

This instrument prepared by:
Ronald A. Lisak
Assistant General Counsel
State of Florida Department of
Children and Family Services
1317 Winewood Blvd., Bldg. 2 Room 204
Tallahassee, Florida 32399

Note to clerk of the circuit court: The intangible personal property evidenced by this instrument is owned by the State of Florida or a political subdivision or agency of the State of Florida and pursuant to Section 199.183, Florida Statutes, is exempt from the nonrecurring intangible personal property tax imposed by Chapter 199 Florida Statutes

MORTGAGE LIEN AND SECURITY AGREEMENT

In consideration of a Homelessness Housing Assistance Grant (the "**Grant**"), by the State of Florida Department of Children and Family Services (the "**Department**") to Southernmost Homeless Assistance League, Inc., a Florida corporation not for profit, (the "**Grantee**") in the amount of \$750,000.00, as provided for in the Homelessness Housing Assistance Grant Agreement (the "**Grant Agreement**") between the Department and the Grantee for Grant Number KFZ32, the proceeds of which are to be sub-granted by the **Grantee** to Samuel's House, Inc., a Florida corporation not for profit, (the "**Sub-Grantee**") for the renovations to, and/or construction of improvements on, the following described property, the Sub-Grantee, and any of the other undersigned having any interest in the hereinafter described and defined Property, hereby mortgage and grant a lien to the Department, whose mailing address is 1317 Winewood Blvd., Tallahassee, Florida 32399, on all of his, hers, its, or their rights, title and interests in and to the land and real property located in Monroe County, Florida, and more particularly described in **Exhibit "A"** attached hereto and made a part hereof (said land and real property and the other matters referred to in the next phrase being hereinafter collectively referred to as the "**Property**"), together with all existing or subsequently erected or affixed buildings, improvements, and fixtures; tenements and hereditaments; easements; appurtenances; and all other rights, royalties, and profits, including without limitation all mineral, oil, gas, and similar matters (subject and subordinate, however, to the lien of the prior mortgage in favor of

_____, recorded in O.R. Book _____, beginning at Page _____ in the Public Records of Monroe County, Florida).

Check the appropriate item below:

_____ (a) The Sub-Grantee owns the Property; or

 X (b) The Sub-Grantee does not own the Property, in which case (i) City of Key West, a municipal corporation, (the “**Fee Owner**”) is the owner of the Property and joins in the execution of this instrument for the purpose of subordinating its fee simple interest in the Property to the lien of this instrument, (ii) pursuant to the Master Development Long-Term Lease dated April 28, 1998, a copy of which is attached hereto as **Exhibit “B”**, the Fee Owner has leased the Property to the Housing Authority of the City of Key West Florida (the “**Lessee**”) and the Lessee joins in the execution of this instrument for the purpose of subordinating its leasehold interest in the Property to the lien of this instrument, (iii) pursuant to the Sub-Lease Agreement dated December 4, 2009, which is of record in O. R. Book 2469, beginning at Page 942, in the Public Records of Monroe County, Florida, the Lessee has subleased the Property to the Sub-Grantee, and (iv) Fee Owner and Lessee consent to the execution and delivery of this instrument by the Sub-Grantee and this instrument encumbers Sub-Grantee’s leasehold interest in the Property.

The Sub-Grantee and any of the undersigned having any interest therein also hereby grant to the Department a security interest under the Florida Uniform Commercial Code-Secured Transactions, Chapter 679, F.S., in all fixtures; plumbing, heating, air conditioning and other equipment; building materials, appliances, floor and window coverings, and any personalty, purchased or to be purchased with the Grant to be located on and/or used in connection with the Property and/or the improvements and renovations to the Property to be made pursuant to the Grant, including but not limited to those items described in N/A attached hereto and made a part hereof.

This instrument is given to secure (a) the payment and performance of all obligations of the Grantee under the Grant Agreement, (b) the payment and performance of all obligations of the Sub-Grantee under any agreement governing the sub-grant, (c) the Department’s Interest (as hereafter defined) in the Property, and (d) the payment and performance of all obligations hereunder. The “Department’s Interest” shall be or deemed to be an amount equal to the amount of the Grant proceeds that have been disbursed to the Grantee from time to time, plus all other cost, fees, and expenses owed by the Grantee, or for which the Grantee and Sub-Grantee are liable, under this instrument and the Grant Agreement.

The Department's Interest shall be, or at the time that it is to be determined shall be deemed to have been, proportionately reduced and subsequently vacated over a 10 year period (the “**Term**”) of amortization unless the lien of this mortgage is satisfied before that time or if before that time the Department declares all sums and obligations hereunder to be immediately due and payable in accordance with the provisions of **section 18** below. The Term shall commence on the date of the execution of this instrument and end on the date that is 10 years from the date of the completion of the improvements to be made pursuant to the Grant as evidenced by a notice of the completion of said improvements approved by the Department and recorded in the Public Records of the County in which the Property is located.

As a condition of receipt of state funding for this renovation, and/or construction the undersigned agree that (a) if the Property is disposed of before the Department's Interest is

vacated or (b) at the time the Department declares all sums and obligations hereunder to be immediately due and payable in accordance with the provisions of **section 18** below, an amount calculated as set forth in **section 10** below shall be immediately due and payable by the Sub-Grantee to the Grantee and by the Grantee to the Department, without any interest thereon except in the event of default under this instrument or as otherwise expressly provided for in this instrument. If the Sub-Grantee fails to pay all such sums to the Grantee and/or if the Grantee fails to pay all such sums to the Department, immediately upon any disposition of the Property or otherwise when due, from and after the date that the Department declares a default hereunder such sums shall bear interest at the highest rate permitted by law and such interest shall also be immediately due and payable by the Sub-Grantee to the Grantee on any such sums the Sub-Grantee has failed to timely pay to the Grantee, and by the Grantee to the Department on any such sums the Grantee has failed to timely pay to the Department.

Sub-Grantee further agrees:

1. To keep the Property insured by such insurers, against such perils, in such forms (including without limitation forms that include loss payable provisions acceptable to and in favor of the Department and naming the Department as an additional insured), with such provisions requiring the insurer to give the Department at least 30 days prior written notice of any changes in the policy or coverage or any intent to cancel or not renew the policy, and for such amounts, as the Department may from time to time approve, determine, and advise Grantee of and shall furnish to the Department evidence thereof that is satisfactory to the Department.
2. To pay all taxes, assessments, and other costs and charges that may become a lien on the Property and all documentary stamp or other excise taxes due in connection with the execution and delivery of this instrument as they become due (and in all events prior to delinquency), and furnish to the Department evidence thereof that is satisfactory to the Department.
3. To comply with all laws, ordinances, rules, regulations, procedures, guidelines and standards pertaining to the Property, including without limitation all environmental laws, ordinances, rules, and regulations; and to obtain, keep, and maintain all permits and licenses necessary for the construction, renovation, repair, and operation of the Property and the business to be conducted on the Property for the purposes for which the Grant has been made. Also to comply with all laws, ordinances, rules, regulations, procedures, guidelines and standards pertaining to the Grant.
4. To pay all persons or firms performing any work or supplying any materials for the construction and/or renovation of improvements on or the maintenance or repair of the Property and all other persons and firms who may have construction lien or other statutory lien rights for the performance of work or services relating to the Property as and when all sums therefor are due and payable.
5. To pay and perform all obligations under any other prior or superior mortgages, liens, or encumbrances as they become due (and in all events prior to delinquency), not to create, suffer, or permit any subsequent liens or mortgages on the Property without the Department's prior written consent, to keep the Property free and clear of all other liens and encumbrances,

including without limitation all construction liens and other statutory liens for the performance of work or services relating to the Property.

6. To keep the Property free and clear of all pollutants, hazardous materials, and waste, including without limitation petroleum products, with the exception of legally permitted and properly stored materials in reasonable amounts customarily used in the construction, renovation, use, and operation of similar property.

7. To maintain the Property in good condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

8. During the term of this instrument, not to sell, transfer, mortgage, or assign its interest in the Property or in the property subject to the security interest under the Florida Uniform Commercial Code-Secured Transactions, unless the Department, in its sole discretion, whether reasonable or not, approves the sale, transfer, mortgage, or assignment.

9. To continue the operation, maintenance, repair, and administration of the Property in accordance with the purposes for which the funds of the Grant were originally appropriated and the terms of the Grant Agreement, and for the length of the Term.

Sub-Grantee and Grantee further agree:

10. (a) If Sub-Grantee fails to comply with **Section 9** above, or (b) if the Property is disposed of before the Department's Interest is vacated, or (c) at the time the Department declares all sums and obligations hereunder to be immediately due and payable in accordance with the provisions of **section 18** below, the Sub-Grantee shall pay to the Grantee and Grantee shall pay to the Department, no later than upon demand by the Department, without any interest thereon except in the event of default under this instrument or as otherwise expressly provided for in this instrument, an amount equal to the Department's Interest, as adjusted by amortization.

11. If the Sub-Grantee fails to pay all such sums when due to the Grantee, and/or if the Grantee fails to pay all such sums when due to the Department, then from and after the date that the Department declares a default hereunder such sums shall bear interest at the highest rate permitted by law and such interest shall also be immediately due and payable by the Sub-Grantee to the Grantee, on any such sums the Sub-Grantee has failed to timely pay to the Grantee, and by the Grantee to the Department on any such sums the Grantee has failed to timely pay to the Department.

12. The Sub-Grantee shall indemnify, defend, and hold the Grantee and the Department harmless from and against any and all claims or demands for damages resulting from personal injury, including death or damage to property, arising out of or relating to the Property or the use of the Grant money.

13. Sub-Grantee shall return to Grantee and Grantee shall return to the Department any portion of the Grant money received that is not necessary for the cost of the improvements, renovations, and personalty, for which the Grant was awarded.

14. At all times in which Grant money is being disbursed and during any term or period of construction or renovation of improvements on the Property and until such time as the Grant money is fully and properly spent according to the Grant Agreement and any agreement governing the sub-grant, the Sub-Grantee and the Grantee shall each obtain a blanket fidelity bond, in the amount of the Grant, issued by a company authorized and licensed to do business in this state and approved by the Department, which will reimburse the Department in the event that anyone handling the Grant moneys either misappropriates or absconds with the Grant moneys, and in form requiring the surety to give the Department at least 30 days prior written notice of any intent to cancel or not renew the bond. All employees handling the Grant moneys must be covered by the bond.

15. If any obligation hereunder, under the Grant Agreement, or under any agreement governing the sub-grant is not timely paid or performed, or in the event of any breach of any warranty hereunder, under the Grant Agreement, or under any agreement governing the sub-grant, in addition to all other remedies, the Department may, but is not obligated to, pay or perform the obligation and cure the breach and the costs thereof shall bear interest at the highest rate permitted by law. Such costs and interest thereon shall be secured by this instrument and be immediately due and payable and paid by Sub-Grantee and/or Grantee to the Department upon demand by the Department.

16. If any action or proceeding is commenced that in the opinion of the Department would materially affect the Department's interest in the Property, the Department may, but is not obligated to, take any actions the Department deems appropriate to protect its interest in the Property and the costs thereof shall bear interest at the highest rate permitted by law. Such costs and interest thereon shall be secured by this instrument and be immediately due and payable and paid by Sub-Grantee to Grantee and by Grantee to the Department upon demand by the Department.

17. Sub-Grantee and Grantee warrant that (a) it is a Florida corporation not-for-profit organized and existing under the Florida Not For Profit Corporation Act and exempt from taxation under Section 501(C)(3) of the United States Internal Revenue Code of 1987, (b) all persons or firms having any ownership interest in the Property have joined in the execution and delivery of this instrument and have good and marketable fee simple title to the Property free and clear of all other liens and encumbrances other than governmental taxes, assessments, and charges not yet due and payable and any other matter consented to by the Department in writing, (c) each of the undersigned executing this instrument on its behalf has the full right, power, and authority to execute and deliver this instrument to the Department and this instrument has been validly executed by each of them, (d) this instrument constitutes a valid lien and encumbrance on the good and marketable fee simple title to the Property and the good and marketable title to the property encumbered by the security interest under the Florida Uniform Commercial Code-Secured Transactions granted by this instrument, including without limitation the property

described in Exhibit "B" attached hereto, free and clear of all other liens and encumbrances other than governmental taxes, assessments, and charges not yet due and payable and any other matter consented to by the Department in writing, and (e) with the exception of such matters they will defend the title to the Property and such other property and the priority of the lien of this instrument thereon against the claims of all other persons or firms.

18. Upon (a) the failure of any obligation under this instrument, the Grant Agreement, or any agreement governing the sub-grant, to be timely paid and performed and/or the breach by the Grantee and/or Sub-Grantee of any term or condition under this instrument, the Grant Agreement, or any agreement governing the sub-grant; (b) the death or dissolution of any of the undersigned; (c) the insolvency of any of the undersigned, the appointment of a receiver for any part of the property of any of the undersigned, any assignment by or on behalf of any of the undersigned for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against any of the undersigned; or (d) any attempt by any governmental agency or entity, any other person or entity that has the power to exercise the power of eminent domain, or any creditor, to attach, levy upon, garnish, or take the Property or any portion or proceeds thereof, the Department may, at its option, declare a default hereunder, declare all sums and obligations hereunder, with interest thereon as hereafter provided, to be immediately due and payable, and exercise any all remedies therefor available at law, in equity, or under this instrument. From and after the date that the Department declares any such default hereunder all sums due hereunder shall bear interest at the highest rate permitted by law. A default under this instrument, the Grant Agreement, or any agreement governing the sub-grant shall be a default under each and all such instruments.

19. Without limitation, such remedies include (a) regardless of whether or not the apparent value of the Property exceeds the amount of the obligations secured hereby by a substantial amount, the right to have a receiver appointed to take possession of all or any part of the Property with the power to protect, preserve, operate and collect any rents from the Property preceding foreclosure or sale, and to apply the proceeds over and above the cost of the receivership, to the obligations secured hereby (the receiver may serve without bond if permitted by law), (b) judicial foreclosure of the interests of the undersigned, and (c) to the fullest extent permitted by law the right to obtain a judgment for any deficiency remaining in the sums secured hereby after the application of all amounts received by the Department from the exercise of any of the rights provided in this section 19, the foregoing section 18, and the following Section 20.

20. Without limiting the generality of any the foregoing, with respect to the security interest under the Florida Uniform Commercial Code-Secured Transactions, Chapter 679 F.S. granted by this instrument, the Department shall have all rights and remedies of a secured party under the Florida Uniform Commercial Code-Secured Transactions.

21. All of the Department's remedies hereunder are cumulative and may be exercised alone, together, or in any combination thereof.

22. Immediately upon demand by the Grantee the Sub-Grantee shall pay to the Grantee, and immediately upon demand by the Department, the Grantee shall pay to the Department all costs

of collection of the obligations and sums set forth herein after referral to a collection agency or attorney, including without limitation an attorney that is a salaried employee of the Grantee or the Department, and also including without limitation reasonable attorneys' fees at trial, on appeal, and in any insolvency proceedings, including without limitation the costs of an attorney that is a salaried employee of the Grantee or the Department, and all costs incurred by the Grantee and the Department in exercising its remedies hereunder. All such costs shall bear interest at the highest rate permitted by law and all such costs and interest thereon are part of the sums secured hereby.

23. The Grantee and Sub-Grantee are jointly and severally personally liable for and obligated to pay and perform, or caused to be paid and performed, and shall pay and perform, or caused to be paid and performed, when due, whether by acceleration or otherwise, all obligations and sums provided for under this instrument. Any other persons or entities who sign this instrument are doing so solely to, and do hereby, encumber, subject, and subordinate his, her, or its interest in the Property, whether as an owner of the real property encumbered by this instrument subject to, and as a lessor under, a lease in favor of the Sub-Grantee, by marital or homestead rights or otherwise, to the lien of this instrument and are not personally liable for or obligated to pay or perform any obligations and sums provided for under this instrument. All persons or entities, other than the Grantee and the Sub-Grantee, who sign this instrument, whether personally liable hereunder or not, agree that to the fullest extent permitted by law the Department may, without notice to and without his, her, or its consent, deal solely with the Grantee and/or Sub-Grantee by way of extension, modification, renewal, forbearance or otherwise make other accommodations with regard to the terms and provisions of and the obligations and sums under this instrument without affecting or impairing the personal liability of any party personally liable for the obligations and sums hereunder or the lien or priority of the lien of this instrument on the Property. Sub-Grantee agrees that to the fullest extent permitted by law the Department may, without notice to and without his, her, or its consent, deal solely with the Grantee by way of extension, modification, renewal, forbearance or otherwise make other accommodations with regard to the terms and provisions of the Grant without affecting or impairing the personal liability of the Sub-Grantee for the obligations and sums hereunder or the lien or priority of the lien of this instrument on the Property.

24. This instrument contains the entire agreements of the parties with respect to the matters covered hereby and may be modified or amended only by an instrument signed by whoever will be bound or obligated by the modification or amendment. No rights of the Department hereunder shall be construed to have been waived unless waived in writing by an instrument signed by the Department and any such written waiver shall not apply to any other right of the Department hereunder or any future exercise of any such rights waived in the written instrument unless so expressly stated in the written instrument signed by the Department.

25. This instrument shall be governed and construed by any applicable federal law and to the extent not preempted by federal law by the laws of the State of Florida without regard to its conflicts of laws provisions.

26. If any provision of this instrument is found by a court of competent jurisdiction to be invalid or unenforceable, or invalid or unenforceable in any particular circumstances, no such

invalidity or unenforceability shall affect or impair the validity or enforceability of such provision in other permissible circumstances or the validity or enforceability of any other provision of this instrument

27. Without the written consent of the Department recorded in the Public Records in the County in which this instrument is recorded, there shall be no merger of the interest or estate created by this instrument and any other interest or estate in the Property at any time held by the Department in any capacity.

28. This instrument shall inure to the benefit of and be binding upon the parties, their respective heirs, personal representatives, successors, and permissible successors in title and assigns, and in the event that any one or more of them hereafter become the owner of the Property the Department may, without notice to or consent by any of the undersigned, deal with any such owner or owners by way of extension, modification, renewal, forbearance or otherwise make other accommodations with regard to the terms and provisions of and the obligations and sums under this instrument without affecting or impairing the personal liability of any party personally liable for the obligations and sums hereunder or the lien or priority of the lien of this instrument on the Property.

29. Wherever used in this instrument all pronouns shall include the feminine, masculine, and neuter gender and the singular shall include the plural and vice versa.

30. Time is of the essence in the payment and performance of the obligations under this instrument.

By the acceptance of this instrument the Department agrees that it shall execute a satisfaction of this instrument in recordable form upon full compliance by the Grantee and Sub-Grantee with the all of the terms of this instrument.

All parties to this instrument hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

In witness whereof, this instrument has been executed as of the ___ day of _____, 2010.

The balance of this page is intentionally left blank. The signature and acknowledgement page follows.

SIGNATURE PAGE TO THE MORTGAGE LIEN AND SECURITY AGREEMENT FROM THE UNDERSIGNED TO THE FLORIDA DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Witness

Witness printed name

Witness

Witness printed name

Witness

Witness printed name

Witness

Witness printed name

Witness

Witness printed name

Witness

Witness printed name

Witness

Witness printed name

Witness

Witness printed name

Southernmost Homeless Assistance League, Inc.

By: _____

Printed Name

Title: _____

Address: 1100 SIMONTON STREET
KEY WEST FL 33040

Samuel's House, Inc.

By: _____

Printed Name

Title: _____

Address: 1614 TRUESDELL CT
KEY WEST FL 33040

Housing Authority of the City of Key West Florida

By: _____

Printed Name

Title: _____

Address: 1400 KENNEDY DRIVE
KEY WEST, FL 33040

City of Key West

By: _____

Printed Name

Title: _____

Address: 525 ANGELA STREET
KEY WEST, FL 33040

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was subscribed, sworn to, and acknowledged before me the ___ day of _____, 2010 by _____, the _____ of and for and behalf of Southernmost Homeless Assistance League, Inc. (**Grantee**). He or she is personally known to me or has produced _____ as identification.

(Seal)

Notary Public, State of Florida

Printed Name

My commission expires:

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was subscribed, sworn to, and acknowledged before me the ___ day of _____, 2010 by _____, the _____ of and for and behalf of Samuel's House, Inc. (**Sub-Grantee**). He or she is personally known to me or has produced _____ as identification.

(Seal)

Notary Public, State of Florida

Printed Name

My commission expires:

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was subscribed, sworn to, and acknowledged before me the ___ day of _____, 2010 by _____, the _____ of and for and behalf the Housing Authority of the City of Key West Florida (**Lessee**). He or she is personally known to me or has produced _____ as identification.

(Seal)

Notary Public, State of Florida

Printed Name

My commission expires:

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was subscribed, sworn to, and acknowledged before me the ____ day of _____, 2010 by _____, the _____ of and for and behalf of _____ (Fee Owner). He or she is personally known to me or has produced _____ as identification.

(Seal)

Notary Public, State of Florida

Printed Name

My commission expires:

EXHIBIT A

Legal Description

A parcel of land on the island of Key West, Monroe County, Florida and being part of the "Homeless Housing Tract" as shown on the "Boundary Survey" of Poinciana Housing by Frederick H. Hildebrandt drawing number "98-116", dated 2/9/98, revised 3/18/98, said parcel being more particularly described by metes and bounds as follows:

COMMENCING at the intersection of the Northerly Right of Way Line of Duck Avenue and the extension of the Easterly Right of Way Line of 16th Street as shown on "KEY WEST FOUNDATION COMPANY'S Plat No. 2" as recorded in Plat Book 1, at Page 189 of the Public Records of Monroe County Florida, said point also being the Southwest Corner of Lot 12, Block 19, of the said "KEY WEST FOUNDATION COMPANY'S Plat No. 2" and run thence N19°04'29"W as shown on said "Boundary Survey" by Frederick H. Hildebrandt for a distance of 446.44 feet; thence N70°10'02"E for distance of 202.62 feet to the Point of Beginning; thence continue N70°10'02"E for a distance of 100.00 feet; thence S19°49'58"E for a distance of 50.00 feet; thence S70°10'02"W for a distance of 100.00 feet; thence N19°49'58"W for a distance of 50.00 feet back to the Point of Beginning.

EXHIBIT B

MASTER DEVELOPMENT/LONG-TERM LEASE AGREEMENT

This Agreement is entered into this 28 day of April 1998, by and between the Key West Naval Properties Local Redevelopment Authority (LRA) having its principal office at 605 B Simonton Street, Key West, FL 33041, and the Housing Authority of the City of Key West herein after referred to as the Housing Authority, having its principal offices at 1400 Kennedy Drive, Key West, Florida 33045.

WITNESSETH

WHEREAS, in 1995, the Key West Naval Air Station (KWNAS) was designated for realignment by the Federal Base Realignment and Closure Commission (BRAC) pursuant to the Defense Closure and Realignment Act of 1990, Public Law 101-510, as amended; and

WHEREAS, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (the Redevelopment Act) was designed to accommodate the overall needs of communities impacted by the closure of a Military base, while still addressing the needs of homeless individuals and families; and

WHEREAS, on September 27, 1995, certain land and facilities at the Key West Naval Air Station were declared "excess" by the Department of the Navy for use by non-federal public agencies, eligible non-profit groups, and homeless providers for public benefit purposes; and

WHEREAS, in 1996 the City of Key West established the Key West Local Redevelopment Authority (LRA), among other things, to develop a Base Reuse Plan for the properties "excessed" by the Navy; and

WHEREAS, the Redevelopment Act requires the local LRA to develop a Plan that "appropriately balances the needs for economic redevelopment, other development and homeless assistance"; and

WHEREAS, in accordance with the federal regulations governing the BRAC process, the LRA solicited Notices of Interest (NOI's) from public agencies, homeless providers, and other persons interested in the surplus federal property; and

WHEREAS, the citizen participation process used to evaluate the Notices of Interest (NOI's),

establish the needs, and determine the proposed uses of the surplus Naval property, was one of the most extensive public processes ever conducted in the City of Key West; and

WHEREAS, this process culminated in the preparation of a Base Reuse Plan/Homeless Assistance Submission (HAS) that reflects the needs and desires of the Key West citizenry; and

WHEREAS, short-term, transitional, and permanent housing were identified for the Poinciana Housing Site, with specific units allocated to homeless persons with special needs; and

WHEREAS, the Base Reuse Plan/ Homeless Assistance Submission (HAS) recognized the Housing Authority as the primary provider of affordable housing, possessing extensive experience managing both permanent and transitional housing; and

WHEREAS, the Base Reuse Plan/HAS stipulated that the Key West LRA enter into a Legally Binding Agreement with the Housing Authority with the stipulation that the Housing Authority, in conjunction with the "Homeless Coalition", provide as set forth in this agreement, for the "gaps" in the Key West Continuum of Care for the Homeless; and

WHEREAS, the Base Reuse Plan/Homeless Assistance Submission were unanimously adopted by the Key West Local Redevelopment Agency on September 16, 1997; and

WHEREAS, the Housing Authority has a close working relationship with the City of Key West and both parties mutually desire to enter into this Agreement in order to address the City's affordable housing and homeless needs; and

WHEREAS, the intent of both parties to this Agreement is to undertake a community-wide effort with financial contributions from other entities, both public and private, to meet the needs and fill the "gaps" in the Key West Continuum of Care as outlined in the adopted short-term, transitional, and permanent housing which were identified for the Poinciana Housing Site; and

WHEREAS, the parties to this agreement acknowledge that not every "gap" identified in the Base Reuse Plan/HAS can be achieved through the BRAC process; rather, the LRA and the Housing Authority view this effort as a part of the overall Monroe County Continuum of Care, in that the needs of the Homeless can

not be addressed solely as a local effort, and cannot fall solely on the shoulders of the City Government. This initiative is viewed as the beginning of a process that must be developed over time and with resources beyond that which are currently available.

NOW THEREFORE, the parties mutually enter into this Agreement and agree to the following terms and conditions:

SECTION I - DEFINITIONS:

Definitions pertinent to this Master Development/Long-Term Lease Agreement are attached as Exhibit #1, and are incorporated as a legally binding part of this Agreement.

SECTION II - POINCIANA HOUSING SITE:

The parties agree that the Poinciana Housing site, a 36.2 acre site bounded on the north by Donald Avenue, on the east by 19th Street, on the south by Duck Avenue, and on the west by other residential development, and which includes 50 multi-family residential buildings (212 units ranging from two to four bedrooms), totalling approximately 252,000 square feet, as well as a mangrove-intrusive lake, as shown on the attached map and as legally described in Exhibit #2, attached hereto and expressly made a part hereof, shall be developed as affordable housing, both rental and home ownership, as well as housing and related services to serve the homeless special needs populations identified in the Base Reuse Plan/Homeless Assistance Submission as adopted by the Key West Local Redevelopment Agency on September 16, 1997, incorporated by reference as a legally binding part of this Agreement. It is understood between the parties that Homeless Coalition is to be responsible for the funding and implementation of the housing and related services to serve the homeless as identified in said submission.

SECTION III - ROLE OF THE LRA:

The City of Key West LRA will negotiate with the Military for the transfer of the Poinciana Housing Site, contemplating a "Homeless Assistance Conveyance" at no cost, for those buildings outlined in the Base Reuse Plan/HAS which are designed to serve the Key West Continuum of Care for the Homeless. Upon completion of this property transfer, the LRA will hold title to the entire site in fee simple. The LRA herewith

designates the Housing Authority as the Master Developer/Lessee of the entire Poinciana Housing site. The LRA will maintain sufficient involvement throughout the development process, in order to ensure that the provisions of the Base Reuse Plan/HAS regarding use of the "excessed" property by the non-profit homeless service providers, are fully met. It is the intent of the LRA to conform to the Key West Continuum of Care for the Homeless as identified in the Base Reuse Plan/HAS.

The Housing Authority understands and agrees that the LRA is entering into this Master Development/Long-Term Lease Agreement in its capacity as a property owner with a proprietary interest in the premises and not as a regulatory agency with police powers. Nothing in this Agreement shall limit in any way the Housing Authority's obligation to obtain any required approvals from City departments, boards, or commissions having jurisdiction over the site. By entering into this Agreement the LRA is in no way modifying or limiting the Housing Authority's obligation to cause the premises to be used and occupied in accordance with all applicable laws.

SECTION IV - ROLE OF THE HOUSING AUTHORITY:

The Housing Authority shall serve as the Master Developer and Lessee of the Poinciana Site. This Agreement contemplates the management and administration of affordable housing, both rental and homeownership, by the Housing Authority. The Housing Authority will be responsible for bringing those buildings which it intends to utilize and/or operate for affordable rental and/or homeownership opportunities (i.e. those units not designated for use by the "Homeless Coalition"), up to current building codes by renovation, if possible, or replacement, if necessary. The Housing Authority will also undertake the new construction of an additional 16 infill housing units on the Poinciana site. The Housing Authority shall utilize these building permits that it currently has in its possession as authorized by the City's ROGO Ordinance, for the development of the new affordable housing units to be constructed on the Poinciana site. The number and type of units are specified in Exhibit # 3, and are a legally binding part of this Agreement.

The Housing Authority will obtain all necessary occupancy permits and perform any and all work necessary to obtain occupancy permits including utility metering, renovations and improvements to the

premises at its own sole expense. The exteriors of the facilities, including paint colors and overall appearance, shall be maintained in a manner that is acceptable to the LRA.

The Housing Authority must make available the prescribed number of units identified in Section IX of this Agreement, to serve the homeless, either at the Poinciana site, or at some other appropriate location, using its own housing stock or other acceptable facilities. This will be accomplished through sub-leases with homeless service providers, which are subject to the prior review and approval of the LRA. All sub-leases will be subordinate to, and be required to comply with, the terms of this Master Development/Long-Term Lease Agreement.

The LRA and the Authority agree to use their best efforts to identify, obtain and provide the Authority with the initial funding necessary to implement the terms of this agreement. At such time as the Authority receives income, loans, grants or other funding the Authority agrees to reimburse the LRA to the extent allowed by law and its budget. It is the intent of this paragraph to acknowledge that on the turnover date there will be expenses such as insurance, security and initial repairs to the units to put them in a condition to rent that neither the authority or the LRA have budgeted funds to cover.

The Housing Authority will be responsible for maintaining or obtaining security (subject to the terms of Section V below) for the entire Poinciana site.

SECTION V - ROLE OF THE "HOMELESS COALITION":

The following "Homeless Coalition" provider members, listed in alphabetical order, will participate in the Key West Continuum of Care for the Homeless:

- AIDS Help, Inc.
- David Nolan Memorial Foundation
- Domestic Abuse Shelter (DAS)
- Easter Seals Society
- Florida Department of Children and Families (Sub-Area 11-B)
- Florida Keys Outreach Coalition (FKOC)

- Florida Keys Children's Shelter
- Good Samaritan Ministries (Glad Tidings Tabernacle)
- Healthy Start Coalition
- Helpline
- Key West Alliance of Mental Health
- Monroe Association of Retarded Citizens (MARC House)
- Monroe County Health Department
- Substance Abuse Center
- The Salvation Army
- U.S. Fellowship of Florida (The Heron)
- Veterans Assistance Foundation
- Wesley House

The "Homeless Coalition" shall select the specific service providers from among its member agencies listed above, to address the needs of the homeless populations as identified in Section IX of this Agreement. The "Homeless Coalition" will ensure that such providers are properly licensed and/or certified for the provision of the applicable service to the homeless special-needs populations. Since the specific units and services designed to address the Key West Continuum of Care for the Homeless as identified in Section IX of this Agreement, was accepted as a component of the Base Reuse Plan/HAS following formal public hearings, no such amendment to this Plan shall be made without formal approval of the Key West LRA.

The Housing Authority shall then enter into sub-leases with those homeless providers designated by the "Homeless Coalition", in conformance with the Base Reuse Plan/HAS. The "Homeless Coalition" will also ensure that the agencies selected to render services at the Poinciana site under a sub-lease with the Housing Authority, submit a financial/operational plan for review by the LRA and Housing Authority prior to the execution of such sub-lease.

The "Homeless Coalition" shall be required to provide adequate services designed to break the cycle of homelessness and economic dependence and make the transition toward economic independence. Services to be offered shall include, but are not limited to: short-term, transitional and permanent housing as specified in Section IX of this Agreement; affordable child day care; job training and referral; stabilization of

personal affairs; and psychological counseling. The specific terms of the services to be provided shall be spelled out in the individual sub-lease agreements between the Housing Authority and the "Homeless Coalition's" service providers.

The "Homeless Coalition's" service providers shall be responsible under the terms of their sub-leases, for any applicable rehabilitation/modification/construction costs necessary to retrofit the Poinciana buildings for their intended use. The homeless providers may elect to engage the Housing Authority to undertake such renovations on their behalf, or may choose to undertake such actions on their own. Should, however, the homeless providers choose to undertake such renovations independently, the Housing Authority shall have the right to review and approve all applicable plans and specifications, in order to maintain consistency and overall design control of the Poinciana site. The Housing Authority shall not however, be arbitrary in imposing any restrictions or requirements that are construed as onerous on the service providers, or that could cause an undue economic hardship on such providers. In any case, the individual homeless service providers must bear all costs associated with renovating their leased space, in a manner that is consistent with all applicable building and related codes and ordinances.

Additionally, the homeless service providers may either compensate the Housing Authority for their proportionate share of the actual certified maintenance/upkeep (which includes the cost of security) costs of the leased property, or may retain their own independent maintenance and/or security services. If selected to undertake this responsibility, the Housing Authority must allocate reasonable maintenance and security costs based on actual audited expenditures, that will not impose an unreasonable economic hardship on the homeless providers.

If any homeless assistance provider cannot gain funding to operate the project as proposed herein, or if a homeless provider disbands prior to the transfer of the property to the Housing Authority the "Homeless Coalition" shall within 90 days recommend, in writing, an alternative "service plan" for the use of the affected building or facility, and shall evidence a potential source of funding for operations. The LRA and the Housing Authority must mutually agree as to the terms of any subsequent sub-lease not now contemplated under this

Agreement. If the LRA and Housing Authority determine that the subsequent reuse of the facility is not feasible to serve the homeless, it may convert the use of the building to another affordable housing type, either rental or home ownership.

SECTION VI - TERMS OF AGREEMENT:

This Agreement shall be deemed effective upon being duly executed by both parties. The LRA herein leases the entire Poinciana housing site, less building numbers #1644 and #1655 to be occupied by the National Parks Service, to the Housing Authority for fifty (50) years (subject to compliance with the City of Key West Charter and Ordinances) at the nominal rate of one dollar (\$1.00) per year. As time is of the essence in providing critically needed affordable housing, the Housing Authority must initiate renovations of the affordable housing units slated for rental and homeownership, within nine (9) months from the date the LRA obtains possession property and gives possession to the Authority (herein referred to as the turnover date) and shall complete such renovations within eighteen (18) months from the date construction/renovation is initiated. The parties recognize and agree that these operative dates may need to be adjusted due to affordable housing financing requirements. The units slated for homeownership, which are to be newly constructed, are intended to be available for eligible first-time home buyers within 3 years from the turnover date. The LRA shall provide the necessary documentation to release the homeownership and rental units from this lease, as required by financing.

SECTION VII- POINCIANA HOUSING SITE - AS IS CONDITION:

The Housing Authority acknowledges and agrees that the premises are being leased and accepted in their "as is" condition, without representation or warranty of any kind, and subject to all applicable laws, rules and ordinances governing their use, occupancy and possession. The Authority shall have six (6) months from the turnover date (the inspection period) to conduct the investigations contemplated by this paragraph. It shall be the Housing Authority's obligation to investigate and inspect the premises (either independently or through agents of its choosing) the condition of the premises and the suitability of the premises for the Housing Authority's intended use. The Housing Authority acknowledges and agrees that neither the LRA nor

any of its agents have made, and the LRA hereby disclaims, any representations or warranties, expressed or implied, concerning the premises, the physical or environmental condition of the premises or the property, the present or future suitability of the premises for the KWA's intended use, or of any matter whatsoever relating to the premises, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose. In the event the Housing Authority determines that the property is not suitable for its intended use because of physical conditions, lack of funding, or that the project is not feasible, the Authority may terminate this agreement. In this event each party shall be released from any further liability hereunder.

SECTION VIII- POINCIANA HOUSING SITE - USE AND CONFIGURATION:

The central goal of the Poinciana Plan is the reuse of existing structures located on the site, introducing moderate infill development where appropriate, creating essential affordable housing, addressing homeless needs, and creating a liveable neighborhood that is well integrated into the surrounding community. The total number of proposed dwelling units for the Poinciana site is 229 units (including buildings #1644 and #1655 which are dedicated to the Parks Service), of which 16 are new infill units.

The buildings that will be dedicated to the Homeless Continuum of Care are primarily located east of Dunlap Drive (excluding the child day care center), and include the Truesdale Court and Spaulding Court housing complexes. The specific buildings requested under the "Homeless Assistance Conveyance", and which the Housing Authority shall make available to the Homeless Coalition service providers, follow:

- Building #1614 transitional housing
- Building #1615 transitional housing
- Building #1616 transitional housing
- Building #1617 transitional housing
- Building #1618 transitional housing
- Building #1619 transitional housing
- Building #1620 transitional housing
- Building #1621 transitional housing
- Building #1622 transitional housing
- Building #1623 transitional housing
- Building #1624 transitional housing
- Building #1625 transitional housing
- Building #1626 transitional housing
- Building #1661 child day care center

- * Building #1662 child day care center

In addition to the above, and consistent with the base Reuse Plan, the Housing Authority shall provide the space for the following facilities that will contribute to the Key West Continuum of Care for the Homeless, on the Poinciana site:

- * A new human services facility, with a separate point of ingress, to be provided in the southwest portion of the site;
- * A recreation center which will provide administrative office space for the KWA and meeting space for the non-profit service providers and other organizations (and which could also serve as a hurricane center), to be located near the center of the site (adjacent to the ecological preserve);
- * A church is contemplated for the vacant parcel southwest of the community center.
- * A Police sub-station is contemplated for Building #1663.

Nothing in this Agreement shall be construed so that the Housing Authority is obligated to develop and/or maintain the above described support facilities and/or services with it's own funds; but rather, the Housing Authority shall ensure that sufficient space is allocated and available for use by those entities selected by the LRA to develop such supportive facilities on the Poinciana site. The Housing Authority agrees to coordinate it's efforts in this regard.

The balance of the Poinciana site will be used as both rental and homeownership affordable housing opportunities. The number and type of such units is specified in Exhibit # 3 of this Agreement. In compliance with Florida Statute Chapter 421 and federal fair housing initiatives, the Housing Authority will develop written tenant and home buyer selection procedures that are acceptable to the LRA, to be used in providing rental or home ownership units at the Poinciana site.

SECTION IX - PROPOSED SHORT-TERM/TRANSITIONAL AND PERMANENT HOUSING:

A total of fifty (50) units of short-term and transitional housing for homeless persons with special needs is to be provided either at the Poinciana site as identified in Sec. VIII above, or, if available, at some

other appropriate location, using the Housing Authority's own housing stock or other facilities that are mutually acceptable to the "Homeless Coalition" and the LRA, as follows:

Housing Type	Proposed Clients to Be Served	Proposed Number of units and Unit Configuration
Transitional/ short-term housing	24 men with alcohol/ substance abuse	10 units - two dormitories, each for 8 men (16 total); 4 two-bedrooms (8 men); 3 staff bedrooms.
Transitional housing	10 women and 6 women/children	8 units - one dormitory to serve 8 women, and 4 two-bedrooms units to serve 8 women/children.
Transitional/ permanent housing	18 units to serve 12-24 men/ women with mental illness and alcohol/substance abuse	18 units - Three 4-bedroom units (12), two 2-bedrooms (4-8) and 1-staff unit (This facility meets the needs of veterans with PTS)
Transitional housing for women and women/children	9 families/victims of domestic abuse	10 units (family) each 2/3 bedroom, and 1 staff unit
Transitional housing for disabled persons	4-8 physically disabled clients	4 units - Two 2-bedroom apartments (note also needs occupational therapy space)

Note: If property yet to be identified off-base is to be offered, the Master Development Agreement must adequately describe the requirements for the property (size, zoning, etc.) when it will be transferred, and what will happen if suitable property is not found within a specific period of time.

If the Housing Authority proposes to offer sites to the homeless providers other than at Poinclana, the LRA must concur that the units are "comparable" for the purposes of fulfilling the Key West Continuum of Care for the Homeless. The sub-leases will be comparable in both length/duration and cost, to this Master Development/Long-Term Lease Agreement between the LRA and the Housing Authority i.e. the leases with the homeless providers shall also be long-term, nominal leases.

SECTION X- ASSISTANCE TO THE HOMELESS:

To the extent feasible, the Housing Authority through its own programs, will provide homeless individuals and families with assistance in obtaining appropriate supportive services, including permanent

housing, and other services essential for achieving independent living e.g. Project Safeport.

SECTION XI - CONDITIONS OF SERVICE:

The KWA hereby agrees to the following:

- A. The rental housing developed on the Poinciana site shall serve income-eligible persons living within the City of Key West, in accordance with the guidelines established by the U.S. Department of Housing and Urban Development (HUD), or other Local, Federal and State agencies that provide financial assistance and/or financial inducements for the provision of affordable housing initiatives and in accordance with an Occupancy and Administration Policy to be developed by the Authority and approved by the LRA. The homeownership housing shall be governed by the Housing Authority's "Homeownership Affordability Policy" attached hereto as Exhibit # 4, and made a fully binding part of this Agreement.
- B. The Housing Authority shall maintain in its files, the documentation on how it determines that the assisted housing benefits income-eligible persons according to the policies referred to in Paragraph A above.
- C. The Housing Authority shall certify that no person shall be denied the benefits of the housing programs provided at the Poinciana Housing site, on the grounds of race, color, sex, or national origin.

SECTION XII - ENVIRONMENTAL:

In the event that an environmental review conducted under 92.45 (a), subsequent to HUD approval, indicates that the Poinciana housing site is not suitable for the intended purposes, the LRA may terminate this agreement. The LRA acknowledges that the number of units necessary to meet the needs of the homeless special needs populations is fifty (50) short term, transitional and permanent units as identified in Section IX of this agreement. The LRA agrees in "good faith" to seek replacement dwellings suitable to the "Homeless Coalition" which can address the "gaps" in the Continuum of Care. The Authority agrees to furnish

technical assistance to the LRA, at no cost to the Authority.

SECTION XIII - FIRST AMENDMENT CHURCH/STATE PRINCIPLES:

The Housing Authority shall include in its sublease with the "Homeless Coalition" the covenant set forth in this Section, and the "Homeless Coalition" Service Providers entering into sub-leases for the Poinciana site, shall comply with First Amendment Church/State principles, as follows:

1. Will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion.
2. Will not discriminate against any person applying for housing assistance or public services related to the Poinciana housing site on the basis of religion, and will not limit such services or give preference to persons on the basis of religion.
3. Will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services.

SECTION XIV - COMPLIANCE WITH LOCAL, STATE, AND FEDERAL LAWS:

The Housing Authority agrees to comply with all federal regulations as they may apply to the administration of the housing programs to be developed at the Poinciana site. Additionally the Housing Authority will comply with all Federal, State and local laws and ordinances hereto applicable.

SECTION XV - CONFLICT OF INTEREST:

The parties to this Agreement covenant that no person under their employ who personally exercises any functions or responsibilities in connection with the housing programs to be provided at the Poinciana housing site, has any personal interests, direct or indirect, in this Agreement. The Parties further covenant that in the performance of this Agreement, no person having such conflicting interest shall be employed. The Housing Authority covenants that it will comply with the State Statutes governing conflicts of interest and must disclose, in writing, to the LRA, any possible conflicting interest or apparent impropriety that is covered

by the above provisions. This disclosure shall occur immediately upon knowledge of such possible conflict. The LRA and/or the City of Key West will then render an opinion that shall be binding on both parties.

SECTION XVI - AUDIT AND INSPECTIONS:

Upon reasonable notice, during normal business hours and as often as the LRA and/or federal government representatives may deem reasonably necessary, there shall be made available to the LRA to review, inspect or audit, all records, documentation, and any other data relating to all matters covered by the Agreement.

SECTION XII- TERMINATION:

If the Housing Authority fails to develop the housing and related services contemplated in this Master Development/Long-Term Lease Agreement, the LRA shall give the Housing Authority 30 days written notice detailing non-compliance, and shall provide a reasonable cure-period to the Housing Authority. If the Housing Authority fails to cure during this reasonable period, the LRA shall be entitled to terminate the Housing Authority's interest in the property and the Housing Authority's interest shall revert to the LRA. Upon reversion of the property to the LRA, if the Homeless Providers are continuing operation within the context of their individual sub-leases, the LRA shall continue to allow the service providers to operate their facilities for the term of their applicable sub-lease. It is understood between the parties that the Authority is a body politic under F.S. 421 with no funding sources other than revenues from operating public housing and therefore the LRA's sole remedy is to terminate this agreement or for non-monetary breaches the LRA may sue for specific performance.

No new initiatives may be undertaken during the termination period.

SECTION XIII - REVERSION OF ASSETS:

If at any time, the LRA determines that the needs of the homeless have been met in a manner which would render a service provider sub-lease unnecessary, or if the sub-lessee wishes to terminate the lease for any cause, the property will revert to the Housing Authority as the Master Developer/ Lessee and will be added to the inventory of affordable housing, and may not be used as market rate housing. No building will

be taken out of use within the "Continuum of Care" without the prior approval of the Key West LRA.

SECTION XIX- INSURANCE:

The Housing Authority, at its sole cost, shall procure and keep in effect at all times during the terms of this Agreement, public liability insurance in an amount not less than \$500,000 per occurrence and \$1,000,000 aggregate and shall further keep the improvements and buildings (which are being utilized and operated by the Authority) insured for their full insurable value with companies acceptable to the LRA.

Nothing contained in this subparagraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon the LRA's liability as set forth in Florida Statutes, Section 768.28.

SECTION XX- VENUE:

This Agreement shall be enforceable in Monroe County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Monroe County, Florida.

SECTION XXI - CONDITION PRECEDENT:

This Agreement is conditioned upon the LRA's successful completion of the transfer of ownership of the Poinciana housing site from the United States Navy to the Key West LRA. As a condition precedent to the obligations of the LRA set forth in this Agreement, the parties agree that the LRA must become the title holder of the Poinciana property. Should the LRA not receive such, this agreement shall become null and void.

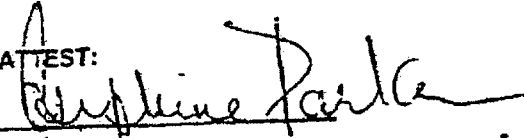
SECTION XXII- NOTICES:

All notices required under this Agreement shall be sent to the parties at the following address, with copies to the Office of the City Attorney:

LRA: William Harrison, Director
Redevelopment Agency
City of Key West
P.O. Box 1409
Key West, Florida 33041

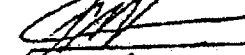
KWHA: Henry Haskins, Executive Director
Key West Housing Authority
P.O. Box 2476
1400 Kennedy Drive
Key West, Florida 33045

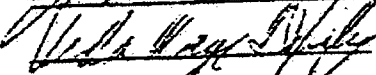
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officials on the day and date first indicated above.

ATTEST:


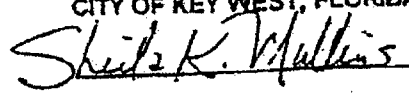
Christine Parker
City Clerk

WITNESSES:

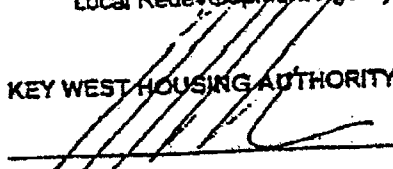




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CITY OF KEY WEST, FLORIDA


Sheila K. Mullins, Chairman
Local Redevelopment Agency

KEY WEST HOUSING AUTHORITY


Henry Haskins, Executive Director

KEY WEST HOUSING AUTHORITY



Frank P. Toppino
Chairman