

RESOLUTION NO. 11-234

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE CITY OF KEY WEST TO ENTER INTO A REVOCABLE LICENSE AGREEMENT WITH THE STEAMPLANT CONDOMINIUM ASSOCIATION, INC. FOR LANDSCAPING AND MAINTENANCE OF A CITY-OWNED VACANT PARCEL ON TRUMBO ROAD; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Steamplant Condominium Homeowners Association, Inc. ("Association") possesses property adjacent to two vacant parcels of city-owned land; and

WHEREAS, the Association has offered to landscape the scarified City-owned property at no cost to the City; and

WHEREAS, the City Commission finds that landscaping the vacant property would enhance the Key West Bight vicinity, further local "green" initiatives, and benefit both residents and visitors;

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

Section 1: That the City Manager is hereby authorized to execute the attached Revocable License Agreement For Use of City Property for the landscaping and maintenance of vacant City

property on Trumbo Road, upon advice and consent of the City Attorney.

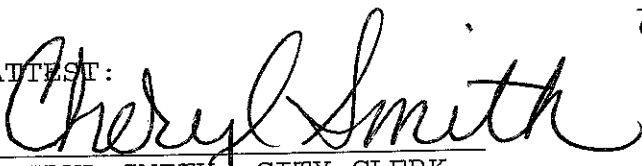
Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 2nd day of August, 2011.

Authenticated by the presiding officer and Clerk of the Commission on August 3, 2011.

Filed with the Clerk August 3, 2011.

ATTEST:


CHERYL SMITH, CITY CLERK


CRAIG CATES, MAYOR

EXECUTIVE SUMMARY



TO: Jim Scholl, City Manager
FROM: E. David Fernandez, Assistant City Manager
DATE: July 19, 2011
SUBJECT: **Authorizing the City of Key West City Manager to Enter into a License Agreement with the Steamplant Condominium Association, Inc.**

Action Statement:

Authorizing approval of this resolution by the City of Key West City Commission to enter into a license agreement with the Steamplant Condominium, Inc. providing for the landscaping and related maintenance of the City vacant land on Trumbo Road.

Background:

Parcels A & B adjacent to and in the vicinity of Steamplant, a Condominium Inc. has been used over the years for the storage of inoperable police vehicles. The police vehicles have been removed from the area and currently there are no plans to develop this area. The area is a blighted area accumulating dust, overgrown weeds with accompanying debris.

Purpose and Justification:

The purpose of this resolution is to enter into an agreement with the Steamplant Condominium Homeowners Association, Inc. for the installation and maintenance of 37 green buttonwoods, 19 royal palms and sod in such quantities, and height, as specified in the attached landscape plan; thereby improving the appearance of the land and maintaining natural scenery.

Steamplant Condominium, Inc. is solely responsible for all costs of any nature whatsoever associated with installing and maintaining the subject landscaping, including irrigation,

Options:

1. Authorize the approval of this resolution and enter into a license agreement with the Homeowners Association for the landscaping of Parcels A and B to enhance the appearance of this blighted area and coincide with our obligation to promote the green initiative at no cost to the City of Key West.
2. Do not authorize the approval of this resolution and leave Parcels A and B as is. This will allow dust to continue to accumulate in these scarified lots.

Financial Impact:

There would be no financial impact to the City of Key West.

Recommendation:

The Staff recommends approval of Option 1.

REVOCABLE LICENSE AGREEMENT FOR USE OF CITY PROPERTY

This License Agreement is made this 2nd day of August, 2011, by and between the City of Key West, Florida, a municipal corporation, 525 Angela Street, P.O. Box 1409, Key West, Florida, 33041 (hereinafter "Licensor") and Steamplant Condominium Association, Inc., a not-for-profit corporation organized pursuant to the laws of the State of Florida, (hereinafter "Licensee").

WITNESSETH:

WHEREAS, Licensee was formed for the specific purpose of providing for the maintenance, preservation, and architectural control of the condominium units and common elements within that certain condominium known as Steamplant, a Condominium, and to promote the health, safety and welfare of the residents within the condominium; and

WHEREAS, Licensor owns property located adjacent to and in the vicinity of Steamplant, a Condominium; and

WHEREAS, Licensor currently has no plan to develop the subject property, and;

WHEREAS, Licensor desires to landscape the subject property pending development; and

WHEREAS, the Licensee desires to enhance the view from condominium units within Steamplant, a Condominium which overlook Licensor's property; and

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

NOW, THEREFORE, the parties agree as follows:

1. The Licensor hereby grants to the Licensee a revocable and non-assignable license to enter in, on, over, and across the land described in Exhibit A, which is attached hereto and incorporated by reference, for use by the Licensee, its representatives, agents, contractors and assigns for the purpose of installing and maintaining 37 green buttonwoods, 19 royal palms, and sod in such quantities, height, and locations as depicted on the Planting Plan attached hereto, incorporated by reference, and more particularly described as Exhibit B; subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the Licensor, its successors and assigns, all such right, title, interest and privilege as may be used and enjoyed without interfering with or abridging the rights and right-of-entry hereby acquired.

2. In consideration for the grant of license in paragraph 1 herein above, Licensee herein expressly agrees to be solely responsible for all costs of any nature whatsoever associated with installing and maintaining the subject landscaping, including irrigation. Further, Licensee herein expressly agrees to mow the sod installed on the subject property no less than once every three months. In addition, Licensee herein expressly agrees to maintain the landscaping and the property in an orderly fashion, including the removal of palm fronds and irrigation necessary to insure adequate growth.

3. If any action of the Licensee's employees or agents in the exercise of this License results in damage to the property, the Licensee will either repair such damage or make a settlement acceptable to the Licensor. In no event shall such repair or settlement exceed the fair market value of the fee title to the real property at the time immediately preceding such damage.

4. This License is personal to Licensee and may not be assigned or transferred. Licensor shall have the right to terminate this License with or without cause upon thirty (30) days written notice to Licensee at the following address:

201 Front Street
Suite 224
Key West, FL 33040

Although Licensor may terminate this License with or without cause, in the event Licensor determines to change the present use of the subject property and utilize same for any purpose whatsoever, Licensor shall provide notice of termination to Licensee as provided for herein above.

5. In the event the Licensor terminates this License, upon the effective date of the termination, Licensee's obligation to maintain the subject landscaping shall cease and, thereafter, Licensee shall have no obligation to tender the annual fee referred to in paragraph 9 below. Further, in the event Licensor terminates this License, Licensee shall thereafter relinquish its rights in and to the subject landscaping to Licensor and Licensee will have no claim whatsoever against Licensor.

6. Licensee agrees to indemnify, hold harmless and defend the Licensor, its officers, agents, servants, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including attorney's fees, court costs, and expenses, caused by the conduct, misconduct, negligent error, omission or act of Licensee, its employees agents, servants or officers, or accruing, resulting from, or related to the subject matter of this License Agreement, including, without limitation, any and all claims, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property, whether or not suit be brought. The provisions of this indemnification provision shall survive the expiration or earlier termination of this License Agreement. Nothing herein is intended to waive the immunity afforded to City pursuant to Florida Law, including section 768.28, Florida Statutes.

7. Licensee shall secure and maintain throughout the duration of this Agreement General Liability and Statutory Workers Compensation Coverage with Employers Liability in the minimum amount \$1,000,000.00, naming the CITY as an additional insured, underwritten by a firm qualified to do business in the State of Florida. Licensee shall not permit allow any Subcontractor to perform services in furtherance of this Agreement until the insurance required of the Subcontractor has been obtained and approved.

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

9. Licensee shall pay to Licensor an annual fee of Two Hundred and No/100 Dollars (\$200.00). Payment shall be made to the Licensor's Finance Department on each anniversary date of this License.

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



Cheryl Smith
Cheryl Smith, City Clerk

LICENSOR: CITY OF KEY WEST,
FLORIDA

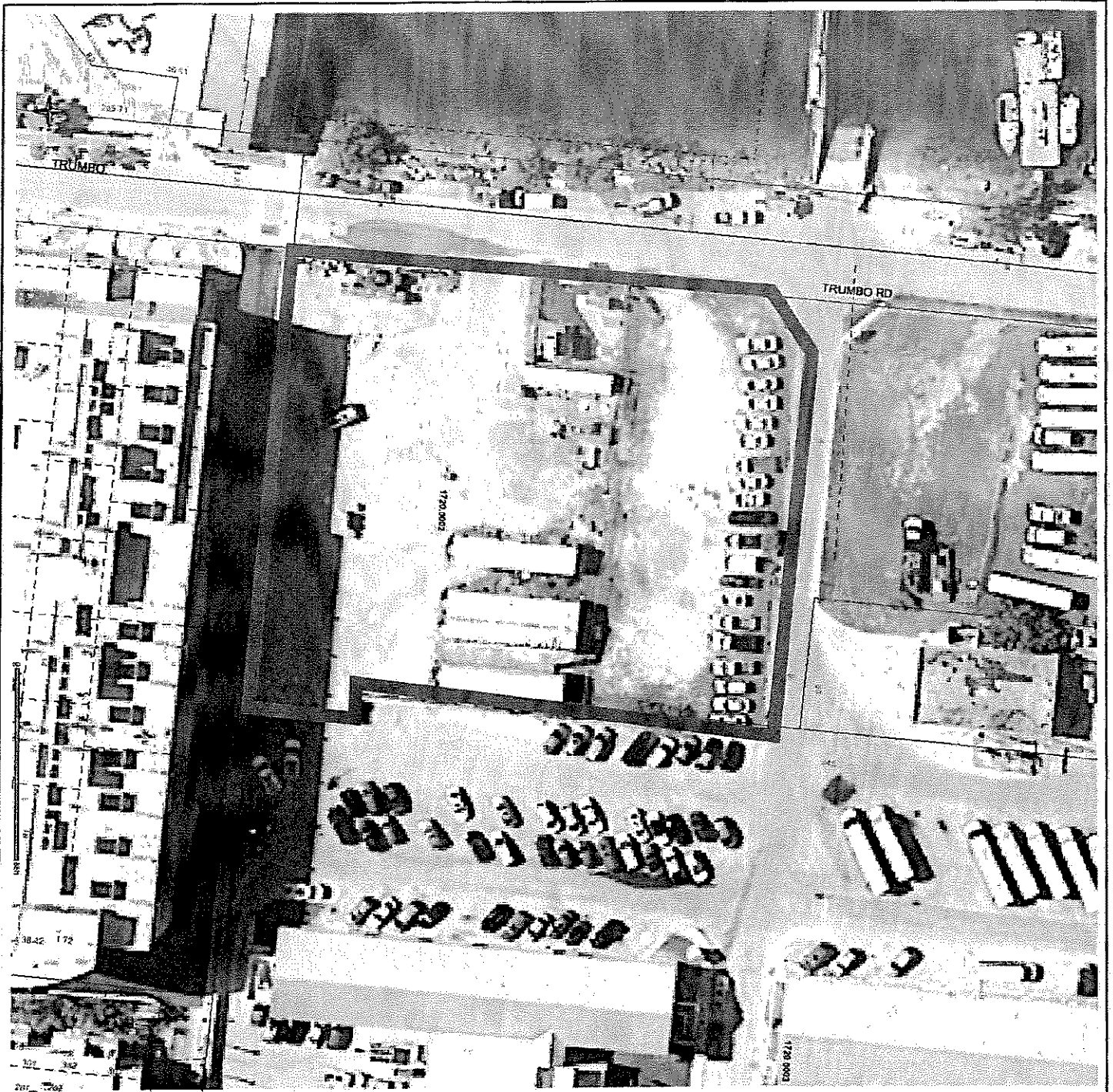
By: *J. K. Scholl*
Jim Scholl, City Manager

LICENSEE: STEAMPLANT
CONDOMINIUM
ASSOCIATION, INC.

WITNESS

Susan P. Harrison
Susan P. Harrison
Print Name

By: *[Signature]*
Edwin O. Swift, III, President



Trumbo Rd

- Legend
- Real Estate Number
- Parcel Lot Text
- Dimension Text
- Block Text
- Point of Interest Text
- Hooks/Leads
- Lot Lines
- Easements
- Road Centerlines
- Water Names
- Parcels
- Shoreline
- Section Lines
- 2009 Aerials

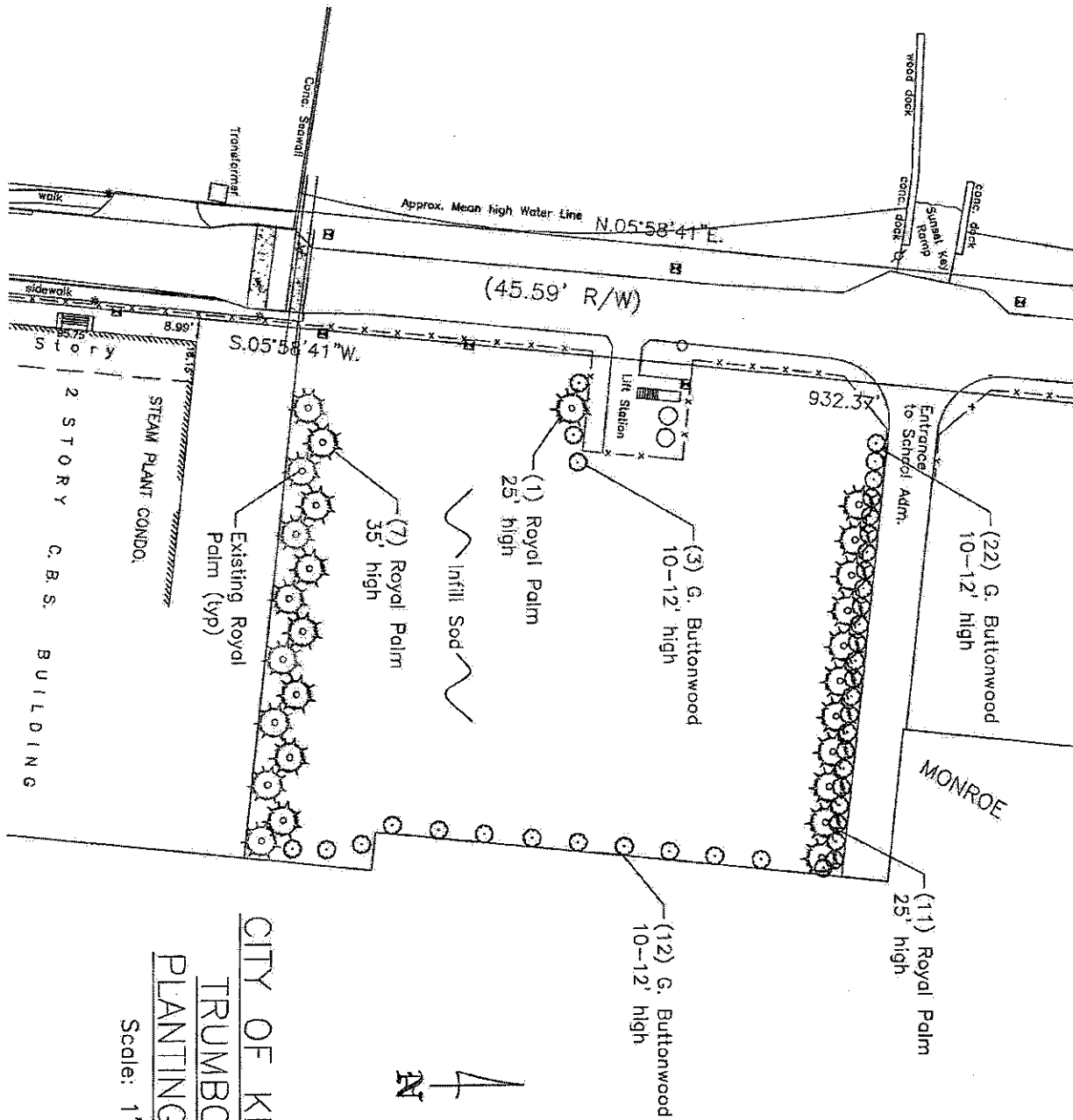
EXHIBIT A

PALMIS

Monroe County Property Appraiser
 500 Whitehead Street
 Key West, FL

DISCLAIMER: The Monroe County Property Appraiser's office maintains data on property within the County solely for the purpose of fulfilling its responsibility to secure a just valuation for ad valorem tax purposes of all property within the County. The Monroe County Property Appraiser's office cannot guarantee its accuracy for any other purpose. Likewise, data provided regarding one tax year may not be applicable in prior or subsequent years. By requesting such data, you hereby understand and agree that the data is intended for *ad valorem tax purposes only* and should not be relied on for any other purpose.

Date Created: July 19, 2011 3:55 PM



CITY OF KEY WEST
 TRUMBO LOT
 PLANTING PLAN
 Scale: 1"=40'

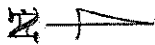


EXHIBIT B