

RESOLUTION NO. 16-124

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED "FIRST AMENDMENT TO LEASE AGREEMENT" BETWEEN THE CITY AND THE FLORIDA KEYS MOSQUITO CONTROL DISTRICT FOR THE PARKING LOT ON PROPERTY ADJACENT TO 5224 COLLEGE ROAD; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, a Lease Agreement was approved in Resolution 02-124, and has continued on a month-to-month basis since May 2012; and

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

Section 1: That the attached First Amendment to Lease Agreement, extending the Lease Agreement between the City and the Florida Keys Mosquito Control District, upon specific terms and conditions, through March 31, 2018, is hereby approved.



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 5th day of April, 2016.

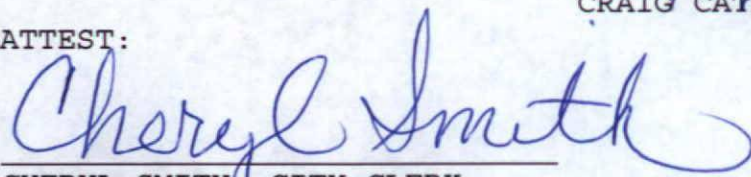
Authenticated by the Presiding Officer and Clerk of the Commission on 6th day of April, 2016.

Filed with the Clerk on April 6, 2016.

Mayor Craig Cates	<u>Yes</u>
Commissioner Sam Kaufman	<u>No</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Richard Payne	<u>Yes</u>
Commissioner Margaret Romero	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>

  
\_\_\_\_\_  
CRAIG CATES, MAYOR

ATTEST:

  
\_\_\_\_\_  
CHERYL SMITH, CITY CLERK



# EXECUTIVE SUMMARY



**TO:** City Commission

**FR:** Jim Scholl

**DT:** March 21, 2016

**RE:** Lease Amendment for the Florida Keys Mosquito Control District Parking Lot

## **ACTION STATEMENT:**

This is a request to enter into a lease amendment to extend the lease with the Florida Keys Mosquito Control District for the parking lot located adjacent to 5224 College Road.

## **BACKGROUND:**

The City previously entered into a lease agreement at this location in support of the Mosquito Control operations. The parking lot has been on a month to month basis since May 2012. Therefore in an effort to provide continued support during the period contemplated for the construction and re-location of new Mosquito Control District facilities a lease extension is proposed as follows:

- Premises:** Parking Lot containing 11,100 square feet
- Term:** Commencing May 5, 2012 and terminating March 31, 2018
- Transition Period:** The FKMCD shall cease operations on December 31, 2017 and shall have three months to vacate the premises beginning January 1, 2018 and ending March 31, 2018.
- Rent:** The Rent for the lease extension period shall be \$1.00 per each year of the term.
- Retroactive Rent:** In the event that the FKMCD continues to occupy any portion of the premises beyond the transition period, market rate rent will be charged retroactively to April 1, 2016 through March 31, 2018.
- Hold over Rent:** Pursuant to Florida Statute Section 83.06 FKMCD will be liable for double the market rate for the period beginning on April 1, 2018 and continuing through the date that FKMCD vacates the premises.
- Market Rate Rent:** Parking Lot - Per space rate consistent with City rates for monthly permits in city owned parking lots/garages.

## **RECOMMENDATION:**

Staff recommends the continued support of the use of the premises as proposed while the Mosquito Control District completes construction and re-location to new facilities.

**ATTACHMENTS:**  
First Amendment to Lease  
Lease – May 7, 2002



## FIRST AMENDMENT TO LEASE AGREEMENT

**THIS FIRST AMENDMENT TO LEASE AGREEMENT** (hereinafter referred to as "First Amendment") is made this 7<sup>th</sup> day of April, 2016, by and between **THE CITY OF KEY WEST**, a municipal corporation (hereinafter referred to as "Lessor"), whose address for purposes of notice is P.O. Box 1409, Key West, FL 33041, and the **FLORIDA KEYS MOSQUITO CONTROL DISTRICT**, formerly known as the Monroe County Mosquito Control District and the Monroe County Anti-Mosquito District, a political subdivision of the State of Florida, (hereinafter referred to as "Lessee"), whose address for purposes of notice is 5224 College Road, Florida, 33040.

### WITNESSETH:

**WHEREAS**, Lessor and Lessee entered into that certain Lease (hereinafter referred to as "Lease Agreement") on the 7<sup>th</sup> day of May, 2002; and

**WHEREAS**, the parties desire to extend the term of the Lease Agreement for a period of time to enable the Lessee to relocate its operations as well as amend certain provisions of the Lease Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

1. The foregoing recitations of fact are true and correct and incorporated herein by this reference.

2. That certain unnumbered provision in the Lease Agreement providing for a term of ten (10) years is hereby deleted in its entirety and replaced with the following:

"The term of this Lease Agreement is hereby extended from May 5, 2012, through and including March 31, 2018."

3. The Lease Agreement is hereby amended by the addition of a paragraph styled No. 7 to provide as follows:

"The Lessee shall cease operations at the demised premises no later than December 31, 2017. No later than January 1, 2018, the Lessee shall commence the removal of Lessee's personal property from the demised premises, and Lessee shall complete the removal of Lessee's personal property and vacate the demised premises no later than March 31, 2018."



4. Paragraph 1 of the Lease Agreement is deleted in its entirety and replaced with the following:

“Lessee shall pay Lessor rent in the amount of \$1.00 per year payable on the 6<sup>th</sup> day of May for each year of this Lease Agreement. In the event Lessee continues to occupy the demised premises beyond March 31, 2018, Lessee shall be liable to Lessor for market rate rent retroactive to April 1, 2016, through the date that Lessee vacates the demised premises unless the term is extended by the Lessor due to an unforeseen act of God. Further, pursuant to section 83.06, Florida Statutes, Lessee shall be liable to Lessor for double the market rate rent for the period beginning on April 1, 2018, and continuing through the date Lessee vacates the demised premises unless the term is extended by the Lessor due to an unforeseen act of God. The annual market rate for each of the spaces located on the demised premises shall be equal to 12 times the amount customarily charged by Lessor for monthly parking permits.”

5. This Second Amendment may be executed in counterparts. Except as expressly modified by this Second Amendment, all terms and conditions of the Lease Agreement, as modified by the First Amendment, remain in full force and effect, and binding upon the parties in accordance with its terms. In the event of any conflict between the terms of the Lease Agreement and the terms of this Second Amendment, the terms of this Second Amendment shall control. Lessee further represents and warrants it is not in default of any of the conditions or covenants of the Lease Agreement.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed this 7<sup>th</sup> day of April, 2016.

[SIGNATURE PAGES FOLLOW]



ATTEST

By:

Cheryl Smith, City Clerk

THE CITY OF KEY WEST

By:

J.K. Scholl

Printed Name:

J. K. SCHOLL

Its:

CITY MANAGER

WITNESSES:

Portia Navareo

Signature of Witness

PORTIA NAVAREO

Printed Name of Witness

Maria Katchif

Signature of Witness

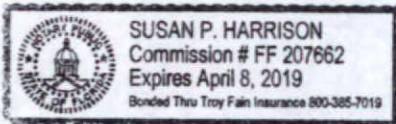
Maria Katchif

Printed Name of Witness

STATE OF FLORIDA  
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of April, 2016, by James K. Scholl, as City Manager, of The City of Key West, a municipal corporation, who is personally known to me or has produced as identification.

(Notary Seal)



Susan P. Harrison

Notary Public, State of Florida

Print Name:

Susan P. Harrison

My Commission Expires:

4-8-19



WITNESSES:

Bruce Holden  
Signature of Witness  
BRUCE L HOLDEN  
Printed Name of Witness

Tammy Hollander  
Signature of Witness  
Tammy Hollander  
Printed Name of Witness

FLORIDA KEYS MOSQUITO  
CONTROL DISTRICT

By: Michael Doyle  
Michael Doyle, its Executive Director

STATE OF FLORIDA  
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 19th day of April, 2016, by Michael Doyle, as Executive Director of Florida Keys Mosquito Control District, who is personally known to me or has produced \_\_\_\_\_ as identification.

(Notary Seal)

Patricia A. Mousseau  
Notary Public, State of Florida  
Print Name: Patricia A Mousseau

My Commission Expires: \_\_\_\_\_





RESOLUTION NO. 02-124

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED LEASE BETWEEN THE CITY AND FLORIDA KEYS MOSQUITO CONTROL DISTRICT; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission, pursuant to section 1.27(e) of the Code of Ordinances, must approve this lease renewal by a supermajority vote due to a rental amount at less than market rate. *NOT Renewal*

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

Section 1: That the attached lease between the City and Florida Keys Mosquito Control District is hereby approved.

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 7th day of May, 2002.

Authenticated by the presiding officer and Clerk of the Commission on May 7, 2002.

Filed with the Clerk May 8, 2002.

ATTEST:

*Cheryl Smith*  
CHERYL SMITH, CITY CLERK

*Jimmy Weekley*  
JIMMY WEEKLEY, MAYOR



LEASE

THIS LEASE AGREEMENT is made and entered into, this 7<sup>th</sup> day of

May, 2002, by and between the CITY OF KEY WEST, FLORIDA (hereinafter "CITY"), a municipal corporation duly created, organized and existing in the County of Monroe, Florida, by and under the Constitution and laws of the State of Florida, acting by and through its Mayor, and the FLORIDA KEYS MOSQUITO CONTROL DISTRICT f/k/a the MONROE COUNTY MOSQUITO CONTROL DISTRICT (hereinafter "DISTRICT"), a political subdivision of the State of Florida,

WITNESSETH, the CITY by these presents leases unto said DISTRICT, the following described premises situate, lying and being on the Island of Stock Island, Florida, in the City of Key West, Monroe County, State of Florida, to wit:

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

Commencing at coordinates of which are N 87,107.701 and E 251,328.207, based on the United States Coast and Geodetic Survey Mercator Grid Coordinate System which has for its zero coordinate a point of latitude 24'20'00" North and 500,000 feet west of longitude 81'00'00" West, said point being the intersection of the Easterly Right-of-Way Line of Junior College Road and the Northerly Right-of-Way of U.S. Highway No. 1 (State Road No. 5), at the Westerly end of Junior College Road; thence along the Easterly and Southerly new Right-of-Way Line of Junior College Road for the following seven (7) metes and bounds; thence N.19'01'57"W., a distance of 36.16 feet to the point of curvature of a curve to the left, having: a radius of 265.00 feet, a central angle of 35'06'00", a chord bearing of N.36'34'57"W. and a chord length of 159.82 feet; thence along the arc of said curve, an arc length of



162.34 feet to the point of tangency of said curve; thence N.54'07'57"W., a distance of 272.58 feet to the point of curvature of a curve to the right, having: a radius of 361.02 feet, a central angle of 14'25'40", a chord bearing of N.46'55'07"W. and a chord length of 90.67 feet; thence along the arc of said curve, an arc length of 90.91 feet to the point of tangency of said curve thence curve to the right, having a radius of 446.85 feet, a central angle of 62'35'30", a chord bearing of N.08'24'32"W. and a chord length of 464.24 feet; thence along the arc of said curve, an arc length of 488.15 feet to the point of tangency of said curve; thence N.22'53'13"E., a distance of 286.56 feet; thence S.70'12'57"E., and leaving the said Southerly Right-of-Way Line of Junior College Road a distance of 86.57 feet to the Point of Beginning; thence S.70'12'57"E., a distance of 74.00 feet; thence S.19'47'03"W., a distance of 150.00 feet; thence N.70'12'57"W., a distance of 74.00 feet; thence N.19'47'03"E., a distance of 150.00 feet to the Point of Beginning. (Parcel contains 11100 square feet or 0.25 acres, more or less.)

TO HAVE AND TO HOLD the premises as aforesaid unto the said DISTRICT from the 6<sup>th</sup> day of May, 2002, for a term of ten (10) years; this Lease being under the following terms and conditions:

1. The DISTRICT yielding and paying unto the said CITY, the total rental of \$10.00 for ten (10) years, said sum to be payable as follows:
  - a. \$1.00 payable upon the execution and delivery of this Lease, which sum is to cover the yearly rental for the first year of this Lease and \$1.00 on the 6th day of May of each and every year during the remainder of the term of this Lease.
2. It is further understood and agreed by and between the CITY and the DISTRICT that the DISTRICT will:



- a. Use said premises for covered parking and placement of a protective property fence for said DISTRICT;
- b. Pay the rent herein reserved at the time and in the manner as stated herein;
- c. Make no improper, unlawful or offensive use of said premises;
- d. Will pay any and all charges for gas, electricity, water, garbage disposal and fuel, if any, and all installation charges for same;
- e. At its own expense, keep and maintain all plumbing and pumps, if there be, and maintain and keep clean the premises;
- f. Permit the CITY, or its agent, to enter upon the leased premises at all reasonable times for the purpose of viewing and inspecting the condition thereof;
- g. During the term of this Lease, save and keep the CITY harmless against any and all liability resulting from injuries to person or property on or about the leased premises by reason of its occupancy or use thereof and will carry the necessary public liability insurance for said purpose;
- h. At the expiration of the term of this Lease, without demand, quietly and peacefully, deliver full possession of said premises in as good condition as they now are, damage or destruction by fire and the elements-only excepted.

3. The CITY hereby covenants with the DISTRICT that upon the performance by the DISTRICT of the covenants and agreements hereinbefore set forth, the CITY will permit the DISTRICT to quietly hold and enjoy the demised premises without any interruptions by the CITY or by any person or persons claiming by, through or under it.



4. It is mutually understood, covenanted and agreed by and between the parties hereto as follows:

a.. That default on the part of the District for a period of thirty (30) days in making any of the payments of rent herein reserved from the date the same shall severally become due and payable shall immediately and thereupon terminate any and all of the rights of the District under this Lease.

5. In the event the District ceases to use the leased premises for covered parking and placement of a property fence for said District, this Lease shall at that time become null and void and of no force and effect and the City shall have the right to reenter and take full possession of said premises without any court action, and all capital improvements, including buildings, shall revert to the City.

6. The District hereby agrees that it will indemnify the City and hold said City harmless against and from any and all liability resulting from injuries to persons or property in or about the leased premises by reason of any accident connected in any manner with the operation thereof by the District and will procure adequate public liability insurance therefor.

IN WITNESS WHEREOF, the City has caused this Lease to be executed in its behalf by its Mayor and the District has caused this Lease to be executed by its Director, all as of the date first written above.



STATE OF FLORIDA

SS.

COUNTY OF MONROE

BEFORE ME, the undersigned, a Notary Public at Large, personally came Jimmy Weekley, to me personally and is personally known to me or has produced personally known as identification, did acknowledge to me that he/she executed said instrument on behalf of the City of Key West, Florida.

Jimmy Weekley  
JIMMY WEEKLEY, MAYOR  
CITY OF KEY WEST, FLORIDA

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 7th day of May, 2002.

Vivian Perez  
NOTARY  
My commission expires:



Vivian Perez  
MY COMMISSION # CC991212 EXPIRES  
April 9, 2005  
BONDED THRU TROY FAIR INSURANCE, INC.

Attest: Cheryl Smith  
City Clerk

STATE OF FLORIDA

SS.

COUNTY OF MONROE

BEFORE ME, the undersigned, a Notary Public at Large, personally came Edsel Russell, to me personally and is personally known to me or has produced LNLF 246 213 03 2480 as identification, did acknowledge to me that he executed said instrument on behalf of the Florida Keys Mosquito Control District.

Edsel M. Russell  
ESEL FUSSELL, DIRECTOR  
FLORIDA KEYS MOSQUITO  
CONTROL DISTRICT

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 11th day of July, 2002.

Vivian Perez  
NOTARY  
My commission expires:



Vivian Perez  
MY COMMISSION # CC991212 EXPIRES  
April 9, 2005  
BONDED THRU TROY FAIR INSURANCE, INC.