

RESOLUTION NO. 24-255

**A RESOLUTION OF THE CITY COMMISSION OF  
THE CITY OF KEY WEST, FLORIDA, APPROVING  
THE ATTACHED "POINCIANA GARDENS FUNDING  
INTERLOCAL AGREEMENT" BETWEEN MONROE  
COUNTY (COUNTY), THE CITY OF KEY WEST  
(CITY) AND THE HOUSING AUTHORITY OF THE  
CITY OF KEY WEST (KWH) FOR FY 2025;  
AUTHORIZING ANY NECESSARY BUDGET  
TRANSFERS OR ADJUSTMENTS; PROVIDING FOR  
AN EFFECTIVE DATE**

WHEREAS, in Resolution 13-256, the City encouraged KWH to develop and construct an assisted living facility at Poinciana Plaza, in Resolution 20-031 the City Commission acknowledged the significant management challenges faced by the Poinciana Gardens senior living facility, in Resolution 21-008 the City entered into an Interlocal Agreement that provided partial funding of the facility for FY 2021 and in Resolution 21-174 the City Commission provided partial funding of the facility for FY 2022-24; and

WHEREAS, the CITY and the COUNTY have committed to providing certain funding to KWH for FY 2025 for the continued operation of Poinciana Gardens.

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

Section 1: That the City Commission hereby approves  
the attached "Poinciana Gardens Funding Interlocal Agreement"  
between the City, the COUNTY and KWHHA to provide funding  
support for the KWHHA continuing operation of the Senior living  
facility at Poinciana Gardens for FY 2025.

Section 2: That funds in an amount up to \$300,000.00  
for this project shall be budgeted in General  
Government/Grants & Aid Account #001-1900-519-8100 for FY  
2025. Any necessary budget transfers or adjustments are  
hereby approved.

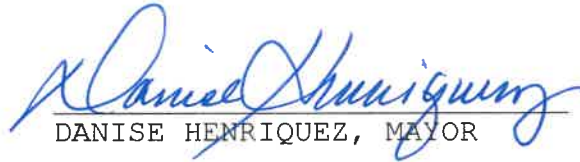
Section 3: That this Resolution shall go into effect  
immediately upon its passage and adoption and authentication  
by the signature of the Presiding Officer and the Clerk of  
the Commission.

Passed and adopted by the City Commission at a meeting held this 10th day of October, 2024.

Authenticated by the Presiding Officer and Clerk of the Commission on 10th day of October, 2024.

Filed with the Clerk on October 10, 2024.

Mayor Danise Henriquez	<u>Yes</u>
Vice Mayor Clayton Lopez	<u>Yes</u>
Commissioner Lissette Carey	<u>Yes</u>
Commissioner Monica Haskell	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Sam Kaufman	<u>Yes</u>
Commissioner Donald "Donie" Lee	<u>Yes</u>

  
DANISE HENRIQUEZ, MAYOR

ATTEST:

  
KERI O'BRIEN, CITY CLERK



## MEMORANDUM

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Date: October 10, 2024

To: Honorable Mayor and Commissioners

Via: Todd Stoughton  
Interim City Manager

From: Tina Burns  
Housing & Community Development Director

Subject: **24-6495 Request approval of the Poinciana Gardens Funding Interlocal Agreement between Monroe County (County), The City of Key West (City) and the Housing Authority of the City of Key West (KWH)**

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### Background

In 2013 at the request of the City of Key West through Resolution 13-256, the Key West Housing Authority constructed an Assisted Living Facility on Key West Housing Authority property located at 1664 Dunlap Drive, Key West, Florida to provide a vital community housing need for the residents of Key West.

Although KWH developed the project, the intent was for KWH to contract out the day-to-day operations and administration of the facility to a management company that had the knowledge and expertise to run an Assisted Living Facility. In February 2020, after failed contracts with two separate management companies due to low occupancy resulting in large financial losses, KWH took over the administration and day to day operations of Poinciana Gardens.

In February of 2020 the City passed Resolution 20-031 requesting the Monroe County Board of Commissioners to work cooperatively with the KWH to ensure the continued operations of Poinciana Gardens Assisted Living Facility.

In August of 2021 the City passed Resolution 21-174 that created the original Poinciana Garden Funding Interlocal Agreement between the County, City and KWH that provided funding to KWH for FY 2022 through 2024 for continued operations of the facility. The ILA committed financial support from the County and City up to \$400,000 for FY2022, \$300,000 for the FY 2023 and up to \$200,000 for FY2024.

In 2023 the KWH pursued funding from the State for FY24/25 budget for operation of the facility, but the item was eventually removed from the States' final budget when cuts were made. The Housing Authority continues to explore all possibilities for funding for the operations of the facility for the benefit

of the community but will require assistance from the County and City to keep services operational for FY25.

### **Procurement**

The City of Key West and Monroe County Board of County Commission shall each pay to the Key West Housing Authority (KWH) an amount up to \$300,000 for operations during fiscal year 2024.

The City will allocate an amount up to \$300,000.00 budgeted in the FY25 budget from Account # 001-1900-519-8100- General Aids to Government Agencies.

### **Recommendation**

Request the City Commission to approve the Poinciana Gardens Funding Interlocal Agreement between Monroe County, City of Key West and the Housing Authority of the City of Key West for continued financial operational support of the Poinciana Gardens Assisted Senior Living Facility; authorizing the City Manager to execute all necessary documents upon consent of the City Attorney; providing for an effective date.

RESOLUTION NO. 13-256

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, ENCOURAGING THE KEY WEST HOUSING AUTHORITY TO DEVELOP A REQUEST FOR PROPOSALS (RFP) FOR DEVELOPMENT OF AN ASSISTED AND INDEPENDENT LIVING FACILITY AT POINCIANA PLAZA OR ANOTHER SUITABLE SITE; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, there is a vital community need for an assisted living facility for the residents of Key West; and

WHEREAS, the Key West Housing Authority owns and manages property at Poinciana Plaza. Housing Authority property, along with City-owned property at Poinciana, could be utilized for important new assisted and independent living facilities; and

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

Section 1: That the Key West Housing Authority is hereby encouraged to develop an RFP and to issue it to the public to develop and construct an assisted and independent living facility at Poinciana Plaza, or another suitable site.

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 2nd day of October, 2013.

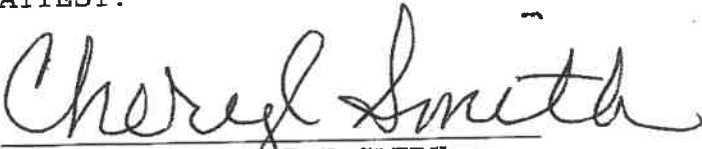
Authenticated by the Presiding Officer and Clerk of the Commission on 3rd day of October, 2013.

Filed with the Clerk on October 3, 2013.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Mark Rossi	<u>Absent</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

**POINCIANA GARDENS FUNDING**  
**INTERLOCAL AGREEMENT**

**THIS INTERLOCAL AGREEMENT** is made and entered into this 25<sup>th</sup> day of October, 2024 by and between MONROE COUNTY, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West, FL, 33040, (hereinafter “COUNTY”), the CITY OF KEY WEST, a municipal corporation of the State of Florida, whose address is 1300 White Street, Key West, Florida 33040 (hereinafter “CITY”), and the HOUSING AUTHORITY OF THE CITY OF KEY WEST, a body politic created by the City of Key West through F.S. 421.05 under the laws of the State of Florida, whose address is 1400 Kennedy Drive, Key West, Florida 33040 (hereinafter “KWH”).

WHEREAS, at the CITY’s request, KWH constructed an Adult Assisted Living Facility (ALF) known as Poinciana Gardens; and

WHEREAS, Poinciana Gardens was constructed on property owned by the KWH known as Poinciana Plaza; and

WHEREAS, KWH owns the land and improvements and administers the operation of Poinciana Gardens; and

WHEREAS, the CITY, the KWH and the COUNTY have expressed a shared interest in providing an ALF facility for the residents of the CITY and COUNTY; and

WHEREAS, Poinciana Gardens provides the senior citizens of Monroe County with the ability to age in place, by assisting with elder care needs such as well-being checks, around the clock caregiver services and supervision of medications; and

WHEREAS, Monroe County finds that providing these elder care services serve an invaluable public purpose for the senior citizens of Monroe Country; and

WHEREAS, on January 20, 2021 the COUNTY previously approved an initial interlocal agreement with the CITY and the KWH to provide funds for one (1) year (fiscal year 2021) for the operation of Poinciana Gardens; and

WHEREAS, the CITY, the KWH, and the COUNTY entered into a three (3) year funding agreement (the “Former ILA”) for the continued operation of Poinciana Gardens for fiscal years 2022, 2023, and 2024 on August 18, 2021. And in light of that, the COUNTY closed Bayshore Manor Assisted Living Facility in exchange for KWH accepting the residents of Bayshore Manor



Assisted Living Facility at below market rents with the understanding that the rent may be raised over time; and

WHEREAS, the Former ILA terminates on September 30, 2024, and the parties desire to continue their partnership in this project for one (1) more year; and

WHEREAS, the CITY, the KWH, and the COUNTY possess the requisite powers and authorities to contract in this manner pursuant to Section 163.01, et seq. "Florida Interlocal Cooperation Act of 1969;" and

WHEREAS, upon execution by all parties, this ILA or Agreement (used interchangeably throughout) shall be filed with the Clerk of the Circuit Court of Monroe County, Florida, pursuant to Section 163.01(11), Fla. Stat., as may be amended from time to time; and

WHEREAS, the CITY, the KWH, and the COUNTY find and determine the continuation of an assisted and independent living facility at Poinciana Gardens serves a vital community need and is in the best interest of public health, safety, and welfare.

NOW THEREFORE, in consideration of the mutual promises and conditions contained herein, the parties agree as follows:

1. **TERM.** The term of this ILA shall be for a period of one (1) year, beginning October 1, 2024 and terminating on September 30, 2025. Notwithstanding the date(s) of execution, this ILA shall relate back to October 1, 2024.
2. **FUNDING AND PAYMENT.** Contributions by the parties shall be as further described herein. KWH shall submit to COUNTY and CITY invoices with current financial statements acceptable to the County Clerk (for COUNTY) and the CITY on a MONTHLY schedule in arrears. Acceptability to the County Clerk and City is based on generally accepted accounting principles and such laws, rules and regulations as may govern the County Clerk's and City's disbursement of funds. To the extent required by law, each party's performance and obligation to pay under this ILA is contingent upon annual appropriations by that party's respective governing body.
  - a. The COUNTY shall provide \$600,000 payable to the KWH for ALF operations during fiscal year 2025. Said payments shall be made in 1/12 increments not later than 30 days after presentation of the invoice by KWH.
  - b. The CITY shall pay \$300,000 payable to the KWH for ALF operations during fiscal year 2025. Said payments shall be made in 1/12 increments not later than 30 days after presentation of the invoice by KWH.

- c. The KWHa shall contribute a minimum of \$300,000 during fiscal year 2025 for ALF operations. To the extent additional funding is required, the KWHa shall contribute additional funds towards ALF operations.
3. **MANAGEMENT.** The KWHa shall be solely responsible for the operation, management and administration of the Poinciana Gardens ALF facility. The COUNTY's and CITY's sole obligation and duty pursuant to this agreement is to provide the funding as set forth in the terms of this agreement.

The management and use/employment of COUNTY employees by KWHa shall require, and be governed by, a separate bi-lateral agreement between the COUNTY and the KWHa. Such agreement shall not be subject to approval by the City.
4. **RECORDS ACCESS AND AUDITS.** All parties shall maintain adequate and complete records for a period of five (5) years after termination of this Agreement. Each party, its officers, employees, agents and auditors shall have access to the other parties' books, records, and documents, related to this Agreement upon request. The access to and inspection of such books, records, and documents by the parties shall occur during regular office hours or as agreed.
5. **RELATIONSHIP OF PARTIES.** The parties to this ILA are independent of each other and shall at no time be legally responsible for any negligence on the part of the other parties, their employees, agents, or volunteers resulting in either bodily or personal injury or property damage to any individual, property or corporation.
6. **TAXES.** The parties are not subject to taxes and assessments.
7. **INSURANCE.** The parties to this agreement stipulate that each is a state or governmental entity as defined by the Florida Statutes and represents to the other that it has purchased suitable Public Liability, Vehicle Liability, and Workers' Compensation insurance, or is self-insured, in amounts adequate to respond to any and all claims under federal or state actions for civil rights violations, which are not limited by Florida Statutes Section 768.28 and Chapter 440, as well as any and all claims within the limitations of Florida Statutes Sections 768.28 and Chapter 440, as well as any and all claims within the limitations of Florida Statutes arising out of the activities governed by this agreement.
8. **PUBLIC RECORDS.** The parties are public agencies subject to Chapter 119, Florida Statutes, as amended from time to time. To the extent one of the parties is acting on behalf of another pursuant to Section 119.0701, Florida Statutes, as amended from time to time, that party must comply with all public records laws in accordance with Chapter 119, Florida Statutes. In accordance with state law, each party agrees to:
  - a. Keep and maintain all records that ordinarily and necessarily would be required by the public agency in order to perform the services.
  - b. Upon request from a party's custodian of public records, provide the requesting party with a copy of the requested records or allow the records to be inspected or

copies within a reasonable time at a cost that does not exceed the costs provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

- c. Ensure that public records that are exempt, or confidential and exempt, from public records disclosure are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the record-possessing party does not transfer the records to the other parties.
- d. Upon termination of this ILA, at no cost, either transfer to the other parties all public records or keep and maintain public records required by law to carry out the purposes of this ILA.

**IF THE PARTIES HAVE QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, FOR COUNTY -- BRIAN BRADLEY AT PHONE NO. 305-292-3470, BRADLEY-BRIAN@MONROECOUNTY-FL.GOV, MONROE COUNTY ATTORNEY'S OFFICE, 1111 12TH STREET, SUITE 408, KEY WEST, FL 33040; FOR KEY WEST – KERI O'BRIEN AT 305-809-3832, CLERK@CITYOFKEYWEST-FL.GOV, 1300 WHITE STREET, KEY WEST, FL 33040; FOR KEY WEST HOUSING AUTHORITY – LISSETTE CAREY AT 305-296-5621, CAREYL@KWAH.ORG, 1400 KENNEDY DRIVE, KEY WEST, FL 33040.**

If a party does not comply with this section, the non-breaching parties will enforce the Agreement provisions in accordance herewith and may unilaterally cancel this Agreement in accordance with state law.

9. **E-VERIFY REQUIREMENTS.** All parties acknowledge and confirm compliance with the requirements of Section 448.095, Florida Statutes, as amended, in relation to utilizing the E-verify system.
10. **HOLD HARMLESS.** COUNTY, as a state agency or subdivision defined in Section 768.28, Florida Statutes, agrees to be fully responsible to the limits set forth in such statute for its own negligent acts or omissions, which result in claims or suits against either COUNTY, KWAH or CITY, and agrees to be liable to the statutory limits for any damages proximately caused by said acts or omissions.

KWAH, as a political subdivision of the State of Florida, as defined in Section 768.28, Florida Statutes, agrees to be fully responsible to the limits set forth in such statute for its own negligent acts or omissions which result in claims or suits against either the KWAH, CITY or COUNTY and agrees to be liable to the statutory limits for any damages proximately caused by said acts or omissions.

CITY, as a political subdivision of the State of Florida, as defined in Section 768.28, Florida Statutes, agrees to be fully responsible to the limits set forth in such statute for its own negligent acts or omissions which result in claims or suits against either the CITY, COUNTY or KWH, and agrees to be liable to the statutory limits for any damages proximately caused by said acts or omissions.

Nothing contained in this Section shall be construed to be a waiver by any party hereto of any protections under sovereign immunity, Section 768.28, Florida Statutes, or any other similar provision of law or common law. Nothing contained herein shall be construed to be a consent by any party hereof to be sued by third parties in any matter arising out of this or any other Agreement.

11. **NON-DISCRIMINATION.** The parties, each for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that no person shall be discriminated against in the provision of services or award of contracts under this Agreement as provided under Federal and State law, and applicable local ordinance on the grounds of race, color, or national origin.

The Parties agree that there will be no discrimination against any person, and it is expressly understood that upon determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. The Parties agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VII of the Civil Rights Act of 1964 (PL 88-352), which prohibit discrimination in employment on the basis of race, color, religion, sex, and national origin; 2) The title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101-6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to the nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 12101), as amended from time to time, relating to nondiscrimination in employment on the basis of disability; 10) The Pregnant Workers Fairness Act (PWFA) pursuant to 42 U.S.C. 2000gg et seq., relating to protections surrounding pregnancy; 11) Monroe County Code Chapter 14, Article II, which prohibits

discrimination on the basis of race, color, sex, religion, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age; 12) Code of Ordinance of the City of Key West Section 38 Article III and Section 38-260; and 13) any other nondiscrimination provision in any Federal or state statutes which may apply to the parties to, or the subject matter of the Agreement.

12. **ASSIGNMENT.** No Party may assign this Agreement or assign or subcontract any of its obligations under this Agreement other than as specified without the approval of the governing boards of the other Parties. All the obligations of this Agreement will extend to and bind the legal representatives, successors and assigns of the Parties.
13. **GOVERNING LAWS / VENUE / ATTORNEYS FEES.** This Agreement is governed by the laws of the State of Florida and the United States. Venue for any dispute arising under this Agreement shall be exclusively in Monroe County, Florida. In the event of any litigation, the prevailing party is entitled to a reasonable attorney's fee and costs subject to the limitations of Section 768.28, Florida Statutes.
14. **ETHICS CLAUSE.** KWA and the CITY each warrant that it has not employed, retained or otherwise had act on its behalf any former COUNTY officer or employee subject to the prohibition of Section 2 of Ordinance No. 010-1990 or any COUNTY officer or employee in violation of Section 3 of Ordinance No. 010-1990. For breach or violation of this provision the COUNTY may, in its discretion, from the agreed payments or otherwise recover the full amount of any fee, commission, percentage, gift or consideration paid to the former COUNTY officer or employee.
15. **CONSTRUCTION.** This Agreement has been carefully reviewed by each of the parties. Therefore, this Agreement is not to be construed against any party on the basis of authorship.
16. **NOTICES.** Notices in this Agreement, unless otherwise specified, must be sent by certified mail to the following:  

COUNTY: County Administrator 1100 Simonton Street Key West, FL 33040	CITY OF KEY WEST: City Manager 1300 White Street Key West, Florida 33040
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KWA: Executive Director 1400 Kennedy Drive Key West, Florida 33040
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17. **FULL UNDERSTANDING.** This Agreement is the parties' final mutual understanding. It replaces any earlier agreements or understanding, whether written or oral. This Agreement cannot be modified or replaced except by another written or signed agreement.

18. **FILING.** Upon execution by all parties, this ILA must be filed with the Clerk of the Circuit Court of Monroe County, pursuant to Section 163.01(11), Fla. Stat., as may be amended from time to time.

IN WITNESS WHEREOF, each party has caused this Interlocal Agreement to be executed by its duly authorized representative.



ATTEST: KEVIN MADOK, CLERK

By: [Signature]  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By: [Signature]  
Mayor

Approved as to legal form & sufficiency:

Eve M. Lewis Digitally signed by Eve M. Lewis  
Date: 2024.10.29 13:13:41 -0400

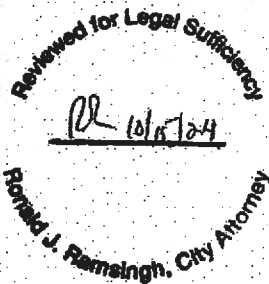
Assistant County Attorney



Deputy Clerk

CITY OF KEY WEST

By: [Signature]  
Mayor



HOUSING AUTHORITY OF THE CITY  
OF KEY WEST, FLORIDA

By: [Signature]  
Title: Executive Director

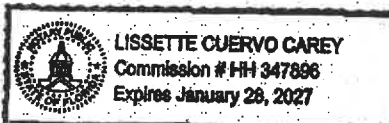
STATE OF FLORIDA  
COUNTY OF MONROE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 25<sup>th</sup> day of October, 2024, by Randy Sterling, Executive Director of the Key West Housing Authority. He is personally known to me/or has produced (type of identification) as identification.

FILED FOR RECORD

2024 NOV -5 AM 10:14

CLK, CIR. CL.  
MONROE COUNTY, FLA



Signature of Notary Public

(Print/Stamp Name of Notary Public)

18. **FILING.** Upon execution by all parties, this ILA must be filed with the Clerk of the Circuit Court of Monroe County, pursuant to Section 163.01(11), Fla. Stat., as may be amended from time to time.

**IN WITNESS WHEREOF**, each party has caused this Interlocal Agreement to be executed by its duly authorized representative.

(SEAL)  
ATTEST: KEVIN MADOK, CLERK

By: \_\_\_\_\_  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By: \_\_\_\_\_  
Mayor

Approved as to legal form & sufficiency:

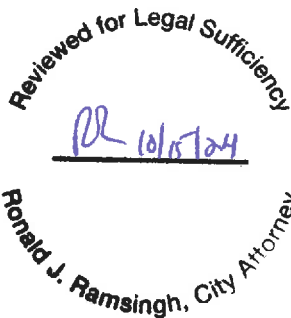
\_\_\_\_\_  
County Attorney



(SEAL)  
ATTEST:  
By: \_\_\_\_\_  
Deputy Clerk

CITY OF KEY WEST

By: \_\_\_\_\_  
Mayor



HOUSING AUTHORITY OF THE CITY  
OF KEY WEST, FLORIDA

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF MONROE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Randy Sterling, Executive Director of the Key West Housing Authority. He is personally known to me/or has produced \_\_\_\_\_ (type of identification) as identification.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
(Print/Stamp Name of Notary Public)