

ADDL/REVISED SUBMITTAL

APR 11 2008

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

DEED OF CONSERVATION EASEMENT

060711-17

Return recorded document to:
South Florida Water Management District
3301 Gun Club Road, MSC 4210
West Palm Beach, FL 33406

THIS DEED OF CONSERVATION EASEMENT is given this _____ day of _____, 20____, by

The City of Key West and
The Key West Botanical Garden Society, Inc.

whose _____ mailing _____ address _____ ("Grantor") is

City Manager: 525 Angela St. Key West, FL 33040

KWBGS: P.O. Box 2436 Key West, FL 33045

to the South Florida Water Management District ("Grantee"). As used herein, the term "Grantor" shall include any and all heirs, successors or assigns of the Grantor, and all subsequent owners of the "Property" (as hereinafter defined) and the term "Grantee" shall include any successor or assignee of Grantee.

WITNESSETH

WHEREAS, the Grantor is the owner of certain lands situated in Monroe County, Florida, and more specifically described in Exhibit "A" attached hereto and incorporated herein ("Property"); and

WHEREAS, the Grantor desires to construct a freshwater pond, wetland, and boardwalk/loop trail _____ ("Project") at a site in Monroe County, which is subject to the regulatory jurisdiction of South Florida Water Management District ("District"); and

WHEREAS, District Permit No. 060711-17 (application no.) _____ ("Permit") authorizes certain activities which affect surface waters in or of the State of Florida; and

EXHIBIT 3.09

WHEREAS, this Permit requires that the Grantor preserve, enhance, restore and/or mitigate wetlands and/or uplands under the District's jurisdiction; and

WHEREAS, the Grantor has developed and proposed as part of the Permit conditions a conservation tract and maintenance buffer involving preservation of certain wetland and/or upland systems on the Property; and

WHEREAS, the Grantor, in consideration of the consent granted by the Permit, is agreeable to granting and securing to the Grantee a perpetual Conservation Easement defined in Section 704.06, Florida Statutes, over the area described on Exhibit "B" ("Conservation Easement").

NOW, THEREFORE, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, Grantor hereby grants, creates, and establishes a perpetual Conservation Easement for and in favor of the Grantee upon the property described on Exhibit "B" which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

The scope, nature, and character of this Conservation Easement shall be as follows:

1. Recitals. The recitals hereinabove set forth are true and correct and are hereby incorporated into and made a part of this Conservation Easement.

2. Purpose. It is the purpose of this Conservation Easement to retain land or water areas in their natural, vegetative, hydrologic, scenic, open, agricultural or wooded condition and to retain such areas as suitable habitat for fish, plants or wildlife. Those wetland and/or upland areas included in the Conservation Easement which are to be enhanced or created pursuant to the Permit shall be retained and maintained in the enhanced or created conditions required by the Permit.

To carry out this purpose, the following rights are conveyed to Grantee by this easement:

a. To enter upon the Property at reasonable times with any necessary equipment or vehicles to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor at the time of such entry; and

b. To enjoin any activity on or use of the Property that is inconsistent with this Conservation Easement and to enforce the restoration of such areas or features of the Conservation Easement that may be damaged by any inconsistent activity or use.

3. Prohibited Uses. Except for restoration, creation, enhancement, maintenance and monitoring activities, or surface water management improvements, or

other activities described herein that are permitted or required by the Permit, the following activities are prohibited in or on the Conservation Easement:

- a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;
- c. Removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic or nuisance vegetation in accordance with a District approved maintenance plan;
- d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;
- e. Surface use except for purposes that permit the land or water area to remain in its natural or enhanced condition;
- f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking and fencing;
- g. Acts or uses detrimental to such aforementioned retention of land or water areas;
- h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance.

4. Passive Recreational Facilities. Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and that are not inconsistent with any District rule, criteria, the Permit and the intent and purposes of this Conservation Easement. Passive recreational uses that are not contrary to the purpose of this Conservation Easement may be permitted upon written approval by the District.

a. The Grantor may conduct limited land clearing for the purpose of constructing such pervious facilities as docks, boardwalks or mulched walking trails.

b. The construction and use of the approved passive recreational facilities shall be subject to the following conditions:

i. Grantor shall minimize and avoid, to the fullest extent possible, impact to any wetland or upland buffer areas within the Conservation Easement Area and shall avoid materially diverting the direction of the natural surface water flow in such area;

ii. Such facilities and improvements shall be constructed and maintained utilizing Best Management Practices;

iii. Adequate containers for litter disposal shall be situated adjacent to such facilities and improvements and periodic inspections shall be instituted by the maintenance entity, to clean any litter from the area surrounding the facilities and improvements;

iv. This Conservation Easement shall not constitute permit authorization for the construction and operation of the passive recreational facilities. Any such work shall be subject to all applicable federal, state, District or local permitting requirements.

5. No Dedication. No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement.

6. Grantee's Liability. Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the Property.

7. Property Taxes. Grantor shall keep the payment of taxes and assessments on the Easement Parcel current and shall not allow any lien on the Easement Parcel superior to this Easement. In the event Grantor fails to extinguish or obtain a subordination of such lien, in addition to any other remedy, the Grantee may, but shall not be obligated to, elect to pay the lien on behalf of the Grantor and Grantor shall reimburse Grantee for the amount paid by Grantee, together with Grantee's reasonable attorney's fees and costs, with interest at the maximum rate allowed by law, no later than thirty days after such payment. In the event Grantor does not so reimburse the Grantee, the debt owed to Grantee shall constitute a lien against the Easement Parcel which shall automatically relate back to the recording date of this Easement. Grantee may foreclose this lien on the Easement Parcel in the manner provided for mortgages on real property.

8. Enforcement. Enforcement of the terms, provisions and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder.

9. Assignment. Grantee will hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

10. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

11. Terms, Conditions, Restrictions, Purpose. The terms, conditions, restrictions and purpose of this Conservation Easement shall be inserted by Grantor in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Conservation Easement. Any future holder of the Grantor's interest in the Property shall be notified in writing by Grantor of this Conservation Easement.

12. Written Notice. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

13. Modifications. This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Monroe County.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Property.

Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said Property in fee simple; that the Conservation Easement is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; and all mortgages and liens on the Conservation Easement area, if any, have been subordinated to this Conservation Easement; and that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends the title to the Conservation Easement hereby conveyed against the lawful claims of all persons whomsoever.

IN The City of Key West, Florida WITNESS WHEREOF, Key West Botanical Garden Society, Inc.

(Grantor) has hereunto set its authorized hand this 3rd day of April, 2008.

a Florida corporation Municipal
By: J. K. Scholl (Signature) Peter Rysman
Name: Jim Scholl (Print) Peter Rysman
Title: City Manager (Print) President

EXHIBIT 3.1e

Signed, sealed and delivered in our presence as witnesses:

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Print)

Name: _____
(Print)

STATE OF FLORIDA

) ss:

COUNTY OF Monroe

On this 3rd day of APRIL,
20 08 before me, the undersigned notary public, personally appeared
Jim Scholl, the person who subscribed to the
foregoing instrument, as the City Manager (title), of
City of Key West, Florida (corporation), a Florida
corporation, and acknowledged that he/she executed the same on behalf of said
corporation and that he/she was duly authorized to do so. He/She is personally known
to me or has produced a _____ (state) driver's
license as identification.

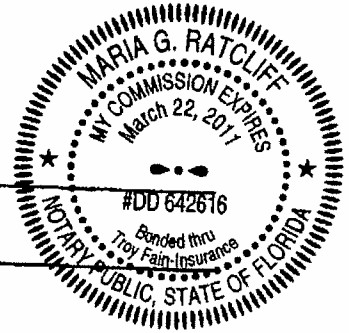
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

Maria G. Ratcliff
(Signature)

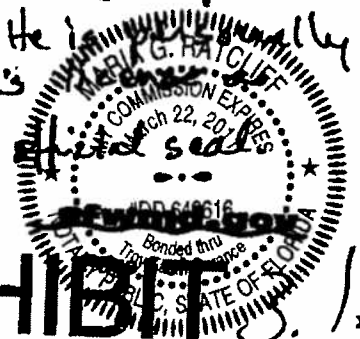
Name: Maria G. Ratcliff
(Print)

My Commission Expires: March 22, 2011



On this 3rd day of APRIL, 2008 before me, the
undersigned notary public, personally appeared
Peter Rysman, the person who subscribed to the
foregoing instrument as the President of The Key West Botanical
Garden Society, Inc., a Florida corporation, and acknowledged
that he executed the same on behalf of said corporation
and that he was duly authorized to do so. He is personally
known to me or has produced a Florida driver's
identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Form 1191 (01/2007)
Commission Expires
March 22, 2011

Deed of Conservation Easement - Standard Passive Conservation

Maria G. Ratcliff
(Signature)

EXHIBIT 5.1f

MORTGAGEE JOINDER, CONSENT AND SUBORDINATION

No mortgage exists on the property.

For Ten Dollars (\$10.00) and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged,

the owner and holder of a mortgage dated _____, in the original principal amount of \$ _____, given by

("Grantor") to _____
("Mortgagee"), encumbering the real property described on Exhibit "A" attached hereto
("Property"), which is recorded in Official Records Book

_____, at Page _____, (together with that certain Assignment of Leases and Rents recorded in Official Records Book _____, at Page _____ and those certain UCC-1 Financing Statement(s) recorded in Official Records Book _____, at Page _____), all of the

Public Records of _____ County, Florida (said mortgage, assignment of leases and rents, and UCC-1 Financing Statements, as modified, are hereinafter referred to as the "Mortgage"), hereby joins in, consents to and subordinates the lien of its Mortgage, as it has been, and as it may be, modified, amended and assigned from time to time, to the foregoing Conservation Easement, executed by _____, in favor of the South Florida Water Management District applicable to the Conservation Easement, as said Conservation Easement may be modified, amended and assigned from time to time, with the intent that the Mortgage shall be subject and subordinate to the Conservation Easement

IN WITNESS WHEREOF, this Mortgagee Joinder, Consent and Subordination is made this _____ day of _____, 20_____.

By: _____
(Signature)

Name: _____
(Print)

Title: _____

WITNESSES:

By: _____
(Signature)

Name: _____
(Print)

By: _____
(Signature)

Name: _____
(Print)

STATE OF FLORIDA
COUNTY OF _____

No mortgage exists on the property.

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by _____ (print name), as _____ (title) of _____ (Grantor of Mortgage), on behalf of the _____ (Mortgagee, Grantor of the Conservation Easement). He/She is personally known to me or has produced a _____ (state) driver's license as identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

(Signature)
Name: _____
(Print)
My Commission Expires: _____



IBI GROUP, Inc.

AUTHORIZATION # LB 5610

ENGINEERS SURVEYORS PLANNERS
LANDSCAPE ARCHITECTS ENVIRONMENTAL CONSULTANTS

2200 PARK CENTRAL BLVD. N.
SUITE 100
POMPANO BEACH, FLORIDA, 33084
(954) 874-2200

2803 MATLAND CENTER PARKWAY
SUITE C
MATLAND, FLORIDA, 32751
(407) 880-2120

LEGAL DESCRIPTION: MITIGATION AREA ONE

Being a part of land located on Stock Island, Monroe County, Florida, and being more particularly described as follows:

COMMENCING at coordinates of which are N 87,268.27 and E 407,559.07, based on the United States Coast and Geodetic Survey's Mercator Grid Coordinate System, Florida East Zone, 1983, which has for its zero coordinates a point of Latitude 24°20'00" North and 500,000 feet West of Longitude 81°00'00", said point being the intersection of the Easterly Right-of-Way Line of Junior College Road and the Northerly Right-of-Way Line of U.S. Highway No. 1 (State Road No. 5), at the Westerly end of Junior College Road; Thence North 70°40'03" East along said Northerly Right-of-Way Line of U.S. Highway No. 1, a distance of 21.39 feet; Thence North 04°20'14" West, a distance of 604.65 feet to the POINT OF BEGINNING; Thence South 58°11'42" West, a distance of 199.85 feet; Thence North 31°48'18" West, a distance of 27.14 feet; Thence South 58°11'42" West, a distance of 87.80 feet; Thence North 31°48'24" West, a distance of 189.52 feet; Thence North 58°05'53" East, a distance of 275.22 feet; Thence North 89°21'03" East, a distance of 111.41 feet; Thence South 04°20'14" East, a distance of 179.75 feet to the POINT OF BEGINNING.

Containing 1.576 acres (68,653 square feet), more or less.

Subject to existing easements, rights-of-way, covenants, reservations and restrictions of record, if any.

Said lands situate, lying and being in the City of Key West, Monroe County, Florida.

NOTES: (NOT A SURVEY-SKETCH AND DESCRIPTION ONLY)

UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.

5. IBI GROUP, INC'S CERTIFICATE OF AUTHORIZATION No. 5610, IS ISSUED BY THE FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION.

LANDS SHOWN HEREON WERE NOT ABSTRACTED BY IBI GROUP, INC. FOR EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

DATA SHOWN HEREON WAS COMPILED FROM OTHER INSTRUMENTS AND DOES NOT CONSTITUTE A FIELD SURVEY.

BEARINGS ARE ASSUMED, THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1 BEARING N 70°40'03" E.

CERTIFICATION:

I HEREBY CERTIFY that the attached Sketch and Description is true and correct to the best of my knowledge and belief and that it meets the Minimum Technical Standards set forth by the Florida Board of Professional Surveyors And Mappers in Chapter 61G17-6, Florida Administrative Code.

For The Firm:
IBI Group, Inc.

JAMES A. HAMILTON, III, P.S.M
PROFESSIONAL SURVEYOR and MAPPER #3408 STATE OF FLORIDA

DATE: 10/03/07 DRAWN BY: JAH CHECKED BY: JAH FIELD BOOK: N/A

SHEET 1 OF 2
15178
SKETCH NO.

J:\Pre-Integration\Projects\14871...KeyWest_Botanical_Ph2_TDC\05.9 Drawings\survey\current\MitigationArea-One-REV.dwg

EXHIBIT 3.1



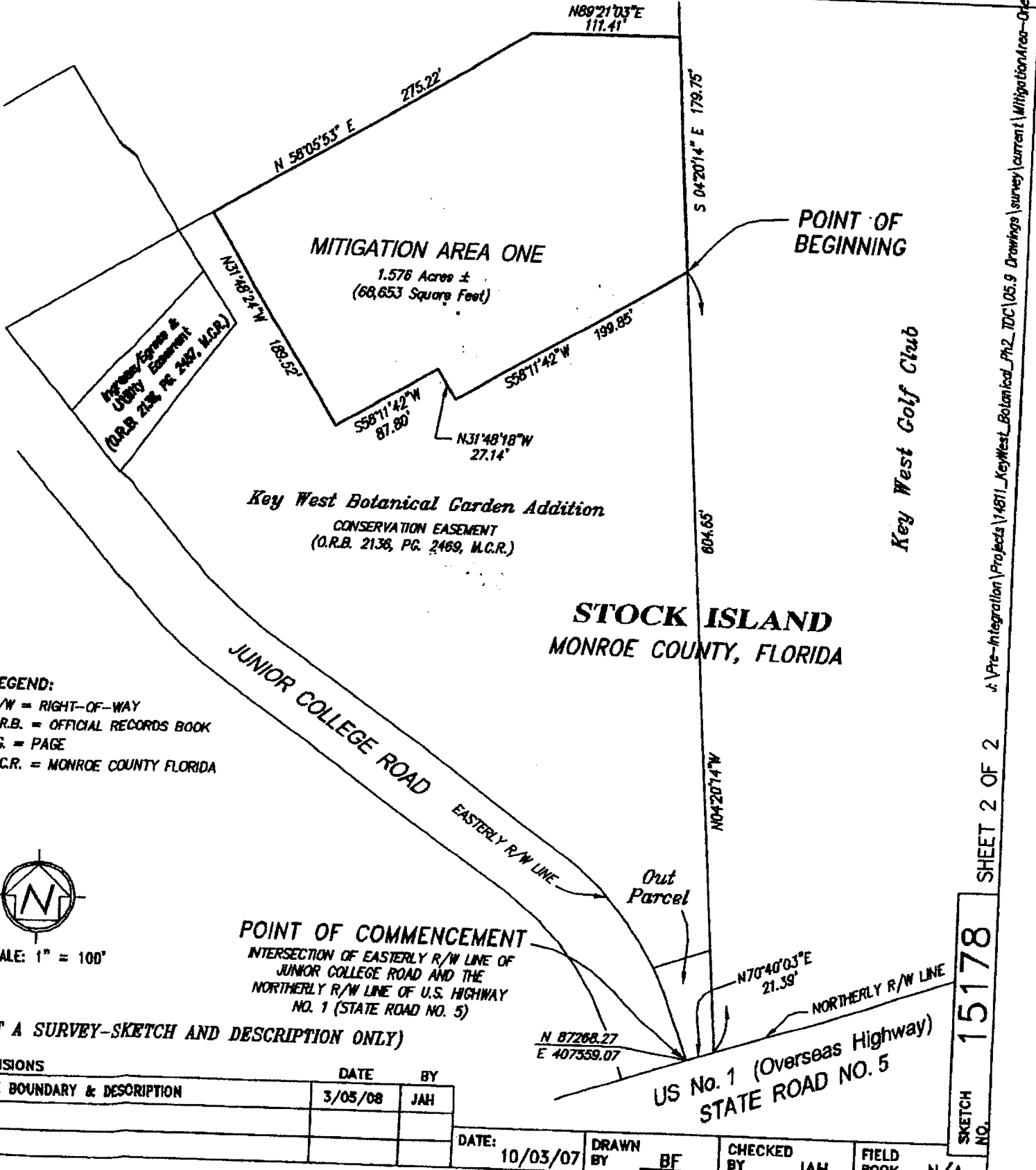
IBI GROUP, Inc.

AUTHORIZATION # LB 5610

ENGINEERS SURVEYORS PLANNERS
 LANDSCAPE ARCHITECTS ENVIRONMENTAL CONSULTANTS

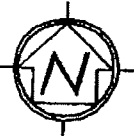
2200 PARK CENTRAL BLVD. N.
 SUITE 100
 POMPANO BEACH, FLORIDA, 33064
 (954) 874-2200

2803 HATLAND CENTER PARKWAY
 SUITE C
 HAITLAND, FLORIDA, 32751
 (407) 860-2120



LEGEND:

- R/W = RIGHT-OF-WAY
- O.R.B. = OFFICIAL RECORDS BOOK
- PG. = PAGE
- M.C.R. = MONROE COUNTY FLORIDA



SCALE: 1" = 100'

NOT A SURVEY-SKETCH AND DESCRIPTION ONLY

REVISIONS	DATE	BY
BASE BOUNDARY & DESCRIPTION	3/05/08	JAH

DATE: 10/03/07	DRAWN BY: BF	CHECKED BY: JAH	FIELD BOOK: N/A
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SHEET 2 OF 2
 SKETCH NO. 15178

I:\Pre-Integration\Projects\14811_KeyWest_Botanical_Ph2_TDC\05.9 Drawings\survey\current\MitigationArea-04e-RE.V.dwg

EXHIBIT 3.6

**South Florida Water Management District
Work Schedule Requirements**

Application No : 060711-17

Page 1 of 1

Mitigation Plan ID: KEY WEST BOTANICAL

Activity	Due Date
EXCAVATION AND GRADING OF WETLAND CREATION AREA	09-OCT-08
SUBMIT GPS DISK OF BOUNDARIES OF CONSERVATION EASEMENT	09-OCT-08
SUBMIT RECORDED CONSERVATION EASEMENT	09-OCT-08
SUBMIT AS-BUILT SURVEY	23-NOV-08
COMPLETE PLANTING OF CREATION AREA	23-DEC-08
SUBMIT BASELINE MONITORING REPORT	09-JAN-09
SUBMIT TIME ZERO MONITORING REPORT	09-JUN-09
SUBMIT FIRST MONITORING REPORT	09-JUN-10
SUBMIT SECOND MONITORING REPORT	09-JUN-11
SUBMIT THIRD MONITORING REPORT	09-JUN-12
SUBMIT FOURTH MONITORING REPORT	09-JUN-13
SUBMIT FIFTH MONITORING REPORT	09-JUN-14

Exhibit No : 3.2

STAFF REPORT DISTRIBUTION LIST

MITIGATION AT KEY WEST BOTANICAL GARDEN

Application No: 060711-17

Permit No: 44-00410-P

INTERNAL DISTRIBUTION

- X Kevin G. Dickson, P.E. - 4220
- X Robert F. Hopper - 4220
- X Carlos A. DeRojas, P.E. - 4220
- X Barbara J. Conmy - 4220
- X ERC Environmental - 4230
- X Florida Keys Service Center - 6830
- X H. Azizi - 4230
- X Permit File
- X R. Karafel - 6830

EXTERNAL DISTRIBUTION

- X Permittee - Key West Botanical Garden Society Inc
- X Permittee - City Of Key West

GOVERNMENT AGENCIES

- X Bruce Franck, Environmental Manager - FDEP -
South District Branch Office
- X City Engineer, City of Key West
- X Div of Recreation and Park - District 5 - FDEP
- X Florida Department of Community Affairs Jerry Buckley
- X Monroe County Engineer
- X Monroe County Planning Dept - Steve Ferris, Dev.
Review Coord.
- X South Florida Water Management District - Florida
Keys Service Center

OTHER INTERESTED PARTIES

- X Donald W. Shackelford, P.E.
- X Hydrologic Associates USA Inc. - Bradley Waller
- X IBI Group - James Taylor, AICP
- X Institute for Regional Conservation - George Gann
- X Key West Tropical Forest and Botanical Garden
- X Raymond Jungles Inc.
- X Stuart Pimm, Ph.D - Duke University