

RESOLUTION NO. 15-103

GREEN MARKET AT BAYVIEW PARK - REVOCABLE LICENSE

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE CITY OF KEY WEST TO ENTER INTO A REVOCABLE LICENSE AGREEMENT FOR NONPERMANENT USE OF CITY PROPERTY WITH WHODUZ, INC., TO ALLOW THE OPERATION OF A GREEN MARKET AT BAYVIEW PARK FOUR TIMES PER MONTH, UPON ADDITIONAL TERMS AND CONDITIONS CONTAINED IN THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 2-939 of the Code of Ordinances of the City of Key West, Florida allows the City to grant a revocable license for a nonpermanent use of City property; and

WHEREAS, the City Commission finds that a regularly scheduled Green Market provides local access to fresh foods and related merchandise, thereby providing a benefit to residents and visitors;

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

Section 1: That the City Manager is hereby authorized to execute the attached Revocable License Agreement for Use of City Property (the "Agreement") between the City and Whoduz, Inc. for the use of a designated area of Bayview Park for a Green Market, four times per month, upon specific terms and conditions set forth in the Agreement.

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

Passed and adopted by the City Commission at a meeting held this 17 day of March, 2015.

Authenticated by the presiding officer and Clerk of the Commission on March 18, 2015.


Filed with the Clerk March 18, 2015.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Mark Rossi	<u>Yes</u>
Commissioner Teri Johnston	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>
Commissioner Tony Yaniz	<u>Yes</u>



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK

EXECUTIVE SUMMARY



TO: City Commission

CC: Jim Scholl

FR: Marilyn Wilbarger, RPA, CCIM

DT: February 24, 2015

RE: Revocable License Agreement for the Green Market at Bay View Park

ACTION: This is a request to approve a revocable license agreement between the City of Key West and Whoduz, Inc. for the operation of the Green Market at Bay View Park.

HISTORY: The Green Market has been operating every other Thursday at Bay View Park on a trial basis that was approved by previous city managers. Pursuant to Section 2-939 of the Code of Ordinances the City may enter into a revocable license agreement for the use of city property which may be unilaterally terminated by the City with or without cause. The proposed terms of the revocable license agreement are as follows:

- Demised Area:** The area that may be utilized is as shown on Exhibit A and also includes details of the areas that are off limits as determined by Community Services
- Use:** The operation of a Green Market on Thursdays from 9am until 2 pm, four times monthly. The City will have the right to institute blackout dates and the use fee will be abated accordingly.
- Term:** One Year, unless revoked by the City
- Use Fee:** \$2,500 per month which will include utilities, trash bags and disposal
- Insurance and Indemnification:** The Licensee will indemnify the City to the fullest extent permitted by law and will keep insurance in the limits prescribed in full force and effect at all times naming the City as an additional insured

CONCLUSION: The Licensee has made the investment necessary to create and manage a successful Green Market that has been very well received and patronized by the local community. They have donated space on an ongoing basis to local non-profits including Womankind, the Wild Bird Center and SOS. The revocable license agreement establishes the parameters for continued use and the associated fees and insurances to ensure that the city is properly protected and in control of the property.

ATTACHMENTS: Revocable License Agreement
Organizational documents and Non-Profit acknowledgement

REVOCABLE LICENSE AGREEMENT FOR USE OF CITY PROPERTY

This License Agreement is made this 19 day of MARCH, 2015, by and between the City of Key West, Florida, a municipal corporation, whose mailing address is P.O. Box 1409, Key West, Florida, 33041 (hereinafter "Licensor") and Whoduz, Inc. a Delaware corporation authorized to do business in the State of Florida, whose mailing address is 3303 Yamoto Road, Boca Raton, FL 33434 (hereinafter "Licensee").

WITNESSETH:

WHEREAS, Licensee desires to do business as a Green Market at Bayview Park; and

WHEREAS, Licensor owns the property upon which the proposed Green Market is to be operated; and

WHEREAS, pursuant to section 2-939 of the Key West Code of Ordinances, Licensor may grant Licensee a revocable license to use Licensor's property.

NOW, THEREFORE, the parties agree as follows:

1. For the period beginning on the First Day of March, 2015, and ending on the last day of February, 2016, the Licensor hereby grants to the Licensee a revocable and non-assignable license to enter in, on, over, and across the land described on Exhibit A, which is attached hereto and incorporated by reference, for use by the Licensee, its representatives, agents, contractors and assigns for the purpose of operating a Green Market with a maximum of 100 participants, four (4) times monthly on Thursdays from 9am until 2pm, as depicted on Exhibit "A", which is attached hereto and incorporated by reference; subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the Licensor, its successors and assigns, all such right, title, interest and privilege as may be used and enjoyed without interfering with or abridging the rights and right-of-entry hereby acquired. Provided however, Licensee shall agree to the following:

No occupancy of the areas delineated as "off limits" in Exhibit "A"

No vehicles on basketball court

No vehicle parking once the market is open

No drilling or staking in any park area

The Licensee will meet all applicable fire and health codes for any on-site cooking or food preparation

The Licensor shall have the right to perform maintenance in all areas of the park

2. In consideration for the grant of license in paragraph 1 herein above, Licensee herein expressly agrees to be solely responsible for all costs of any nature whatsoever associated with the occupancy and operation of the Green Market as herein described. In

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addition, the Licensee and all participants will obtain all necessary business tax licenses at their sole cost and expense.

3. If any action of the Licensee's employees or agents in the exercise of this License results in damage to the property, including but not limited to the turf, irrigation, utilities, or improvements the Licensee will immediately repair such damage in a manner acceptable to the Licensor. In no event shall such repair or settlement exceed the fair market value of the fee title to the real property at the time immediately preceding such damage.

4. This License is personal to Licensee and may not be assigned or transferred. Licensor shall have the right to terminate this License with or without cause upon seven (7) days written notice to Licensee at the following address:

Whoduz Inc.
3303 Yamoto Road
Boca Raton, FL 33434

5. To the fullest extent permitted by law, Licensee expressly agrees to indemnify and hold harmless the City of Key West and their respective officers, directors, agents, and employees (herein called the "indemnitees") from any and all liability for damages, including, if allowed by law, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property caused in whole or in part by any act, omission, or default by Licensee or its subcontractors, vendors, material men, or agents of any tier or their employees, arising out of this Agreement or its performance, including any such damages caused in whole or in part by any act, omission, or default of any indemnitee, but specifically excluding any claims of, or damages against an indemnitee resulting from such indemnitee's gross negligence, or the willful, wanton or intentional misconduct of such indemnitee or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of Licensee or its subcontractors, vendors, material men, or agents of any tier or their respective employees. The provisions of this indemnification provision shall survive the expiration or earlier termination of this License Agreement. Nothing herein is intended to waive the immunity afforded to City pursuant to Florida Law, including section 768.28, Florida Statutes.

6. Licensee shall keep in full force and effect at all times during the effective period of this Agreement, and at their own cost and expense the following insurance in insurance companies authorized in the State of Florida, with an A.M. Best rating of A-VI or higher and shall provide evidence of such insurance to the City. The policies or certificates must be endorsed to provide thirty (30) days prior to cancellation notices of same shall be given to the City by U.S. Mail for all of the required insurance policies stated below. The City of Key West, all Departments, Agencies, Boards and Commissions, its officers, agents, servants and employees are to be named as "additional insureds" under all policies herein on a primary and non-contributory basis as respects liability arising out of

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activities performed by or on behalf of Whoduz, Inc. operating under this License Agreement as the Green Market.

Licensee shall maintain limits no less than those stated below:

Commercial General Liability - with a minimum amount of One Million (\$1,000,000.00) Dollars per occurrence, Two Million (\$2,000,000.00) Dollars per Aggregate.

Worker's Compensation – Statutory, in compliance with the Compensation law of the State of Florida. The coverage must include Employer's Liability with a limit of One Million (\$1,000,000.00) Dollars each accident.

Business Automobile Liability Insurance with a minimum limit of liability per occurrence of One Million (\$1,000,000.00) Dollars Combined Single Limit. The City of Key West must be named as an Additional Insured. This insurance shall include for bodily injury and property damage the following coverage:

- Owned automobiles
- Hired automobiles
- Non-owned automobiles

Excess/Umbrella Liability shall have a minimum limit of One Million (\$1,000,000.00) per occurrence with an annual aggregate of One Million (\$1,000,000.00.) This coverage is to be following form and include the Commercial General Liability and Automobile Liability Policies.

Scope of Insurance and Special Hazards

The insurance required under Paragraphs 6 hereof is a minimum to provide adequate protection for Licensee, respectively, against damage claims which may arise from operations under this Agreement, whether such operation be by the insured or by anyone directly or indirectly employed by the insured and, also against any of the special hazards which may be encountered in the entities' operation under this Agreement. The insurance required herein and approval of Licensee's insurance by the Licensor shall not relieve or decrease the liability of Licensee hereunder.

Waiver of Subrogation

The insurance policies required under Paragraph 6 hereof shall contain "waivers of subrogation" endorsements whereas Licensee's insurer waives any claim against the City of Key West.

Certificates of Insurance

Certificates of Insurance shall be filed and maintained throughout the life of this Agreement with the City Clerk evidencing the minimum limits of insurance cited above. All policies shall be endorsed that they may not be terminated or modified without insurer providing the City of Key West at least thirty (30) days advance notice.

Additionally, Licensee shall immediately notify the City of any cancellation of such insurance.

7. Licensor does not warrant or represent that the property is safe or suitable for the purpose for which Licensee is permitted to use it, and Licensee assumes all risks in its use.

8. Licensee shall pay to Licensor a monthly fee of Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00) which shall payable on the first of every month hereafter. The monthly fee shall include the cost of utilities, trash bags and disposal.

9. The Licensor shall have the right to institute blackout dates as may be required with a minimum of two weeks prior written notice to the Licensee and Licensee will receive a pro-rated abatement of the monthly fee for the blackout period.

10. During the term of this Agreement, Licensee shall be permitted to place signage recognizing the activities of Licensee as permitted herein. All aspects of the signage, including the number, size, placement, duration of placement and design shall be subject to the approval of Licensor, in its sole discretion and must be removed at the end of each and every use.

IN WITNESS WHEREOF, the parties have executed this License Agreement on the date above written.



Cheryl Smith
Cheryl Smith, City Clerk

LICENSOR: CITY OF KEY WEST,
FLORIDA

By: Jim Scholl
Jim Scholl, City Manager

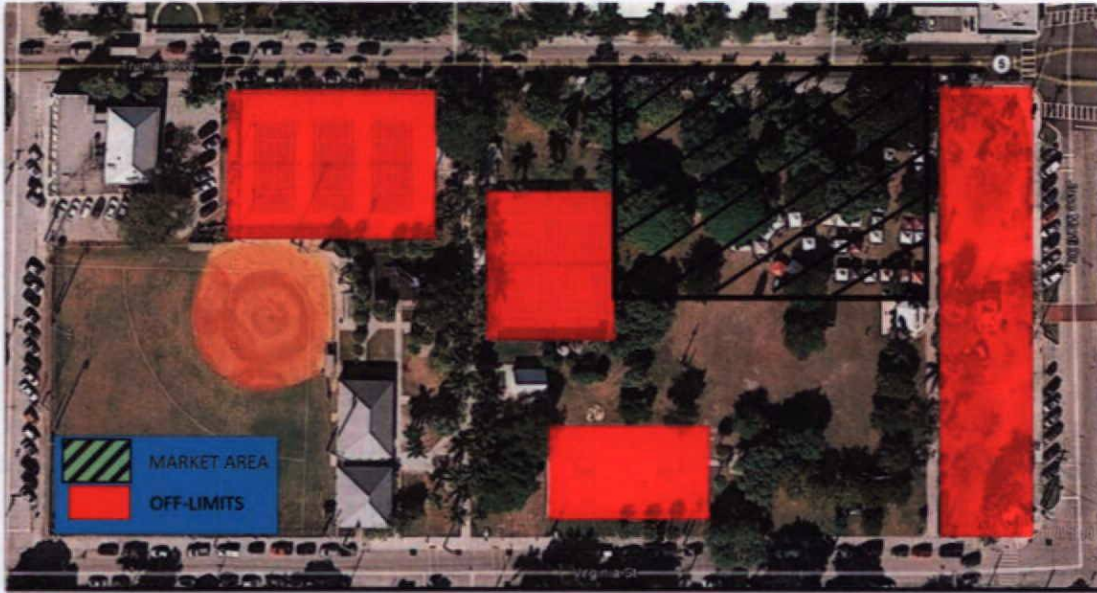
LICENSEE: WHODUZ, INC.

WITNESS
Linda Eberman
Print Name

By: Abby Hurwitz
Abby Hurwitz, President

AS

Exhibit A





Detail by Entity Name

Foreign Profit Corporation

WHODUZ, INC.

Filing Information

Document Number	F12000000266
FEI/EIN Number	453670397
Date Filed	01/19/2012
State	DE
Status	ACTIVE

Principal Address

3003 Yamato Rd
C 8
#1071
BOCA RATON, FL 33434

Changed: 04/23/2013

Mailing Address

3003 Yamato rd
c-8
#1071
BOCA RATON, FL 33434

Changed: 04/23/2013

Registered Agent Name & Address

HURWITZ, A C
3003 Yamato Rd
C 8
#1071
BOCA RATON, FL 33434

Name Changed: 04/23/2013

Address Changed: 04/23/2013

Officer/Director Detail

Name & Address

Title PSTD

HURWITZ, A C
3003 Yamato Rd
C 8
#1071
BOCA RATON, FL 33434

Annual Reports

Report Year	Filed Date
2013	04/23/2013
2014	04/28/2014

Document Images

04/28/2014 -- ANNUAL REPORT	View image in PDF format
04/23/2013 -- ANNUAL REPORT	View image in PDF format
01/19/2012 -- Foreign Profit	View image in PDF format

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State of Florida, Department of State

2014 FOREIGN PROFIT CORPORATION ANNUAL REPORT

DOCUMENT# F12000000266

Entity Name: WHODUZ, INC.

Current Principal Place of Business:

3003 YAMATO RD
C 8 #1071
BOCA RATON, FL 33434

Current Mailing Address:

3003 YAMATO RD
C-8 #1071
BOCA RATON, FL 33434 US

FEI Number: 45-3670397

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

HURWITZ, A C
3003 YAMATO RD
C 8 #1071
BOCA RATON, FL 33434 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: A. HURWITZ

04/28/2014

Electronic Signature of Registered Agent

Date

Officer/Director Detail :

Title PSTD
Name HURWITZ, A C
Address 3003 YAMATO RD
C 8 #1071
City-State-Zip: BOCA RATON FL 33434

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 607, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: A. C HURWITZ

PRESIDENT

04/28/2014

Electronic Signature of Signing Officer/Director Detail

Date

F120000151613

GUNSTER YOAKLEY

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

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Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To: Division of Corporations
Fax Number : (850) 617-6381

From: Account Name : GUNSTER, YOAKLEY, ETAL. (WEST PALM BEACH)
Account Number : 076117000420
Phone : (561) 650-0728
Fax Number : (561) 671-2527

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.

Email Address: _____

FOREIGN PROFIT/NONPROFIT CORPORATION
WHODUZ, INC.

Certificate of Status	1
Certified Copy	0
Page Count	04
Estimated Charge	\$78.75

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TALLAHASSEE, FLORIDA

12 JAN 19 PM 3: 19

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Help

Handwritten signature and date: 1/24/12

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COVER LETTER

TO: New Filing Section
Division of Corporations

SUBJECT: WHODUZ, INC.
Name of corporation - must include suffix

Dear Sir or Madam:

The enclosed "Application by Foreign Corporation for Authorization to Transact Business in Florida," "Certificate of Existence," or "Certificate of Good Standing" and check are submitted to register the above referenced foreign corporation to transact business in Florida.

Please return all correspondence concerning this matter to the following:

David G. Bates, Esq.
Name of Person

Gunster, Yoakley & Stewart, P.A.
Firm/Company

777 South Flagler Drive, Suite 500 East
Address

West Palm Beach, Florida 33401
City/State and Zip code

mcramer-scharlatt@gunster.com
E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

Mary E. Cramer-Scharlatt at (561) 650-0728
Name of Person Area Code & Daytime Telephone Number

STREET/COURIER ADDRESS:
New Filing Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

MAILING ADDRESS:
New Filing Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

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TALLAHASSEE, FLORIDA

Enclosed is a check for the following amount:

- \$70.00 Filing Fee
- \$78.75 Filing Fee & Certificate of Status
- \$78.75 Filing Fee & Certified Copy
- \$87.50 Filing Fee, Certificate of Status & Certified Copy

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01/19/2012 14:19 FAX
850-617-6381

GUNSTER YOAKLEY
1/19/2012 1:25:12 PM PAGE 1/001 Fax Server

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA



January 19, 2012

FLORIDA DEPARTMENT OF STATE

Division of Corporations
GUNSTER, YOAKLEY, ETAL. (WEST PALM BEACH)

SUBJECT: WHODUZ, INC.
REF: W12000003414

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refile the complete document, including the electronic filing cover sheet.

A certificate of existence or a certificate of good standing, dated no more than 90 days prior to the delivery of the application to the Department of State, duly authenticated by the secretary of state or other official having custody of the records in the jurisdiction under the laws of which it is incorporated/organized, must be submitted to this office. A translation of the certificate under oath of the translator must be attached to a certificate which is in a language other than the English language. A photocopy of this certificate is not acceptable.

If you have any further questions concerning your document, please call (850) 245-6973.

Claretha Galdan
Regulatory Specialist II
New Filing Section

FAX Aud. #: H12000015161
Letter Number: 412A00001343

Please see attached which is effective today.

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APPLICATION BY FOREIGN CORPORATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA

IN COMPLIANCE WITH SECTION 607.1503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO REGISTER A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE STATE OF FLORIDA.

1. WHODUZ, INC.
(Enter name of corporation; must include "INCORPORATED," "COMPANY," "CORPORATION," "Inc.," "Co.," "Corp.," "Inc.," "Co.," or "Corp.")

(If name unavailable in Florida, enter alternate corporate name adopted for the purpose of transacting business in Florida)

2. Delaware 3. 45-3670397
(State or country under the law of which it is incorporated) (FEI number, if applicable)

4. June 6, 2011 5. Perpetual
(Date of incorporation) (Duration: Year corp. will cease to exist or "perpetual")

6. Date of filing.
(Date first transacted business in Florida, if prior to registration)
(SEE SECTIONS 607.1501 & 607.1502, F.S., to determine penalty liability)

7. 7040 West Palmetto Park Road, Unit 4, PMB 381 Boca Raton, FL 33433
(Principal office address)

(Current mailing address)

8. Any and all lawful business, including retail sales of baked goods.
(Purpose(s) of corporation authorized in home state or country to be carried out in state of Florida)

9. Name and street address of Florida registered agent: (P.O. Box NOT acceptable)

Name: Abby Hurwitz

Office Address: 7040 West Palmetto Park Road, U-4, PMB 381

Boca Raton, Florida 33433
(City) (Zip code)

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TALLAHASSEE, FLORIDA

10. Registered agent's acceptance:

Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this application, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Abby Hurwitz
(Registered agent's signature)

11. Attached is a certificate of existence duly authenticated, not more than 90 days prior to delivery of this application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which it is incorporated.

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

12. Names and business addresses of officers and/or directors:

A. DIRECTORS

Chairman: Abby Hurwitz

Address: 7040 West Palmetto Park Road, Unit 4, PMB 381
Boca Raton, FL 33433

Vice Chairman: _____

Address: _____

Director: _____

Address: _____

Director: _____

Address: _____

B. OFFICERS

President: Abby Hurwitz

Address: 7040 West Palmetto Park Road, Unit 4, PMB 381
Boca Raton, FL 33433

Vice President: _____

Address: _____

Secretary: Abby Hurwitz

Address: 7040 West Palmetto Park Road, Unit 4, PMB 381, Boca Raton, FL 33433

Treasurer: Abby Hurwitz

Address: 7040 West Palmetto Park Road, Unit 4, PMB 381, Boca Raton, FL 33433

NOTE: If necessary, you may attach an addendum to the application listing additional officers and/or directors.

13. Abby Hurwitz _____

Signature of Director or Officer

The officer or director signing this document (and who is listed in number 12 above) affirms that the facts stated herein are true and that he or she is aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s. 817.155, F.S.

14. Abby Hurwitz, President _____

(Typed or printed name and capacity of person signing application)

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Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "WHODUE, INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE NINETEENTH DAY OF JANUARY, A.D. 2012.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "WHODUE, INC." WAS INCORPORATED ON THE SIXTH DAY OF JUNE, A.D. 2011.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE NOT BEEN ASSESSED TO DATE.

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TALLAHASSEE, FLORIDA



4992297 8300

120064357

You may verify this certificate online at corp.delaware.gov/authvar.shtml

Jeffrey W. Bullock
Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 9307190

DATE: 01-19-12

**KEY WEST
WILDLIFE
CENTER**

P.O. Box 2297
Key West FL 33045

City of Key West
3132 Flagler Avenue
Key West FL 33040

10/08/2014

Good Afternoon,

This letter is to acknowledge that The Key West Greenmarket has been donating a space at the bi-monthly Greenmarket to the Key West Wildlife Center for the purposes of putting up a community outreach and education booth. This donated space first was given to our non-profit organization on July 2nd, 2014 and has continued every other Thursday since. Attached please find a copy of our tax exempt status letter from the State of Florida. If you have any other questions regarding this letter please call the Key West Wildlife Center at 305-292-1008. ,

Sincerely,

Thomas F. Sweets
Executive Director