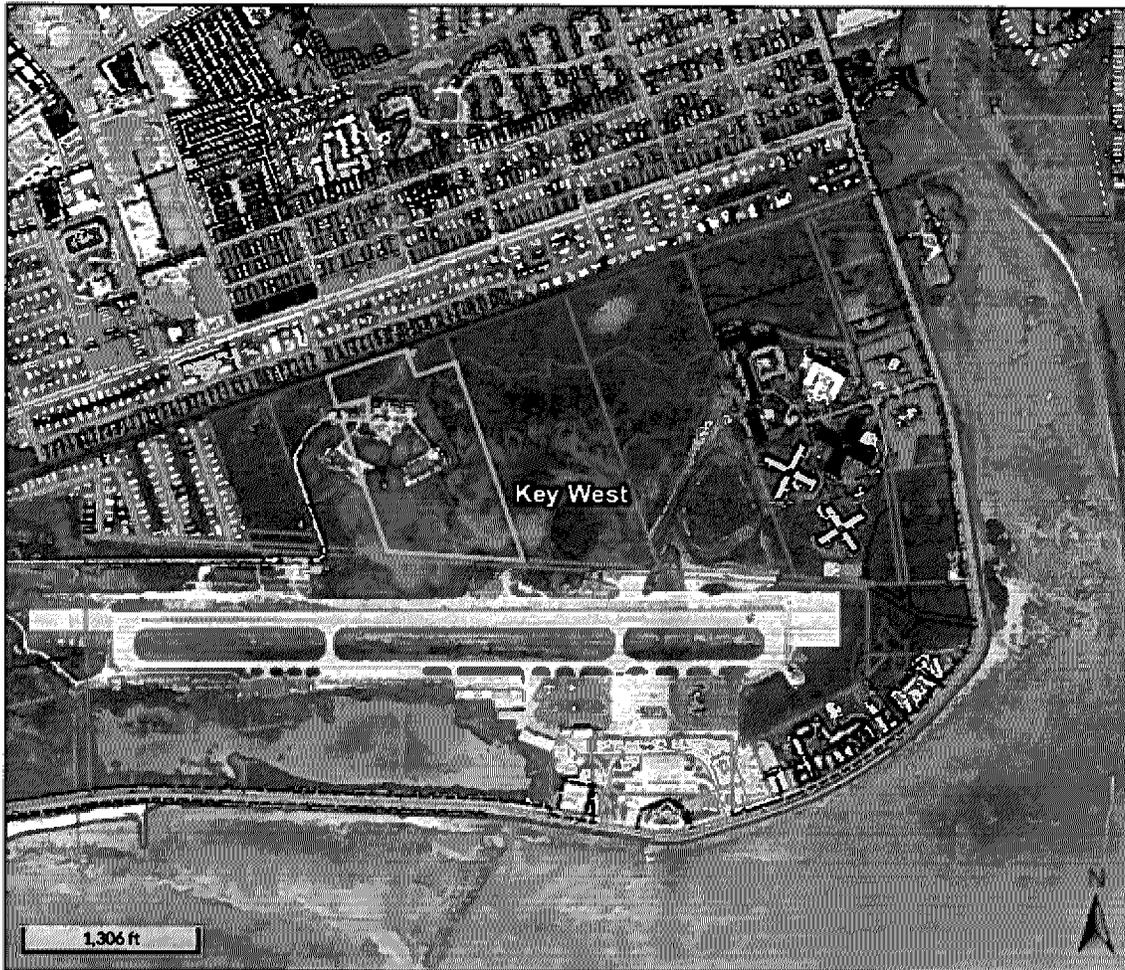
- Centerline
- Easements
- Hooks
- Lot Lines
- Road Center
- Rights of Way
- Shoreline
-  Condo Building
- Key Names
-  Subdivisions
-  Parcels

Parcel ID	00066230-000000	Alternate ID	1070181	Owner Address	CITY OF KEY WEST
Sec/Twp/Rng	03/68/25	Class	STATE PARKS		PO Box 1409
Property Address	VACANT LAND				Key West, FL 33041
	KEY WEST				
District	10KW				
Brief Tax	KW 2 SHEETS PB4-69 PLAT OF SURVEY ON TWO SHEETS PART OF LANDS FORMERLY OWNED BY KEY WEST IMPROVEMENT				
Description	INC PT OF PARCEL 42 OR308-94/96 OR1772-1214/34Q/C				
	(Note: Not to be used on legal documents)				

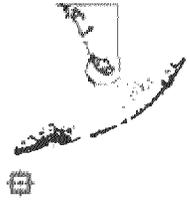
Date created: 8/3/2021
 Last Data Uploaded: 8/3/2021 2:16:20 AM

Developed by  Schneider
 GEOSPATIAL

EXHIBIT A



Overview



Legend

-  Major Roads
-  Centerline
-  Easements
-  Hooks
-  Lot Lines
-  Road Center
-  Rights of Way
-  Shoreline
-  Condo Building
-  Key Names
-  Parcels

Parcel ID	00065940-000000	Alternate ID	1068799	Owner Address	CITY OF KEY WEST
Sec/Twp/Rng	03/68/25	Class	STATE PARKS		PO Box 1409
Property Address	VACANT LAND				Key West, FL 33041
	KEY WEST				
District	10KW				
Brief Tax	KW PLAT OF SURVEY OF LANDS ON ISLAND OF KEY WEST MONROE COUNTY FLAPT TR 41 PB 3-35 OR308-94/96 OR1772-				
Description	1214/34Q/C				
	(Note: Not to be Used on legal documents)				

Date created: 8/3/2021
Last Data Uploaded: 8/3/2021 2:16:20 AM

Developed by  **Schneider**
GEOSPATIAL

Exhibit "B"

Regarding HAWK, COUNTY shall:

1. In addition to the existing restrictive covenants regarding recreational use, enter into a restrictive covenant that the 2 transferred parcels shall only be used to mitigate the construction of taxiway extension(s) to match the length of runway 9-27 at their current length of 5,076 feet in a form acceptable to the City Attorney. With the exception of mitigation that may be required in conjunction with the elevated bike path and/or the recreational improvements contemplated by this agreement at HAWK parcels, the 2 parcels shall not be used as mitigation of any other airport projects including but not limited to: terminal extension, new terminal construction, outparcel development ancillary to airport use, runway extension, new runway construction, aircraft parking/storage, or any other construction project requiring environmental mitigation whatsoever without the expressed consent of CITY in an amendment to the ILA and restrictive covenant(s).
2. To the extent allowed by city, county, and federal laws and regulations governing the airport and the salt ponds, support the CITY's effort to construct an elevated bicycle path connecting the western portion of Government Road to South Roosevelt Blvd. over COUNTY parcel ID# 64850-000100 and CITY parcel ID# 66240-000000 within 3 years of the design submission by CITY. **If approved, and subject to future negotiations, COUNTY and CITY agree to participate in the construction costs equally.**
3. Advocate for continued funding of the Noise Insulation Program (NIP) in order to continue to provide noise mitigation improvements to affected homeowners as dictated by the Noise Contour maps and as approved by the Federal Government.
4. Within 6 months remove all materials and equipment stored at the Hawk Missile Site to a CITY owned or controlled area of CITY's choosing, all remaining materials and equipment shall become the property of COUNTY.
5. Keep HAWK open and accessible to the public for recreational purposes.
6. Not unreasonably withhold cooperation with approvals to build the elevated bicycle path.
7. If COUNTY cannot fulfill the obligations contained in paragraph 11, **COUNTY shall exercise all reasonable diligence to design, demolish, build, and construct an open recreational field on the area described in Exhibit "C" measuring approximately 300' x100'.**

Regarding HAWK, CITY shall:

8. Convey title to the 2 HAWK parcels subject to the existing restrictive covenants and new covenants regarding use for mitigation consistent with this ILA and in a form acceptable to COUNTY and CITY within 30 days of approval of the ILA.
9. Provide a design concept for the elevated bike path and recreational improvements within 12 months that is in accordance with all deed restrictions, is feasible and is permissible for approval by all local, state, and federal agencies having jurisdiction.
10. Not unreasonably withhold cooperation with approvals to build the elevated bicycle path.

Regarding HIGGS, COUNTY shall:

11. Within four (4) years of the effective date of this Agreement, COUNTY shall exercise all reasonable due diligence to relocate the Navigational Directional Beacon (NDB) off of Higgs Beach, rectify any environmental concerns on said parcel, and design and build an open recreational field at the NDB and surrounding site in a form and design acceptable to CITY on the area described in Exhibit "C" measuring approximately 300' x100'.

Other Stipulations:

12. If COUNTY is not able to perform the obligations regarding an open recreational field as contained in this Agreement within two (2) years, COUNTY shall pay CITY a sum of Two Million Dollars (\$2,000,000.00) as liquidated damages unless an extension is agreed upon by COUNTY and CITY. If an extension is granted, the liquidated damages shall survive the extension and be applicable at the expiration of such an extension.
13. COUNTY shall pay for and install an appropriate memorial to Richard Recupero for whom HAWK was named in a form and location approved by CITY.
14. COUNTY shall submit semi-annual written progress reports to CITY regarding the terms of this ILA.

EXHIBIT
C

HAWK

