

# Executive Summary



**To:** Patti McLauchlin, City Manager

**From:** Todd Stoughton, Assistant City Manager

**Date:** 10/13/2022

**RE:** Key West Botanical Garden Society Lease Renewal Amendment

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## **Action:**

Respectfully request the City Commission approve the first amendment to the renewal of the lease between the City of Key West and the Key West Botanical Garden Society, Inc. for the property located at 5210 College Road.

## **Background:**

The City previously entered into a ten-year lease agreement with the Key West Botanical Garden Society (KWBGS) per Resolution 17-312. There have been three amendments to that lease and the terms and conditions of those amendments have been included in the new lease presented here.

The City and the KWBGS also entered a Florida Communities Trust Grant for improvements to the property. The KWBGS has met the requirements of the grant and will continue to submit the reports required in the future.

**Premises:** The property located at 5210 College Road as shown on the survey in Attachment "A"

**Term:** The new lease term will be for ninety-nine (99) years commencing as of the effective date of the lease approval.

**Rent:** \$1.00 per year

**Use:** Lessee shall lease the Premises exclusively for use as a botanical garden and arboretum, providing public access, public recreation, and wildlife habitat. Further,

- a. Lessee's use of the Premises shall be consistent with the restrictions contained in the Grant Award Agreement between the Lessor and Florida Communities Trust as recorded in Official Records Book 2136, Page 2457, of the Public Records of Monroe County, Florida more particularly described in Attachment "B";

- b. Lessee's use of the Premises shall be consistent with those restrictions contained in the Grant of Conservation Easement between the Lessor and the Monroe County Comprehensive Plan Land Authority as recorded in Official Records Book 2136, Page 2469, of the Public Records of Monroe County, Florida more particularly described in Attachment "C".
- c. Lessee's use of the Premises shall be consistent the management plan approved by Florida Communities Trust more particularly described in Attachment "D".
- d. Lessee's use of the Premises shall be consistent with City of Key West Ordinance No. 06-11 more particularly described in Attachment "E".
- e. Lessee's use shall comply with all its' obligations pursuant to City Resolution 15-365 for the partial use of 5205 College Road to establish a canoe/kayak launch/landing area more particularly described in Attachment "F".
- f. Lessee expressly acknowledges the existence of and agrees to abide by the easement in favor of Monroe County for ingress, egress, and the operation of utilities over the property described in Attachment "G".

**Additional Operational Requirements:**

The Lessee will continue to be subject to the oversight of the Liaison Committee for the purposes of ensuring activities at the Premises are in conformance with the City's Ordinances governing the activities of the Key West Tree Commission.

The Lessee will file an annual husbandry report with the City to describe any changes to the plantings that have occurred and plans for the upcoming year.

The Lessee shall maintain an inventory of all major specimens and include it in the annual Husbandry Report

**Special Events:**

The Lessee intends to use the premises for special events, including but not limited to, Botanical Garden fundraisers and weddings. Lessee shall not require Lessor permission for such special events, except that the Lessee may apply to the City Commission for a noise control permit pursuant to the terms of Section 6-86, Key West Code of Ordinances. The sale, possession or drinking of alcoholic beverages on the Premises shall be limited to special events only, in accordance with the laws of the State of Florida and City of key West.

**FINANCIAL:** The annual rental of \$1.00 per year is a below market lease that must demonstrate a public benefit and requires approval by a super-majority vote pursuant to section 2-941 (c) of the Code or Ordinances.

**CONCLUSION:**

The Key West Botanical Garden Society, Inc. is a registered 501 (c) 3 nonprofit corporation that is publicly owned and operated as a passive, natural resource-based public outdoor recreational site and is the only "frost-free" botanical garden in the continental United States. The garden celebrated its 85<sup>th</sup> birthday in 2021 and is gaining regional and national recognition as a venue for research, education as well as community enjoyment that will continue to grow and develop for many years to come.

**ATTACHEMENTS:**

Attachment A	Survey
Attachment B	Resolution 04-018
Attachment C	Resolution 11-164
Attachment D	Management Plan
Attachment E	Ordinance 06-11
Attachment F	Resolution 15-365
Attachment G	Monroe County Utility Easement
Attachment H	Ordinance 22-08