

RESOLUTION NO. 04-018

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED GRANT AGREEMENT BETWEEN THE FLORIDA COMMUNITIES TRUST AND THE CITY OF KEY WEST FOR THE BOTANICAL GARDENS ADDITION; PROVIDING FOR AN EFFECTIVE DATE

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

Section 1: That the attached Grant Agreement between the Florida Communities Trust and the City of Key West for the Botanical Gardens Addition is hereby approved; and the City of Key West shall retain ultimate responsibility for oversight of its development and operation.

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 6 day of January, 2004.

Authenticated by the presiding officer and Clerk of the Commission on January 7, 2004.

Filed with the Clerk January 7, 2004.

ATTEST:

  
CHERYL SMITH CITY CLERK

  
JIMMY WEEKLEY, MAYOR

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MEMORANDUM

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TO: ROGER WITTENBERG  
FROM: LISA KING, LANGTON ASSOCIATES  
SUBJECT: KEY WEST BOTANICAL GARDENS ADDITION DEVELOPMENT COMMITMENTS  
DATE: 12/22/2003

cc Julia  
Bob T  
Randy

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The following are a list of development commitments that were made to the Florida Communities Trust in our grant application for the acquisition of the Key West Botanical Gardens Addition. These are commitments that we must try to meet in the 10-year period following acquisition. We must make every attempt to meet these commitments, but the FCT understands that, for example, we may not be able to permit the boardwalk, wildlife observation period, and canoe launch. If we are not able to secure permits we will not be penalized by the grantor agency.

- Picnic pavilion (children's area)
- Playground
- Nature trails (3/10 mile in length total)
- Boardwalk through adjacent wetlands to Wildlife observation pier (dock)
- Canoe/kayak launch (connection to Florida Keys Paddling Trail)
- 6 permanent stone games tables for chess and checkers
- 20 signs identifying plant and animal species
- 30 staffed educational programs a year (provided by Key West Botanical Gardens Society)
- A staffed nature center (not to exceed 2,000 square feet) (staffing provided by KWBGSS)
- 4 acres landscaped with native plants
- Public parking

Other activities were either mentioned in the narrative, but we were not awarded points, or pictured in the conceptual site plan. However, the elements above were the only elements we received points for and therefore, the only elements we will have to reflect in our management plan.

If you have any further questions please feel free to call me.

**To: The Key West City Commissioners**  
**From: The Key West Botanical Garden Society**  
**Re : Request approval to execute the FCT grant**

**12/29/03**

### **Executive Summary of Request**

The Key West Botanical Garden Society, under its current Memorandum of Understanding with the City of Key West dated 1991, has been charged with the responsibility to develop a comprehensive plan to maintain and develop the botanical garden.

The garden is not a park, rather a museum of living collections. This federal status affords the site the ability to enhance development, education and funding.

Its history is well documented in that it opened in 1936 as a tourist attraction to showcase, not only the flora of the Florida Keys, but also plant material from around the world.

The garden of the 20<sup>th</sup> century now has the opportunity to become not only an internationally acclaimed garden but also a “hot spot” for biodiversity of flora and fauna.

#### **The KWBGGS seeks City approval for the following:**

- 1. Execution of the awarded FCT grant to acquire back the adjacent 5.5 acres**

The above approval will accomplish the following:

1. Create a major “one of a kind” international, environmental and educational site in Key West, while providing threatened and endangered flora and fauna a place to live and grow safely and, at the same time, allowing humans to view, enjoy and learn about this rare “hotspot” of biodiversity.
2. Attract thousands of new visitors to this eco-tourist site as well as offer a new venue to those who have visited before.
3. Expose the garden to US ONE and the 1.5 million visitors who travel by it, being the first Key West trailhead on the Overseas Heritage Trail, which is also part of the East Coast Greenway Trail, and currently nominated for the National Registry of Historic Places.
4. Enhance a small, secret, hidden treasure within the community that can be utilized by a larger part of the community and be subsidized by the tourist.
5. Enable the Society to proceed with its plan to raise the approximate \$15 million dollars for the development.

Project : Key West Botanical Gardens  
Project #: 03-034-FF3  
Parcel #: Monroe County

Contract #: 05-07-96-08-FJ-61-0 JV  
Property Tax I.D.#:72080.0018

## OPTION AGREEMENT FOR SALE AND PURCHASE

THIS AGREEMENT is made this 2<sup>nd</sup> day of May, 2005 between **MONROE COUNTY, FLORIDA**, whose address is c/o Thomas Willi, County Administrator, 1100 Simonton Street, Room 2-205, Key West, Florida 33040 as "Seller", and the **FLORIDA COMMUNITIES TRUST**, a nonregulatory agency within the Department of Community Affairs, ("Acquiring Agency") whose address is 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399, and the **CITY OF KEY WEST**, a municipality within Monroe County, Florida, ("Local Government"), whose address is 525 Angela Street, Key West, Florida 33040. Acquiring Agency and Local Government will be collectively referred to as ("Purchaser").

1. **GRANT OF OPTION.** Seller hereby grants to Purchaser the exclusive option to purchase the real property located in Monroe County, Florida, described in Exhibit "A", together with all improvements, easements and appurtenances ("Property"), in accordance with the provisions of this Agreement. This Option Agreement becomes legally binding upon execution by the parties but exercise of the option is subject to approval by Purchaser and is effective only if Acquiring Agency and Local Government give written notice of exercise to Seller.

2. **OPTION TERMS.** The option payment is \$100.00 ("Option Payment"). The Option Payment, in the form of a state warrant, will be forwarded to Seller upon its receipt by Acquiring Agency from the Comptroller of the State of Florida. The option may be exercised during the period beginning with the Purchaser's approval of this Agreement and the Acquiring Agency's governing body granting project plan approval in accordance with Rule 9K-8.011, Florida Administrative Code, and ending on May 16, 2005 ("Option Expiration Date"), unless extended by other provisions of this Agreement. In the event Acquiring Agency's Purchase Price (as hereinafter defined in paragraph 3.A) or Local Government's Purchase Price (as hereinafter defined in paragraph 3.A) are not available by the Option Expiration Date the period of exercise of the option may be extended until such funds become available, not to exceed 60 days after the Option Expiration Date, by written notice to Seller.

3.A. **TOTAL PURCHASE PRICE.** The total purchase price ("Total Purchase Price") for the Property is **FOUR MILLION FIVE HUNDRED THOUSAND and no/100 Dollars (\$4,500,000.00)** which, after reduction by the amount of the Option Payment, will be paid by Acquiring Agency and Local Government at closing. Seller hereby authorizes Acquiring Agency to issue a state warrant directly to an escrow agent who is authorized by law to receive such payment, and who is acceptable to Purchaser, and to require the escrow agent to pay Seller's expenses of sale and real estate taxes. This Total Purchase Price presumes that the Property contains at least 5.015 total acres, to be confirmed by the Survey, as provided in paragraph 5. The Total Purchase Price shall be paid to Seller as follows: Acquiring Agency shall pay the lesser of \$3,375,000.00 or 75% of the final adjusted Total Purchase Price for the Property as determined in accordance with paragraph 3.B. ("Acquiring Agency's Purchase Price"), which after reduction by Acquiring Agency of the Option Payment, will be paid to Seller by state warrant at closing; and Local Government shall pay the lesser of \$1,125,000.00 or 25% of the final adjusted Total Purchase Price for the Property as determined in accordance with paragraph 3.B. ("Local Government's Purchase Price"), will be paid to Seller by Local Government check at closing. The Total Purchase Price is subject to adjustment in accordance with paragraph 3.B. The determination of the final Total Purchase Price can only be made after the completion and approval of the survey required in paragraph 5. This Agreement

is contingent upon approval of Total Purchase Price, Acquiring Agency's Purchase Price, and Local Government's Purchase Price by Purchaser and upon confirmation that the Total Purchase Price is not in excess of the final maximum approved purchase price of the Property as determined in accordance with Rule 9K-8.007, Florida Administrative Code ("Maximum Approved Purchase Price").

This Agreement is also contingent upon Local Government's funds for closing being available at closing and upon Local Government giving written notice to Acquiring Agency, prior to the exercise of the option, that these funds are available to close in accordance with this Agreement. If such notification is not accomplished, Acquiring Agency may in its sole discretion declare this Agreement void and of no further force and effect as of that date. Local Government's funds are the sole responsibility of Local Government. Seller shall have no recourse whatsoever, at law or equity, against Acquiring Agency or the Property as a result of any matter arising at any time whether before or after fee simple title is conveyed to Local Government, relating to Local Government's funds. Acquiring Agency shall have no obligation under this Agreement to provide any portion of Local Government's funds. Acquiring Agency's funds necessary to close are the sole responsibility of Acquiring Agency. Seller shall have no recourse whatsoever, at law or equity, against Local Government or the Property as a result of any matter arising at any time, whether before or after fee simple title is conveyed to Local Government, relating to Acquiring Agency's funds. Local Government shall have no obligation under this Agreement to provide any portion of Acquiring Agency's funds. Should Local Government's funds or Acquiring Agency's funds not be available for any reason, Purchaser or Seller may elect to terminate this Agreement by written notice to the parties without liability to any party.

Acquiring Agency and Local Government agree that the Local Government shall take fee simple title to all of the Property at the closing notwithstanding that Acquiring Agency and Local Government are required to pay all of the Total Purchase Price in the manner set forth in this Agreement. Conveyance of the Property in fee simple from Seller to Local Government will take place at the closing, in exchange for the payments to be made by Acquiring Agency and Local Government to Seller at closing as set forth above in this paragraph 3.A.

**3.B. ADJUSTMENT OF TOTAL PURCHASE PRICE.** If, prior to closing, Acquiring Agency determines that the Total Purchase Price stated in paragraph 3.A. exceeds the final Maximum Approved Purchase Price of the Property, the Total Purchase Price will be reduced to the final Maximum Approved Purchase Price of the Property. Upon determination of the final adjusted Total Purchase Price, Acquiring Agency's Purchase Price and Local Government's Purchase Price will be determined and adjusted in accordance with paragraph 3.A. If the final adjusted Total Purchase Price is less than 95% of the Total Purchase Price stated in paragraph 3.A. because of a reduction in the Maximum Approved Purchase Price of the Property, Seller shall, in his sole discretion, have the right to terminate this Agreement and neither party shall have any further obligations under this Agreement. If Seller elects to terminate this Agreement, Seller shall provide written notice to Acquiring Agency and Local Government of his election to terminate this Agreement within 10 days after Seller's receipt of written notice from Acquiring Agency of the final adjusted Total Purchase Price. In the event Seller fails to give Acquiring Agency and Local Government a written notice of termination within the aforesaid time period from receipt of Acquiring Agency's written notice, then Seller shall be deemed to have waived any right to terminate this Agreement based upon a reduction in the Total Purchase Price stated in paragraph 3.A.

**4.A. ENVIRONMENTAL SITE ASSESSMENT.** Seller shall, at Sellers sole cost and expense and at

least 30 days prior to the Option Expiration Date, furnish to Local Government and Acquiring Agency an environmental site assessment of the Property which meets the standard of practice of the American Society of Testing Materials ("ASTM"). Seller shall use the services of competent, professional consultants with expertise in the environmental site assessing process to determine the existence and extent, if any, of Hazardous Materials on the Property. For purposes of this Agreement "Hazardous Materials" shall mean any hazardous or toxic substance, material or waste of any kind or any other substance which is regulated by any Environmental Law (as hereinafter defined in paragraph 4.B.). The examination of hazardous materials contamination shall be performed to the standard of practice of the ASTM. For Phase I environmental site assessment, such standard of practice shall be the ASTM Practice E 1527. If the Findings and Conclusions section of the assessment reports evidence of recognized environmental conditions, then a Phase II Environmental Site Assessment shall be performed to address any suspicions raised in the Phase I environmental site assessment and to confirm the presence of contaminants on site. The environmental site assessment shall be certified to Purchaser and the date of certification shall be within 45 days before the date of closing. Purchaser shall reimburse Seller for the Acquiring Agency approved cost of the environmental site assessment, not to exceed \$8,000.00 upon Seller's submission of the necessary documentation to Acquiring Agency which evidences payment in full of the environmental site assessment costs by Seller. This reimbursement is contingent upon a sale of the Property to Purchaser.

**4.B. HAZARDOUS MATERIALS.** In the event that the environmental site assessment provided for in paragraph 4.A. confirms the presence of Hazardous Materials on the Property, Purchaser, at its sole option, may elect to terminate this Agreement and neither party shall have any further obligations under this Agreement. Should Purchaser elect not to terminate this Agreement, Seller shall, at his sole cost and expense and prior to the exercise of the option and closing, promptly commence and diligently pursue any assessment, clean up and monitoring of the Property necessary to bring the Property into full compliance with any and all applicable federal, state or local laws, statutes, ordinances, rules, regulations or other governmental restrictions regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials ("Environmental Law"). However, should the estimated cost of clean up of Hazardous Materials exceed a sum which is equal to 1% of the Total Purchase Price as stated in paragraph 3.A., Seller may elect to terminate this Agreement and no party shall have any further obligations under this Agreement.

**5. SURVEY.** Seller shall, at Sellers sole cost and expense and not less than 35 days prior to the Option Expiration Date, deliver to Local Government and Acquiring Agency a current boundary survey of the Property prepared by a professional land surveyor licensed by the State of Florida which meets the standards and requirements of Acquiring Agency ("Survey"). It is Seller's responsibility to ensure that the surveyor contacts the Acquiring Agency regarding these standards and requirements and the cost of the Survey prior to the commencement of the Survey. The Survey shall be certified to Purchaser and the title insurer and the date of certification shall be within 90 days before the date of closing, unless this 90 day time period is waived by Purchaser and by the title insurer for purposes of deleting the standard exceptions for survey matters and easements or claims of easements not shown by the public records from the owner's title policy. If the Survey shows any encroachment on the Property or that improvements intended to be located on the Property encroach on the land of others, the same shall be treated as a title defect. Purchaser shall reimburse Seller for the Acquiring Agency approved cost of Survey, not to exceed \$15,000.00, upon Seller's submission of the necessary documentation to Acquiring Agency which evidences payment in full of the Survey costs by Seller. This reimbursement is contingent upon a sale of the Property to Purchaser.

**6. TITLE INSURANCE.** Seller shall, at Sellers sole cost and expense and at least 35 days prior to the

Option Expiration Date, furnish to Purchaser a marketable title insurance commitment, to be followed by an owner's marketable title insurance policy (ALTA Form "B") from a title insurance company, approved by Acquiring Agency, insuring marketable title to the Property in the amount of the Purchase Price. Seller shall require that the title insurer delete the standard exceptions of such policy referring to: (a) all taxes, (b) unrecorded rights or claims of parties in possession, (c) survey matters, (d) unrecorded easements or claims of easements, and (e) unrecorded mechanics' liens. Purchaser shall reimburse Seller for Seller's cost for the owner's title insurance policy required hereunder. Purchaser's reimbursement shall not exceed an amount which is equal to the minimum promulgated rate permitted by the Florida Insurance Commissioner's rules and regulations. Purchaser shall not be required to reimburse Seller until Seller has submitted the necessary documentation to Acquiring Agency which evidences payment in full of the title insurance cost by Seller and until the final owner's title insurance policy has been received and approved by Acquiring Agency. This reimbursement is contingent upon a sale of the Property to Purchaser.

7. DEFECTS IN TITLE. If the title insurance commitment or survey furnished to Purchaser pursuant to this Agreement discloses any defects in title which are not acceptable to Purchaser, Seller shall, within 90 days after notice from Purchaser, remove said defects in title. Seller agrees to use diligent effort to correct the defects in title within the time provided therefor, including the bringing of necessary suits. If Seller is unsuccessful in removing the title defects within said time or if Seller fails to make a diligent effort to correct the title defects, Purchaser shall have the option to either: (a) accept the title as it then is with a reduction in the Total Purchase Price by an amount determined by Acquiring Agency, (b) accept the title as it then is with no reduction in the Total Purchase Price, (c) extend the amount of time that Seller has to cure the defects in title, or (d) terminate this Agreement, thereupon releasing Purchaser and Seller from all further obligations under this Agreement.

8. INTEREST CONVEYED. At closing, Seller shall execute and deliver to Local Government a deed in accordance with Section 125.411, Florida Statutes, conveying marketable title to the Property in fee simple free and clear of all liens, reservations, restrictions, easements, leases, tenancies and other encumbrances, except for those that are of record and acceptable encumbrances in the opinion of Purchaser and do not impair the marketability of the title to the Property. The grantee in Seller's Deed shall be the CITY OF KEY WEST.

9. PREPARATION OF CLOSING DOCUMENTS. Upon execution of this Agreement, Seller shall submit to Purchaser a properly completed and executed beneficial interest affidavit and disclosure statement as required by Sections 286.23, and 380.08(2), Florida Statutes. Seller shall prepare the deed described in paragraph 8. of this Agreement, Seller's closing statement, the title, possession and lien affidavit certified to Purchaser and title insurer in accordance with Section 627.7842, Florida Statutes, and an environmental affidavit. The deed title, possession and lien affidavit and environmental affidavit shall be prepared on Acquiring Agency forms which will be provided by Acquiring Agency. Acquiring Agency shall prepare Purchaser's closing statement. All prepared documents shall be submitted to Local Government and Acquiring Agency for review and approval at least 30 days prior to the Option Expiration Date.

10. PURCHASER REVIEW FOR CLOSING. Purchaser will approve or reject each item required to be provided by Seller under this Agreement within 30 days after receipt by Purchaser of all of the required items. Seller will have 30 days thereafter to cure and resubmit any rejected item to Purchaser. In the event Seller fails to timely deliver any item, or Purchaser rejects any item after delivery, Purchaser may in its discretion extend the Option Expiration Date.

11. EXPENSES. Seller will pay the documentary revenue stamp tax and all other taxes or costs associated with the conveyance, including the cost of recording the deed described in paragraph 8. of this Agreement and any other recordable instruments which Purchaser deems necessary to assure good and marketable title to the Property.

12. TAXES AND ASSESSMENTS. All real estate taxes and assessments which are or which may become a lien against the Property shall be satisfied of record by Seller at closing. In the event the Local Government acquires fee title to the Property between January 1 and November 1, Seller shall, in accordance with Section 196.295, Florida Statutes, place in escrow with the county tax collector an amount equal to the current taxes prorated to the date of transfer, based upon the current assessment and millage rates on the Property. In the event the Local Government acquires fee title to the Property on or after November 1, Seller shall pay to the county tax collector an amount equal to the taxes that are determined to be legally due and payable by the county tax collector.

13. CLOSING PLACE AND DATE. The closing shall be on or before 15 days after Purchaser exercises the option; provided, however, that if a defect exists in the title to the Property, title commitment, Survey, environmental site assessment, or any other documents required to be provided or completed and executed by Seller, the closing shall occur either on the original closing date or within 60 days after receipt of documentation curing the defects, whichever is later. The date, time and place of closing shall be set by Purchaser.

14. RISK OF LOSS AND CONDITION OF REAL PROPERTY. Seller assumes all risk of loss or damage to the Property prior to the date of closing and warrants that the Property shall be transferred and conveyed to the Local Government in the same or essentially the same condition as of the date of Seller's execution of this Agreement, ordinary wear and tear excepted. However, in the event the condition of the Property is altered by an act of God or other natural force beyond the control of Seller, Purchaser may elect, at its sole option, to terminate this Agreement and neither party shall have any further obligations under this Agreement. Seller represents and warrants that there are no parties other than Seller in occupancy or possession of any part of the Property. Seller agrees to clean up and remove all abandoned personal property, refuse, garbage, junk, rubbish, trash and debris from the Property to the satisfaction of Local Government prior to the exercise of the option by Purchaser.

15. RIGHT TO ENTER PROPERTY AND POSSESSION. Seller agrees that from the date this Agreement is executed by Seller, Purchaser and its agents, upon reasonable notice, shall have the right to enter the Property for all lawful purposes in connection with the this Agreement. Seller shall deliver possession of the Property to the Local Government at closing.

16. ACCESS. Seller warrants that there is legal ingress and egress for the Property over public roads or valid, recorded easements that benefit the Property.

17. DEFAULT. If Seller defaults under this Agreement, Purchaser may waive the default and proceed to closing, seek specific performance, or refuse to close and elect to receive the return of any money paid, each without waiving any action for damages, or any other remedy permitted by law or in equity resulting from Seller's default. In connection with any dispute arising out of this Agreement, including without limitation litigation and appeals, Purchaser will be entitled to recover reasonable attorney's fees and costs.

18. BROKERS. Seller warrants that no persons, firms, corporations or other entities are entitled to a real estate commission or other fees as a result of this Agreement or subsequent closing, except as accurately



disclosed on the disclosure statement required in paragraph 9. Seller shall indemnify and hold Purchaser harmless from any and all such claims, whether disclosed or undisclosed.

19. RECORDING. This Agreement, or notice of it, may be recorded by Purchaser in the appropriate county or counties.

20. ASSIGNMENT. This Agreement may not be assigned by either Party without the prior written consent of the other Party.

21. TIME. Time is of essence with regard to all dates or times set forth in this Agreement.

22. SEVERABILITY. In the event any of the provisions of this Agreement are deemed to be unenforceable, the enforceability of the remaining provisions of this Agreement shall not be affected.

23. SUCCESSORS IN INTEREST. Upon Seller's execution of this Agreement, Seller's heirs, legal representatives, successors and assigns will be bound by it. Upon Purchaser's approval of this Agreement and Purchaser's exercise of the option, Purchaser and Purchaser's successors and assigns will be bound by it. Whenever used, the singular shall include the plural and one gender shall include all genders.

24. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, modification or amendment to this Agreement shall be binding unless executed in writing by the parties.

25. WAIVER. Failure of Purchaser to insist upon strict performance of any covenant or condition of this Agreement, or to exercise any right herein contained, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition or right; but the same shall remain in full force and effect.

26. AGREEMENT EFFECTIVE. This Agreement or any modification, amendment or alteration thereto, shall not be effective or binding upon any of the parties hereto until it has been executed by all of the parties hereto.

27. ADDENDUM. Any addendum attached hereto that is signed by the parties shall be deemed a part of this Agreement.

28. NOTICE. Whenever either party desires or is required to give notice unto the other, it must be given by written notice, and either delivered personally or mailed to the appropriate address indicated on the first page of this Agreement, or such other address as is designated in writing by a party to this Agreement.

29. SURVIVAL. The covenants, warranties, representations, indemnities and undertakings of Seller set forth in this Agreement shall survive the closing, the delivery and recording of the deed described in paragraph 8. of this Agreement and Local Government's possession of the Property.

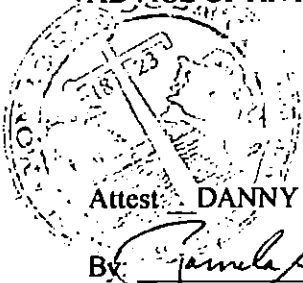
30. COUNTY RESOLUTION. Seller will execute a County resolution which shall be made in lieu of the Beneficial Interest Affidavit and Corporate Addendum stating the Seller is the record owner of the property and has the authority to dispose of the property in accordance with the provisions of this Option Agreement For Sale And Purchase.

The resolution shall also include language as follows:

The Monroe County Commission, Florida, does hereby certify to the City of Key West and the Florida Communities Trust that, in conjunction with the sale of the real property legally described on the attached Exhibit "A" by Monroe County, Florida to the City of Key West, no Member of the Monroe County Commission will receive monetary compensation from the proceeds of said sale nor does any Monroe County Commission Member have a personal interest in the subject transaction.

THIS AGREEMENT IS INITIALLY TRANSMITTED TO THE SELLER AS AN OFFER. IF THIS AGREEMENT IS NOT EXECUTED BY THE SELLER ON OR BEFORE JANUARY 31, 2005, THIS OFFER WILL BE VOID UNLESS THE PURCHASER, AT ITS SOLE OPTION, ELECTS TO ACCEPT THIS OFFER. THE EXERCISE OF THIS OPTION IS SUBJECT TO: (1) APPROVAL OF THIS AGREEMENT, TOTAL PURCHASE PRICE, ACQUIRING AGENCY'S PURCHASE PRICE, AND LOCAL GOVERNMENT'S PURCHASE PRICE BY PURCHASER, (2) ACQUIRING AGENCY'S GOVERNING BODY GRANTING PROJECT PLAN APPROVAL IN ACCORDANCE WITH RULE 9K-8.011, FLORIDA ADMINISTRATIVE CODE, (3) CONFIRMATION THAT THE TOTAL PURCHASE PRICE IS NOT IN EXCESS OF THE FINAL MAXIMUM APPROVED PURCHASE PRICE OF THE PROPERTY, AND (4) LOCAL GOVERNMENT AND ACQUIRING AGENCY APPROVAL OF ALL DOCUMENTS TO BE FURNISHED HEREUNDER BY SELLER. THE ACQUIRING AGENCY'S PERFORMANCE AND OBLIGATION TO PAY UNDER THIS CONTRACT IS CONTINGENT UPON AN ANNUAL APPROPRIATION BY THE LEGISLATURE.

THIS IS TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.



Attest: DANNY L. KOLHAGE, CLERK

By: *Camela Hancock*  
Deputy Clerk  
(OFFICIAL SEAL)

SELLER  
MONROE COUNTY, FLORIDA

By: *Dixie M. Spehar*  
MAYOR DIXIE M. SPEHAR

Approved as to Form

By: *George White*  
Date: 1/07/05

January 19, 2005  
Date signed by Local Government

Approved as to Form and Legality

By: [Signature]  
Trust Counsel

Date: April 6, 2005

Susan P. Harrison

Witness as to Local Government

[Signature]  
Witness as to Local Government

Approved as to Form and Legality

By: Robert C. [Signature], City Attorney

Date: 3-2-05

STATE OF Florida

COUNTY OF Monroe

The foregoing instrument was acknowledged before me this 2nd day of March, 2005 by Jimmy Weekley as Mayor of the CITY OF KEY WEST, Florida on behalf of the Local Government. He is personally known to me.

(NOTARY PUBLIC)

SEAL

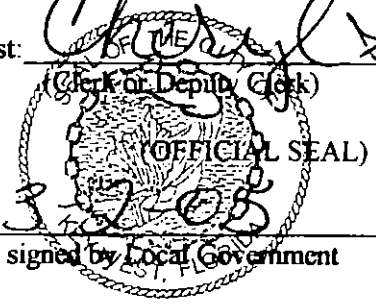


Vivian Perez  
MY COMMISSION # CC991212 EXPIRES  
April 9, 2005  
BONDED THRU TROY FAIR INSURANCE, INC

PURCHASER  
LOCAL GOVERNMENT  
CITY OF KEY WEST

By: [Signature]  
Name Jimmy Weekley  
Its: Mayor

Attest: [Signature]  
(Clerk or Deputy Clerk)



Date signed by Local Government

Vivian Perez  
Notary Public

Vivian Perez  
(Printed, Typed or Stamped Name of Notary Public)

Commission No.: CC991212  
My Commission Expires: 4-09-05

**PURCHASER**

**ACQUIRING AGENCY**

**FLORIDA COMMUNITIES TRUST**

By: [Signature]  
**JANICE BROWNING, Director**  
Division of Housing and Community Development

5/2/05  
Date signed by Acquiring Agency

[Signature]  
Witness as to Acquiring Agency  
[Signature]  
Witness as to Acquiring Agency

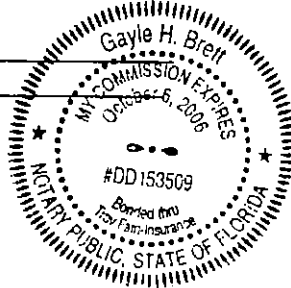
STATE OF FLORIDA     )  
  )  
COUNTY OF LEON    )

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of May, 2005, by **JANICE BROWNING, Director, Division of Housing and Community Development** of the Florida Communities Trust, on behalf of the Acquiring Agency. She is personally known to me.

(NOTARY PUBLIC)  
SEAL

[Signature]  
Notary Public

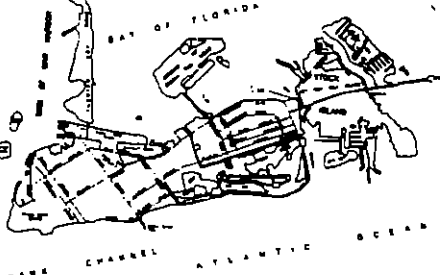
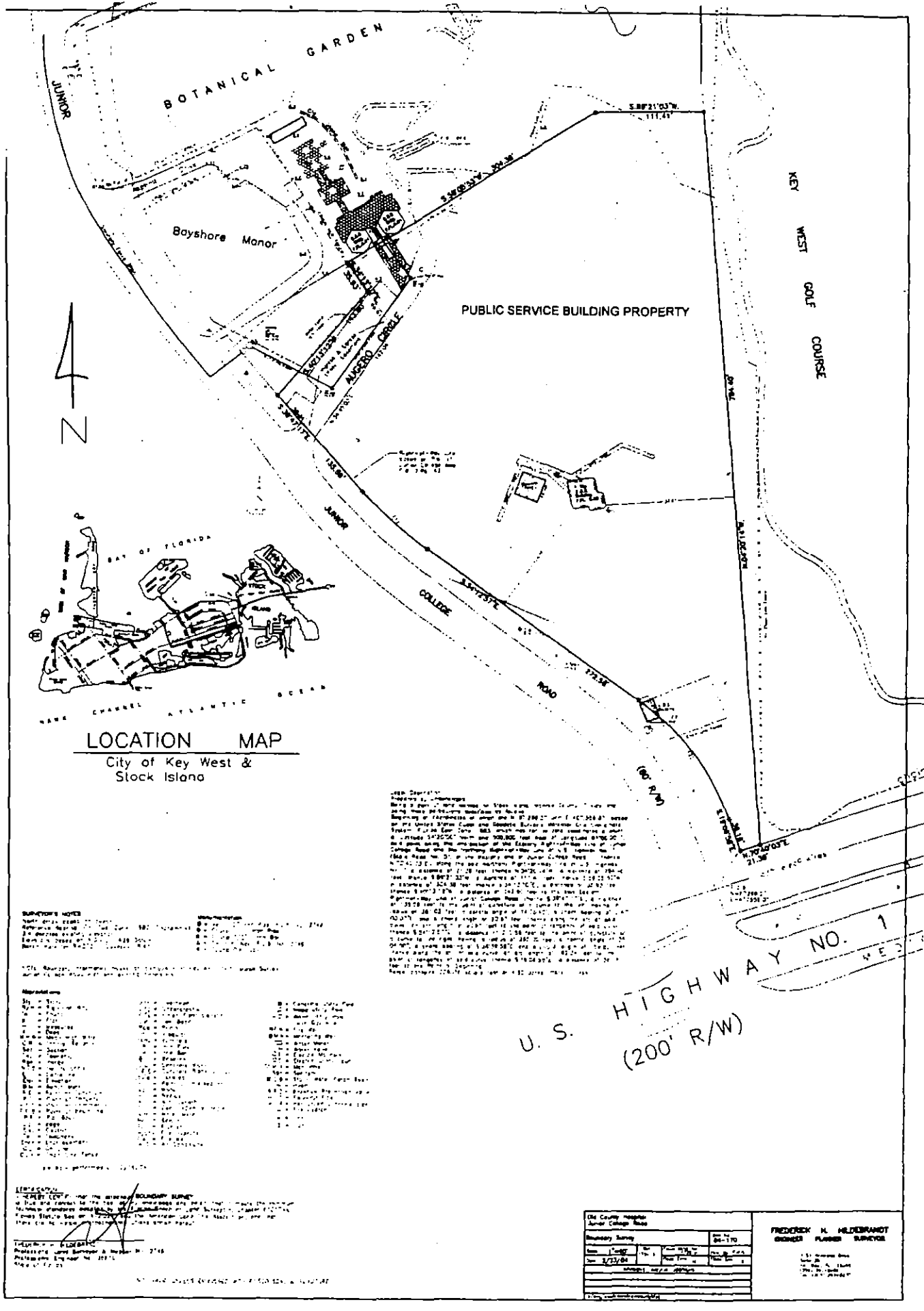
(Printed, Typed or Stamped Name of  
Notary Public)  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**EXHIBIT "A"**  
**Legal Description**

A portion of Government Lot 1 of Section 34, Township 67 South, Range 25 East, Monroe County, Florida.

A survey as defined in Paragraph 5 will be required to determine the final adjusted acreage for the parcel prior to closing.



**Site Description**  
This is a portion of the former Bayshore Manor Hotel property, which was previously owned and operated by the Bayshore Hotel Company. The site is bounded by Juniper Road to the north and west, and College Road to the south and east. The site contains several buildings, including the Public Service Building, and is surrounded by other properties. The site is situated on a slight rise and is well-served by public utilities.

**PROPERTY NOTES**

1. All lots shown on this plan are subject to the existing easements and restrictions shown thereon.	2. The area shown as "Public Service Building Property" is owned by the City of Key West.	3. The area shown as "Bayshore Manor" is owned by the Bayshore Manor Association.	4. The area shown as "Botanical Garden" is owned by the City of Key West.
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**Abbreviations**

St. - Street	W. - West	E. - East
N. - North	S. - South	SW - Southwest
NE - Northeast	NW - Northwest	SE - Southeast
SE - Southeast	SW - Southwest	NE - Northeast
... (many more abbreviations) ...		

**LEGEND**

1. Public Service Building Property  
2. Bayshore Manor  
3. Botanical Garden  
4. Juniper Road  
5. College Road  
6. Micro Course  
7. Key West Golf Course

**PLANNING ENGINEER**  
FREDERICK H. HILDEBRANDT  
REGISTERED PLANNER SURVEYOR  
No. 12,345  
Key West, Florida

**U. S. HIGHWAY NO. 1 WEST**  
(200' R/W)

City of Key West Junior College Site		Date: 04-17-70	
Surveyor: F. H. Hildebrandt		Scale: 1" = 40'	
Date: 4/17/70		Sheet No. 1 of 1	
Project: JUNIOR COLLEGE SITE			

Public Service Building  
Property

Legal Description.

Prepared by undersigned:

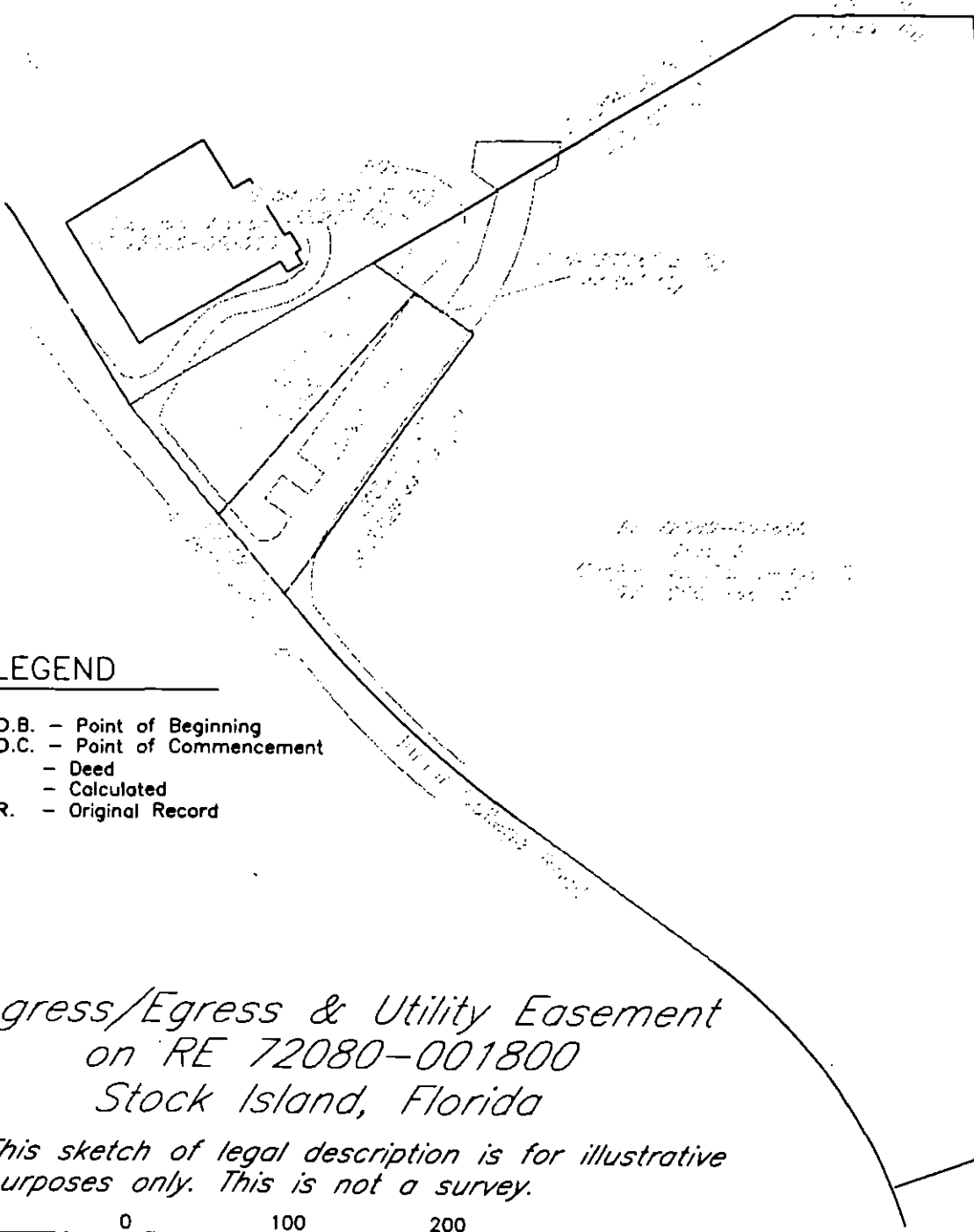
Being a part of land located on Stock Island, Monroe County, Florida and being more particularly described as follows:

Beginning at coordinates of which are N 87,268.27 and E 407,559.07, based on the United States Coast and Geodetic Survey's Mercator Grid Coordinate System, Florida East Zone, 1983, which has for its zero coordinates a point at Latitude 24°20'00" North and 500,000 feet West of Longitude 81°00'00" ; said point being the intersection of the Easterly Right-of-Way Line of Junior College Road and the Northerly Right-of-Way Line of U.S. Highway No. 1 (State Road No. 5), at the Westerly end of Junior College Road; ; thence N.70°40'03"E., along the said Northerly Right-of-Way Line of U.S. Highway No. 1 a distance of 21.39 feet; thence N.04°20'14"W., a distance of 784.40 feet; thence S.89°21'03"W., a distance of 111.41 feet; thence S.58°05'53"W., a distance of 304.38 feet; thence S.34°13'10"E., a distance of 35.93 feet; thence S.40°13'12"W., a distance of 143.60 feet to the said Easterly Right-of-Way Line of Junior College Road; thence S.39°47'17"E., a distance of 135.59 feet to the point of curvature of a curve to the left, having: a radius of 361.02 feet, a central angle of 14°25'40", a chord bearing of S.47°00'07"E. and a chord length of 90.67 feet; thence along the arc of said curve, an arc length of 90.91 feet to the point of tangency of said curve; thence S.54°12'57"E., a distance of 272.56 feet to the point of curvature of a curve to the right, having: a radius of 265.00 feet, a central angle of 35°06'00", a chord bearing of S.36°39'58"E. and a chord length of 159.82 feet; thence along the arc of said curve, an arc length of 162.34 feet to the point of tangency of said curve; thence S.19°06'58"E., a distance of 36.16 feet to the Point of Beginning.

Parcel contains 209036 square feet or 4.80 acres, more or less.



Key West Golf Course & Country Club

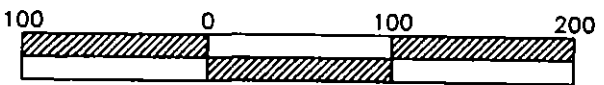


**LEGEND**

- P.O.B. - Point of Beginning
- P.O.C. - Point of Commencement
- D - Deed
- C - Calculated
- O.R. - Original Record

*Ingress/Egress & Utility Easement  
on RE 72080-001800  
Stock Island, Florida*

*This sketch of legal description is for illustrative purposes only. This is not a survey.*



MONROE COUNTY PUBLIC WORKS  
ENGINEERING DEPARTMENT  
10600 AVIATION BOULEVARD  
MARATHON, FLORIDA 33050  
305-289-6074

FILED	11-27-03	DATE	01-02-04
FILED	02-10-02	DATE	11-1-100
REVISION	07 South	CREATED BY	J. Wiser
RANGE	20 East	CREATED BY	J. Wiser
SECTION	24	FILED NAME	01-02-100
COUNTY	Monroe	SCALE	As Shown

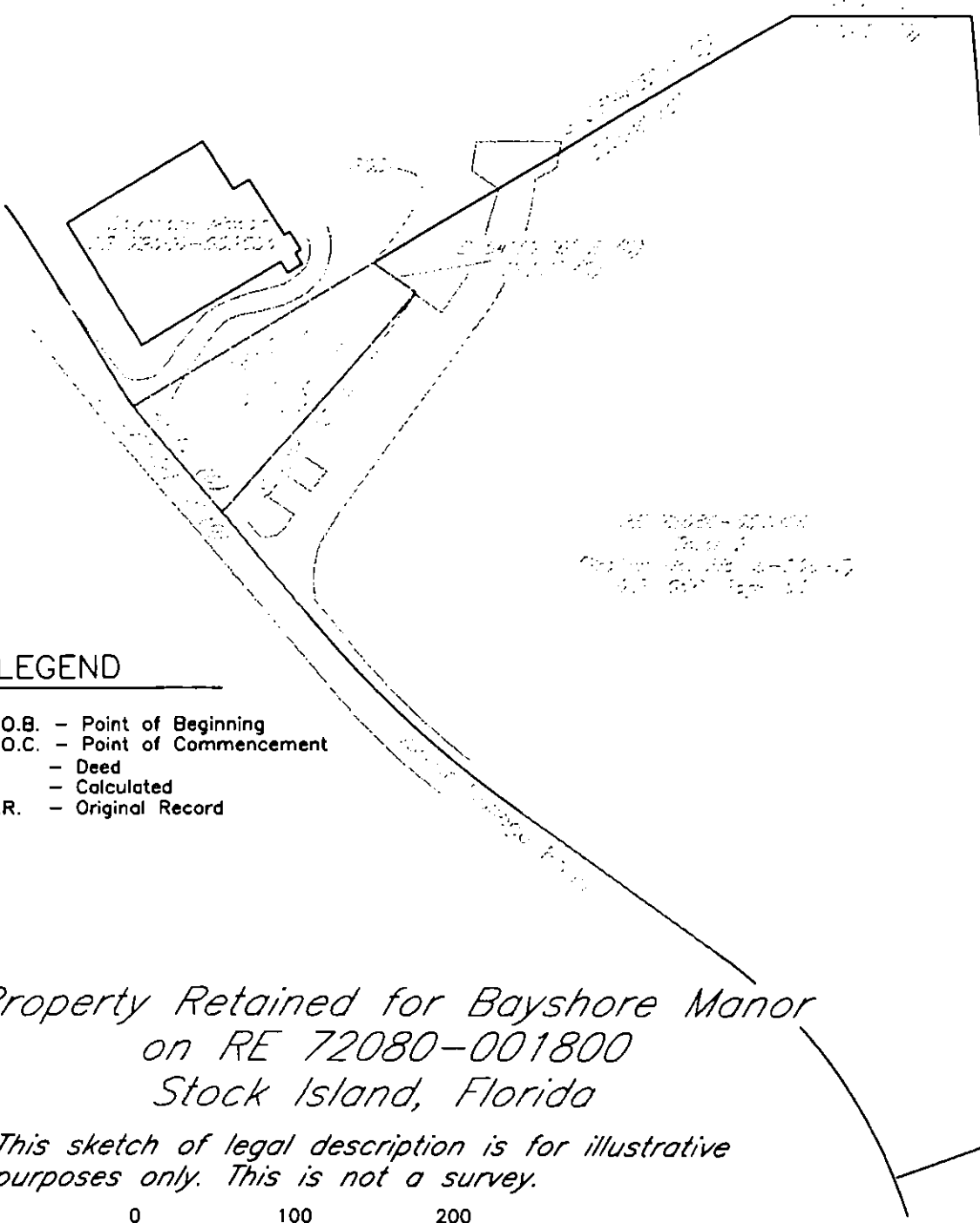


Ingress/Egress and Utility Easement  
On RE 72080-001800  
Stock Island, Florida

The following legal description describes a parcel of land located on Stock Island in Government Lot 1 of Section 34, Township 67 South, Range 25 East to be retained as an ingress/egress and utility easement by Monroe County. Said parcel of land also being a portion of Tract 2 (Project No. Fla.8-906-F) as described in OR G-56, Page 58 found on record in the Clerk's Office of Monroe County, Florida and being more particularly described as follows: Commencing at the point of intersection of the centerline of the former Florida East Coast Railway main track extended southwesterly from Stock Island with the centerline of Roosevelt Boulevard on the island of Key West; thence N 71° 19' E along the centerline of the former Florida East Coast Railway main track a distance of 1607.24 feet; thence N 4°06'41" W a distance of 181.44 feet ; thence continue N 4°06'41" W a distance of 707.86 feet; thence West a distance of 111.49 feet; thence S 58°44'50" W a distance of 305.40 feet; thence S 54°30'16" E a distance of 32.23 feet to the Point of Beginning of an ingress/egress and utility easement to be retained by Monroe County; thence S 54°30'16" E a distance of 44.84 feet; thence S 35°29'44" W a distance of 203.22 feet; thence N 38°43'21" W a distance of 64.19 feet; thence N 40°42'13" E a distance of 186.53 feet to the Point of Beginning, containing 0.240 acres more or less.



Key West Golf Course & Country Club



**LEGEND**

- P.O.B. - Point of Beginning
- P.O.C. - Point of Commencement
- D - Deed
- C - Calculated
- O.R. - Original Record

*Property Retained for Bayshore Manor  
on RE 72080-001800  
Stock Island, Florida*

*This sketch of legal description is for illustrative  
purposes only. This is not a survey.*



MONROE COUNTY PUBLIC WORKS  
ENGINEERING DEPARTMENT  
10600 AVIATION BOULEVARD  
MARATHON, FLORIDA 33050  
305-289-6074

FILE NO.	10-21-02	DATE	10-26-04
PROJECT	02-03	DESCRIPTION	10-1-00
SECTION	67 South	SECTION NO.	10-1-00
SECTION	20 North	SECTION NO.	10-1-00
SECTION	24	SECTION NO.	10-1-00
SECTION	25	SECTION NO.	10-1-00

Property Retained for Bayshore Manor  
On RE 72080-001800  
Stock Island, Florida

The following legal description describes a parcel of land located on Stock Island in Government Lot 1 of Section 34, Township 67 South, Range 25 East to be retained by Monroe County for the benefit of Bayshore Manor (RE 72080-002000). Said parcel of land also being a portion of Tract 2 (Project No. Fla.8-906-F) as described in OR G-56, Page 58 found on record in the Clerk's Office of Monroe County, Florida and being more particularly described as follows: Commencing at the point of intersection of the centerline of the former Florida East Coast Railway main track extended southwesterly from Stock Island with the centerline of Roosevelt Boulevard on the island of Key West; thence N 71° 19' E along the centerline of the former Florida East Coast Railway main track a distance of 1607.24 feet; thence N 4°06'41" W a distance of 181.44 feet ; thence continue N 4°06'41" W a distance of 707.86 feet; thence West a distance of 111.49 feet; thence S 58°44'50" W a distance of 305.40 feet to the Point of Beginning of a tract of land to be retained by Monroe County; thence S 54°30'16" E a distance of 32.23 feet; thence S 40°42'13" W a distance of 186.53 feet; thence N 38°43'21" W a distance of 88.14 feet; thence N 58°44'50" E a distance of 176.09 feet to the Point of Beginning, containing 0.245 acres more or less.

**ADDENDUM**  
(IMPROVEMENTS/PURCHASER)

A. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit. This notice is being provided in accordance with Section 404.056(8), Florida Statutes. Purchaser may, at its sole cost and expense, have the buildings that will remain on the Property inspected and tested for radon gas or radon progeny by a qualified professional properly certified by the Florida Department of Health and Rehabilitative Services. If radon gas or radon progeny is discovered, Purchaser shall have the option to either: (a) accept the Property as it then is with no reduction in the Purchase Price or (b) terminate this Agreement, thereupon releasing Purchaser and Seller from all further obligations under this Agreement.

B. Wood Destroying Organisms Inspection Report. Purchaser may, at its sole cost and expense, obtain a Wood Destroying Organisms Inspection Report made by a state licensed pest control firm showing the buildings that are to remain on the Property to be visibly free of infestation or damage by termites or other wood-destroying pests. If the report shows such infestation or damage, Purchaser shall have the option to either: (a) accept the Property as it then is with no reduction in the Purchase Price or (b) terminate this Agreement, thereupon releasing Purchaser and Seller from all further obligations under this Agreement.

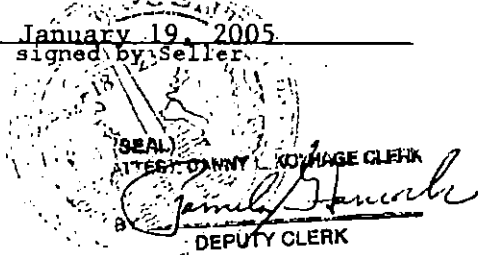
C. Maintenance of Improvements. Seller shall, if required by Purchaser, maintain the roofs, doors, floors, steps, windows, exterior walls, foundations, all other structural components, major appliances and heating, cooling, electrical and plumbing systems on all improvements that will remain on the Property in good working order and repair up to the date of closing. Purchaser may, at its expense, have inspections made of said items by licensed persons dealing in the repair and maintenance thereof. If the inspection reveals that any of the improvements that will remain on the Property are in need of repair, Purchaser shall have the option to either: (a) accept the Property as it then is with no reduction in the Purchase Price or (b) terminate this Agreement, thereupon releasing Purchaser and Seller from all further obligations under this Agreement.

**SELLER**

MONROE COUNTY, FLORIDA

By: *Dixie M. Spehar*  
Name: Dixie M. Spehar  
Its: Mayor/Chairman

January 19, 2005  
Date signed by Seller



IMPURADD. FCT  
REV. 04/12/01

**PURCHASER**

LOCAL GOVERNMENT

CITY OF KEY WEST

By: *Jimmy Weeley*  
Name: Jimmy Weeley  
Its: Mayor

3/02/05  
Date signed by Purchaser

FLORIDA COMMUNITIES TRUST

By: *Janice Browning*  
Name: Janice Browning, Director

5/2/05  
Date signed by Purchaser

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:

*Suzanne A. Hutton*  
SUZANNE A. HUTTON  
ASSISTANT COUNTY ATTORNEY  
Date: 1/07/05

**RESOLUTION NO. 022 -2005**

**A RESOLUTION BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT FOR SALE AND PURCHASE OF THE PROPERTY LOCATED ON STOCK ISLAND, KNOWN AS THE PUBLIC SERVICE BUILDING PROPERTY**

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, as follows:**

**Section 1.** This Resolution is made in lieu of the Beneficial Interest Affidavit and Corporate Addendum.

**Section 2.** Board of County Commissioners of Monroe County is the record owner of the property and has the authority to dispose of the property in accordance with the provisions of the Option Agreement for Sale and Purchase.

**Section 3.** No Monroe County Commissioner will receive monetary compensation from the proceeds of the sale of the real property legally described on the attached Exhibit "A" by Monroe County, Florida to the City of Key West, Florida, nor does any County Commissioner have a personal interest in the subject transaction;

**Section 4.** The Mayor/Chairman is hereby authorized to execute the Option Agreement for Sale and Purchase of the property legally described on the attached Exhibit "A" to the City of Key West, Florida.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the 19th day of January, 2005.

Mayor Dixie M. Spehar  
Mayor Pro Tem McCoy  
Commissioner Nelson  
Commissioner Neugent  
Commissioner Rice

Yes  
Yes  
Yes  
Yes  
Yes

(SEAL)  
Attest: DANNY L.KOLHAGE, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By *Danny L. Kolhage*  
Deputy Clerk

By *Dixie M. Spehar*  
Mayor/Chairperson

jressalePSB

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:  
*Suzanne A. Hutton*  
SUZANNE A. HUTTON  
ASSISTANT COUNTY ATTORNEY  
Date: 1/27/05

FCT Contract Number \_\_\_-CT-\_\_\_\_\_  
FLORIDA COMMUNITIES TRUST  
03-034-FF3  
KEY WEST BOTANICAL GARDENS ADDITION  
CSFA# - 52002

### GRANT CONTRACT

THIS AGREEMENT is entered into on \_\_\_\_\_, 200\_\_, the date the last party executes this Agreement, by and between the FLORIDA COMMUNITIES TRUST (FCT), a nonregulatory agency within the State of Florida Department of Community Affairs, and CITY OF KEY WEST, a local government of the State of Florida (Recipient). The intent of this Agreement is to impose terms and conditions on the use of the proceeds of certain bonds, hereinafter described, and the lands acquired with such proceeds (Project Site), that are necessary to ensure compliance with applicable Florida law and federal income tax law and to otherwise implement provisions of Sections 259.105, 259.1051, and Chapter 380, Part III, Florida Statutes (F.S.).

\* \* \* \* \*

WHEREAS, Chapter 380, Part III, F.S., the Florida Communities Trust Act, creates a nonregulatory agency within the Department of Community Affairs (Department) that will assist local governments in bringing local comprehensive plans into compliance and implementing the goals, objectives, and policies of the conservation, recreation and open space, and coastal management elements of local comprehensive plans, or in conserving natural resources and resolving land use conflicts by providing financial assistance to local governments and nonprofit environmental organizations to carry out projects and activities authorized by the Florida Communities Trust Act;

WHEREAS, Section 259.105(3)(c), F.S., of the Florida Forever Act provides for the distribution of twenty- two percent (22%) less certain reductions of the net Florida Forever Revenue Bond proceeds to the Department to provide land acquisition grants to local governments and nonprofit environmental organizations through the FCT for acquisition of community-based projects, urban open spaces, natural resource conservation areas, parks, greenways and outdoor recreation areas to implement local comprehensive plans;

WHEREAS, the Bonds are issued as tax-exempt bonds, meaning that the interest on the Bonds is excluded from the gross income of bondholders for federal income tax purposes;

WHEREAS, Rule Chapter 9K-7, Florida Administrative Code (F.A.C.), describes the procedures for evaluation and selection of lands proposed for acquisition using funds allocated to the FCT through the Department from the Florida Forever Trust Fund;

03-034-FF3  
November 18, 2003  
Reimbursement Acquisition

WHEREAS, the FCT Governing Board met on October 2 - 3, 2003, to score, rank, and select projects to receive approval for funding;

WHEREAS, the Recipient's project, described in an application submitted for evaluation, was selected for funding and in accordance with Rule Chapter 9K-7, F.A.C., and as more particularly described within this Agreement;

WHEREAS, Rule 9K-7.009(1), F.A.C., authorizes FCT to impose conditions for funding on those FCT applicants whose projects are selected for funding; and

WHEREAS, Rule 9K-7.003(5) F.A.C., recognizes real property owned by the Recipient and included in the application as part of the Project Site as an eligible source of local match, provided that real property owned by the Recipient is acquired by the Recipient within 18 months after the application deadline for which the application was made. The date of this application deadline was June 10, 2003;

WHEREAS, the Recipient will acquire the fee simple title to the entire Project Site prior to December 10, 2005 from

\_\_\_\_\_  
\_\_\_\_\_(Insert name[s]);

WHEREAS, the Recipient has requested disbursement of FCT Florida Forever Bond proceeds from FCT subsequent to the closing on the acquisition of the Project Site for the project costs expended for the acquisition of the Project Site by the Recipient; and

WHEREAS, the purpose of this Agreement is to set forth the conditions of approval that must be satisfied by Recipient prior to the disbursement of any FCT Florida Forever funds awarded, as well as the restrictions that are imposed on the Project Site subsequent to its cost reimbursement with the Bond proceeds.

NOW THEREFORE, FCT and Recipient mutually agree as follows:

**I. GENERAL CONDITIONS**

1. At least two original copies of this Agreement shall be executed by the Recipient and returned to the FCT office at 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, as soon as possible and before **December 18, 2003**. If Recipient requires more than one original document, the Recipient should photocopy the number of additional copies needed, and then execute each as an original document. Upon receipt of the signed Agreements, FCT will execute the Agreements, retain one original copy and return all other copies that have been executed to the Recipient.

2. This Agreement between the parties sets forth the requirements and responsibilities for cost reimbursement, acquisition and management of the Project Site, described in the application that was submitted and selected for funding by FCT (Application).

3. Approval for funding shall be until July 3, 2004 (Expiration Date). In the event that the Project Plan described in Section V. below has not been approved by the Expiration Date, this Agreement shall be terminated. The FCT may extend this Agreement beyond the Expiration Date if the Recipient demonstrates that significant progress is being made toward Project Plan approval or that extenuating circumstances warrant an extension of time. A request for an extension must be made in writing to FCT, fully explaining the reason for the delay and why the extension is necessary. If the Recipient does not request an extension, or if an extension is not granted to the Recipient by the FCT, the Florida Forever award granted to the Recipient shall terminate and all obligations hereunder shall cease.

TO APPROVE MSMP PLAN

\*4. This Agreement may be terminated before its Expiration Date at the written request of the Recipient. Such a request shall fully describe the circumstances that compel the Recipient to terminate the project. A request for termination should be mailed to the FCT at the address given in paragraph 1 above.

5. This Agreement may be terminated before its Expiration Date by the FCT if it is determined by the FCT that no significant progress is being made toward Project Site acquisition or Project Plan approval, non-performance by the Recipient of the requirements listed or that other circumstances are present that would, in all likelihood, preclude or prevent the successful reimbursement for the acquisition costs for the Project Site within the established time frame. Prior to termination, notice of the proposed termination shall be mailed to the Recipient at the address given in paragraph 13 below.

6. Recipient agrees to submit the documentation to FCT that is required in this Agreement as soon as possible so that the Project Site may be acquired in an expeditious manner. Deadlines stated in this Agreement, as well as deadlines associated with any FCT activity relating to the project, are strictly enforced. Failure to adhere to deadlines may result in delays in the project, may result in allocation of time or resources to other recipients that responded timely, and may result in this Agreement being terminated by FCT.

It is the responsibility of the Recipient and its representatives to know all project deadlines, to devise a method of monitoring the project, and to adhere to all deadlines. The Recipient shall provide a monthly status report to FCT of progress towards acquisition and reimbursement of the acquisition project costs.



7. The FCT Florida Forever award granted to the Recipient will in no event exceed the lesser of Seventy Five Percent (75.00%) of the final total eligible project costs, as defined in Rule 9K-7.002(29), F.A.C., or Three Million Three Hundred Eighty One Thousand Dollars And No Cents (\$3,381,000.00), unless the FCT approves a different amount, after determination of the Maximum Approved Purchase Price as provided in Rule 9K-8.007, F.A.C., and which shall be reflected in an addendum to this Agreement. The amount of the grant shall not exceed the Limitation of Award provided in Rule 9K-7.003(3), F.A.C., and as advertised in the Notice of Application.

8. The grant amount stated in paragraph 7 above is based on the Recipient's estimate of total project costs in its Application, as well as limits on awards in the notice of application period announcing the application cycle. When disbursing funds for the project, the FCT will recognize the actual total project costs, defined in Rule 9K-7.002(29), F.A.C., for acquisition of the Project Site. The total project costs will be reflected on a grant reconciliation statement prepared pursuant to paragraph 10 below. The FCT will participate in the land cost at either the actual purchase price, or the Maximum Approved Purchase Price based on appraisal reports that comply with requirements set forth in Rule 9K-8.007, F.A.C., whichever is less, and multiplied by the percent stated in paragraph 7 above.

9. The FCT Governing Board selected the Recipient's Application for funding to acquire the entire Project Site identified in its Application. The FCT reserves the right to withdraw or adjust the FCT award if the acreage that comprises the Project Site is reduced or the project design is changed so that the objectives of the acquisition cannot be achieved. Any request for modification of the boundary of the Project Site identified in the Application may be considered by the FCT following the procedures for submission and review of boundary modification requests set forth in Rule 9K-7.010, F.A.C.

If the Project Site is comprised of multiple parcels and multiple owners, an Acquisition Plan was required in the application. The FCT reserves the right to withdraw or adjust the FCT award if the priority parcel(s), or a significant portion of the Project Site identified in the Acquisition Plan, incorporated by reference herein and attached as Exhibit "A," cannot be acquired. Approval of the Grant Contract shall constitute approval of the Acquisition Plan by FCT.

10. The FCT funds shall be delivered either in the form of eligible project costs prepaid by FCT to vendors or in the form of a State of Florida warrant to the Recipient. FCT award funds shall only be delivered after FCT approval of the Project Plan and terms of the acquisition of the Project Site. FCT will prepare a grant reconciliation statement prior to the reimbursement that will evidence the amount of local match, if any is required, provided by the Recipient. Funds expended by the FCT for eligible project costs incurred by the FCT will be recognized as part of the FCT grant award amount on the grant reconciliation statement.

11. The Recipient's local match, if any is required, shall be delivered either in the form of eligible project costs prepaid to vendors by the Recipient; purchase price paid to Seller; or eligible documented donation by Seller of land value. The funds expended by the Recipient for eligible project costs incurred by the Recipient conducting acquisition activities will be recognized as part of the local match on the grant reconciliation statement prepared pursuant to paragraph 10 above.

In the event that preacquired or donated land value is the source of local match, the value attributed to the local match, shall be determined after an appraisal report(s) that complies with the procedures and requirements set forth in Rule 9K-8.007, F.A.C. is reviewed and approved by FCT prior to FCT funds being delivered for the project. The Recipient shall provide the appraisal(s) for the parcel(s), as required by Rule 9K-8.007, F.A.C., (1) – (4), for review by a date not to exceed 90 days after execution of this Agreement. FCT will review the appraisals and, upon approval, will determine the Maximum Approved Purchase Price as provided in Rule 9K-8.007(5) and (6), F.A.C. for FCT reimbursement.

12. The FCT Governing Board selected applications for funding on October 2 - 3, 2003, at which time the Project Site became part of a list of lands that were approved for consideration for land acquisition. If action initiated by the Recipient that is the local government having jurisdiction over the Project Site, subsequent to October 2 - 3, 2003, results in a governmentally-derived higher value due to an enhanced highest and best use, the FCT acquisition activities will be terminated unless the Seller agrees that the appraisal will be based on the highest and best use of the Project Site on or before October 2 - 3, 2003.

13. Recipient hereby notifies the FCT that the following administrator, officer, or employee is the authorized key contact, or project manager, on behalf of the Recipient for purposes of coordinating project activities for the duration of the project:

Name: \_\_\_\_\_

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

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email \_\_\_\_\_

All contact and correspondence from FCT to the Recipient will be through the key contact. The Recipient must notify the FCT as to any change in the authorization of the key contact on behalf of the Recipient named above. This notification must be made in writing to the Executive Director and signed by the appropriate authorized administrator, officer, or employee or named in paragraph III.4. below.

14. This Agreement may be amended at any time and must be set forth in a written instrument and agreed to by both the FCT and the Recipient. Such amendments shall become a part of this Agreement.

## **II. AUDIT REQUIREMENTS**

Section 215.97, Florida Statutes, the Florida Single Audit Act, provides uniform state audit requirements for state financial assistance provided by state agencies over the audit threshold as defined in that Section as follows:

1. The Recipient agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.

2. These records shall be available at all reasonable times for inspection, review, or audit by state personnel and other personnel duly authorized by FCT. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

3. The Recipient shall also provide FCT with the records, reports or financial statements upon request for the purposes of auditing and monitoring the funds awarded under this Agreement.

4. In the event that the Recipient expends a total amount of State financial assistance from all state sources equal to or in excess of \$300,000 in any fiscal year of such Recipient, the Recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Executive Office of the Governor and the Comptroller, and Chapter 10.600, Rules of the Auditor General.

Section I.7. above indicates State financial assistance through FCT by this Agreement. In determining the State financial assistance expended in its fiscal year, the Recipient shall consider all sources of State financial assistance, including State funds received from FCT, except that State financial assistance received by a non-state entity for Federal program matching requirements shall be excluded from consideration. The funding for this Agreement was received by FCT as a grant appropriation.

- a. The annual financial audit report shall include all management letters and the Recipient's response to all findings, including corrective actions to be taken.
- b. The annual financial audit report shall include a schedule of financial assistance specifically identifying all Agreement and other revenue by sponsoring agency and Agreement number.
- c. The complete financial audit report, including all items specified in (d) below, shall be sent directly to:

Department of Community Affairs  
Office of Audit Services  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100  
and  
State of Florida Auditor General  
Room 401 574, Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32302-1450

- d. In connection with the audit requirements addressed above, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a reporting package as defined by Section 215.97(2)(d), Florida Statutes, and Chapter 10.550 and 10.650, Rules of the Auditor General.
- e. If the Recipient expends less than \$300,000 in State financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the Recipient expends less than \$300,000 in State financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from non-State funds (i.e., the cost of such an audit must be paid from recipient funds obtained from other than State entities).

5. In the event the audit shows that the entire funds disbursed hereunder, or any portion thereof, were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to FCT of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty (30) days after FCT has notified the Recipient of such non-compliance.

**03-034-FF3**  
**November 18, 2003**  
**Reimbursement Acquisition**

6. The Recipient shall retain all financial records, supporting documents, statistical records, and any other documents pertinent to this contract for a period of five years after the date of submission of the final expenditures report. However, if litigation or an audit has been initiated prior to the expiration of the five-year period, the records shall be retained until the litigation or audit findings have been resolved.

7. The Recipient shall have all audits completed in accordance with Section 215.97, Florida Statutes, by an independent certified public accountant (IPA) who shall either be a certified public accountant or a public accountant licensed under Chapter 473, Florida Statutes. The IPA shall state that the audit complied with the applicable provisions noted above.

**III. AFFIRMATIONS, ANNUAL STEWARDSHIP REPORT, AUTHORIZED EXECUTOR AND FEDERAL EMPLOYEE IDENTIFICATION NUMBER.**

By execution of this Agreement, the Recipient affirms that:

1. the Recipient is ready, willing and able to provide the local match, if any is required;
2. the Recipient reaffirms the representations made in its Application;
3. the Recipient shall, on January 30 of each year after FCT reimbursement for project costs for the acquisition of the Project Site, prepare and submit to FCT an annual stewardship report as required by Rule 9K-7.013 , F.A.C.;
4. **the Recipient authorizes the administrator, employee, officer or representative named in this paragraph to execute all documents in connection with this project on behalf of the Recipient, including but not limited to the Grant Contract or any addenda thereto, grant reconciliation statement, statements submitted as a part of the Project Plan, and Grant Award Agreement.**

Name: \_\_\_\_\_

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

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

The Recipient must notify the FCT as to any change in the authorization of the administrator, officer or employee named in this paragraph to execute all documents on behalf of the Recipient. This notification must be made in writing to the Executive Director and signed by the appropriate administrator, officer or employee.

5. the Recipient hereby notifies the FCT that the Recipient's Federal Employer Identification Number is \_\_\_\_\_.

#### **IV. MANAGEMENT PLAN APPROVAL**

1. Prior to approval of the Project Plan (described in Section V below), and final disbursement of award funds by FCT, the Recipient must prepare a Management Plan that complies with Rule Chapter 9K-7.011, F.A.C., and addresses the criteria and conditions set forth in Sections IV, VI, VII, VIII, and IX herein. Recipient is strongly urged to coordinate with the FCT staff in order to ensure that the FCT approval of the Management Plan occurs prior to the closing date of the real estate transaction(s) associated with the project and delivery of FCT funds.

2. The Management Plan, which is intended to explain how the Project Site will be managed to further the purposes of the project and meet the terms and conditions of this Agreement, shall include the following:

- a. An introduction containing the project name, location and other background information relevant to management.
- b. The stated purpose for acquiring the Project Site as proposed in the Application and a prioritized list of management objectives.
- c. The identification of known natural resources including natural communities, listed plant and animal species, soil types, surface and groundwater characteristics.
- d. A detailed description of all proposed uses including existing and proposed physical improvements and the impact on natural resources.
- e. A detailed description of proposed restoration or enhancement activities, if any, including the objective of the effort and the techniques to be used.
- f. A scaled site plan drawing showing the project site boundary, existing and proposed physical improvements and any natural resource restoration or enhancement areas.

- g. The identification and protection of known cultural or historical resources and a commitment to conduct surveys prior to any ground disturbing activity, if applicable.
- h. A description of how the management will be coordinated with other agencies and public lands, if applicable.
- i. A schedule for implementing the development and management activities of the Management Plan.
- ✦ j. Cost estimates and funding sources to implement the Management Plan.
- k. A schedule for implementing the development and management activities of the Management Plan.

3. If the Recipient is not the proposed managing entity, the Management Plan must include a signed agreement between the Recipient and the managing entity stating the managing entity's willingness to manage the site, the manner in which the site will be managed to further the purpose(s) of the project, and identification of the source of funding for management.

In the event that the Recipient is a partnership, the Recipient must also provide FCT with the inter-local agreement that sets forth the relationship among the partners and the fiscal and management responsibilities and obligations incurred by each partner for the Project Site as a part of its Project Plan.

4. To ensure that future management funds will be available for the management of the site in perpetuity pursuant to Section 259.105 and Chapter 380, Part III, F.S., the Recipient(s) shall be required to provide the FCT with Reasonable Assurance, pursuant to Rule 9K-7.002(32), F.A.C., that it has the financial resources, background, qualifications and competence to manage the Project Site in perpetuity in a reasonable and professional manner. Where the Recipient does not include at least one Local Government, the FCT may: require the Recipient to post a performance or other bond in an amount sufficient to ensure that the Project Site shall be reasonably and professionally managed in perpetuity; require the Recipient to establish an endowment or other fund in an amount sufficient to ensure performance; require a guaranty or pledge by the Local Government, in whose jurisdiction the Project Site is located, which shall require the Local Government to take over the responsibility for management of the Project Site in the event the Nonprofit Environmental Organization Recipient is unable to, and may require the Local Government to be a named co-signer on the Grant Award Agreement; or require such other assurances as the Governing Board may deem necessary to adequately protect the public interest.

## **V. PROJECT PLAN APPROVAL**

1. Prior to final disbursement of award funds by FCT, the Recipient must prepare a Project Plan that complies with Rule 9K-8.011, F.A.C. This Project Plan is a compilation of the following items listed below, which must be reviewed and approved by FCT.

The Project Plan shall include, and shall not be considered by FCT unless it includes all of the following documents, to be reviewed and approved by FCT to ensure that the interest of the State of Florida will be protected:

- a. The following closing documents associated with the parcel(s):
  - (1) A copy of the Purchase Agreement(s) for sale and purchase of the parcel(s) between Recipient and \_\_\_\_\_ (Insert name[s] of Seller[s]).
  - (2) A copy of closing statements from Buyer(s) and Seller(s) for the purchase of the parcels.
  - (3) A copy of the recorded deed(s) evidencing conveyance of title to the parcel(s) to the Recipient.
  - (4) Certified survey(s) of the parcel(s) that meets the requirements of Rule 9K-8.006, F.A.C., and dated within 90 days of the date of acquisition of the parcel(s) by Recipient.
  - (5) A copy of the title insurance policy(s) evidencing marketable title in Recipient to the parcel(s) and effective the date of acquisition of the parcel(s) by the Recipient, including a statement from the title insurer as to the minimum promulgated rate if premium was paid by Recipient, and all documents referenced in the title policy(s).
  - (6) Environmental site assessment(s) of the parcel(s) certified to the Recipient, which meets the standards and requirements of ASTM Practice E 1527, and with a date of certification within 45 days of the date of acquisition of the parcel(s) by Recipient, together with the statement required by Rule 9K-8.012(4), F.A.C.
- b. A letter from FCT indicating approval of the Management Plan written according to Rule Chapter 9K-7.011, F.A.C., and as described in Section IV above.



- c. A statement of the total Project Cost, as defined in Rule Chapter 9K-7.002(29), F.A.C.
- d. A statement of the amount of the award being requested from the FCT.
- e. Supporting documentation that the conditions imposed as part of this Agreement has been satisfied.
- f. A signed statement by the Recipient, that the Recipient is not aware any pending criminal, civil or regulatory violations imposed on the Project Site by any governmental agency or body.
- g. Additional documentation as may be requested by FCT to provide Reasonable Assurance as set forth in Section IV.4 above.

2. The FCT strongly encourages the Recipient to request a courtesy review of its Project Plan prior to submission of the Project Plan for approval and release of funds. FCT will recommend approval of complete and accurate Project Plans or disapproval of incomplete or insufficient project plans.

3. Reimbursement for project costs may be made only after FCT approval of the Project Plan.

**VI. REQUIREMENTS IMPOSED BY CHAPTER 259 AND CHAPTER 380, PART III, F.S.**

**RECIPIENT AGREES AS FOLLOWS:**

1. FCT shall approve the terms under which the interest in land is acquired, pursuant to Section 380.510(3), F.S. Such approval is deemed given when the FCT approves the Project Plan containing a copy of the document(s) vesting title to the Project Site in the Recipient.

2. Title to the Project Site shall be titled in the Recipient.

3. Each parcel to which the Recipient acquires title in the Project Site shall be subject to such covenants and restrictions as are, at a minimum, sufficient to ensure that the use of the Project Site at all times complies with Section 375.051 and 380.510, F.S.; Section 11(e), Article VII of the State Constitution; the applicable bond indenture under which the Bonds were issued; and any provision of the Internal Revenue Code or the regulations promulgated thereunder that pertain to tax exempt bonds and shall contain clauses providing for the conveyance of title to the Project Site in the Board of Trustees of the Internal Improvement Trust Fund or another local government or non-profit organization upon failure to use the Project Site conveyed thereby for such purposes.

4. A Grant Award Agreement containing such covenants and restrictions as referenced in paragraph 3 above and describing the real property subject to the Agreement shall be executed by the FCT and Recipient at the time of the reimbursement for the Project Site and shall be recorded in the county in which the Project Site is located. The Grant Award Agreement shall restate the conditions that were placed on the Project Site at the time of project selection and initial grant approval. All statements contained in the Grant Award Agreement are contained in this Agreement, with the exception of statements that do not survive the reimbursement for costs for the acquisition of the Project Site.

5. If any essential term or condition of the Grant Award Agreement is violated, and the Recipient does not correct the violation within 30 days of written notice of violation, title to all interest in the Project Site shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund. The deed transferring title to the Project Site to the Recipient shall set forth the executory interest of the Board of Trustees of the Internal Improvement Trust Fund.

6. The interest acquired by the Recipient in the Project Site shall not serve as security for any debt of the Recipient.

7. If the existence of the Recipient terminates for any reason, title to the Project Site shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund, unless FCT negotiates an agreement with another local government or nonprofit organization which agrees to accept title and to manage the Project Site.

## **VII. OBLIGATIONS OF THE FCT RECIPIENT AS A CONDITION OF PROJECT FUNDING**

1. Following the reimbursement for costs of the Project Site, the Recipient shall ensure that the future land use designation assigned to the Project Site is for a category dedicated to open space, conservation, or outdoor recreation uses as appropriate. If an amendment to the applicable comprehensive plan is required, the amendment shall be proposed at the next comprehensive plan amendment cycle available to the Recipient subsequent to the reimbursement for costs for the acquisition of the Project Site.

2. Recipient shall ensure, and provide evidence thereof to FCT, that all activities under this Agreement comply with all applicable local, state, regional and federal laws and regulations, including zoning ordinances and the applicable adopted and approved comprehensive plan.

3. The Recipient shall, through its agents and employees, prevent the unauthorized use of the Project Site or any use thereof not in conformity with the Management Plan approved by the FCT as a part of the Project Plan.

4. FCT staff or its duly authorized representatives shall have the right at any time to inspect the Project Site and the operations of the Recipient at the Project Site.

5. All buildings, structures, improvements, and signs shall require the prior written approval of FCT as to purpose. Further, tree removal, other than non-native species, and major land alterations shall require the written approval of FCT. The approvals required from FCT shall not be unreasonably withheld by FCT upon sufficient demonstration that the proposed structures, buildings, improvements, signs, vegetation removal or land alterations will not adversely impact the natural resources of the Project Site. The approval by FCT of the Recipient's Management Plan addressing the items mentioned herein shall be considered written approval from FCT.

## **VIII. OBLIGATIONS OF THE RECIPIENT RELATING TO THE USE OF BOND PROCEEDS**

1. FCT is authorized by Section 380.510, F.S., to impose conditions for funding on Recipient in order to ensure that the project complies with the requirements for the use of Florida Forever Bond proceeds including without limitation the provisions of the Internal Revenue Code and the regulations promulgated thereunder as the same pertain to tax exempt bonds.

2. Recipient agrees and acknowledges that the below listed transactions, events, and circumstances, collectively referred to as the "disallowable activities", may be disallowed on the Project Site, as they may have negative legal and tax consequences under Florida law and federal income tax law. The Recipient further agrees and acknowledges that these disallowable activities may be allowed up to a certain extent based on guidelines or tests outlined in the Federal Private Activity regulations of the Internal Revenue Service:

- a. any sale or lease of any interest in the Project Site to any person or organization;
- b. the operation of any concession on the Project Site by any person or organization;
- c. any sales contract or option to buy things attached to the Project Site to be severed from the Project Site, with any person or organization;
- d. any use of the Project Site by any person other than in such person's capacity as a member of the general public;
- e. any change in the character or use of the Project Site from that use expected at the date of the issuance of any series of Bonds from which the disbursement is to be made;
- f. a management contract of the Project Site with any person or organization; or
- g. such other activity or interest as may be specified from time to time in writing by FCT to the Recipient.

3. If the Project Site after its acquisition by the Recipient and/or the Trustees, is to remain subject, to any of the "disallowable activities", the Recipient shall provide to FCT at least 60 calendar days advance written notice of any such transactions, events, and circumstances, and shall provide to FCT such information as FCT reasonably requests in order to evaluate the legal and tax consequences of such activity or interest for FCT approval.

4. In the event that FCT determines at any time or from time to time that the Recipient is engaging or allowing others to engage in disallowable activities on the Project Site, the Recipient agrees to immediately cease or cause the cessation of the disallowable activity upon receipt of written notice from the FCT. In addition to all other rights and remedies at law or in equity, FCT shall have the right to seek temporary and permanent injunctions against Recipient for any disallowable activity on the Project Site.

DELEGATIONS AND CONTRACTUAL ARRANGEMENTS BETWEEN THE RECIPIENT AND OTHER GOVERNMENTAL BODIES, NONPROFIT ENTITIES, OR NON GOVERNMENTAL PERSONS FOR USE OR MANAGEMENT OF THE PROJECT SITE WILL IN NO WAY RELIEVE THE RECIPIENT OF THE RESPONSIBILITY TO ENSURE THAT THE CONDITIONS IMPOSED HEREIN ON THE PROJECT SITE AS A RESULT OF UTILIZING BOND PROCEEDS TO ACQUIRE THE PROJECT SITE ARE FULLY COMPLIED WITH BY THE CONTRACTING PARTY.

#### **IX. CONDITIONS PARTICULAR TO THE PROJECT SITE THAT MUST BE ADDRESSED IN THE MANAGEMENT PLAN**

The Management Plan for the Project Site is mentioned throughout this Agreement, and is particularly described in Section IV. above. In addition to the various conditions already described in this Agreement, which apply to all sites acquired with FCT funds, the Management Plan shall address the following conditions that are particular to the Project Site and result from either commitments made in the application that received scoring points or observations made by the FCT staff during the site visit described in Rule 9K-7.009(1), F.A.C.:

1. Two or more resource-based outdoor recreational facilities including covered picnic pavilion and walking trails and two or more user-oriented outdoor recreation facilities including a playground and gaming tables shall be provided at the Project Site. The facilities shall be designed and located with minimal impact to natural resources on the Project Site.

2. A permanent recognition sign shall be maintained in the entrance area of the Project Site. The sign shall acknowledge that the Project Site is open to the public and was purchased with funds from the Florida Communities Trust and the City of Key West.

3. Interpretive signage shall be provided to educate visitors about the natural environment and unique history of the Project Site.

**03-034-FF3  
November 18, 2003  
Reimbursement Acquisition**

4. At least 24 environmental education classes or programs shall be conducted annually at the Project Site by trained educators or resource professionals.
5. A staffed nature center that provides year- round education programming shall be established on the Project Site.
6. The canopy trees on the Project Site shall be preserved and appropriately managed to ensure the long-term viability of the trees.
7. The Project Site shall be managed in a manner that protects and enhances habitat for native wildlife species that utilize or could potentially utilize the site, including the Stock Island tree snail. The development of the management plan shall be coordinated with the Fish and Wildlife Conservation Commission's Office of Environmental Services to ensure the preservation and viability of native wildlife species and their habitat. Periodic surveys shall be conducted to ensure that site management is compatible with the listed species using the Project Site.
8. The water quality of Florida Bay adjacent to the Project Site shall be protected and enhanced. The City shall implement a plan to improve water quality in the area including the removal of several existing structures and asphalt parking areas.
9. Any proposed stormwater facility for the Project Site shall be designed to provide recreational open space or wildlife habitat.
10. Approximately 4 acres, shall be landscaped with native plant species to enhance the function and appearance of the Project Site.
11. An ongoing monitoring and control program for invasive vegetation including exotic (non-native) and nuisance native plant species shall be implemented at the Project Site. The objective of the control program shall be the elimination of invasive exotic plant species and the maintenance of a diverse association of native vegetation. The Management Plan shall reference the Exotic Pest Plant Council's List of Florida's Most Invasive Species to assist in identifying invasive exotics on the Project Site.
12. A feral animal removal program shall be developed and implemented, as necessary, for dogs, cats, ducks, and other non-native wildlife that may be found on the Project Site.
13. Prior to the commencement of any proposed development activities, measures shall be taken to determine the presence of any archaeological sites. All planned activities involving known archaeological sites or potential site areas shall be closely coordinated with the Department of State, Division of Historic Resources in order to prevent the disturbance of significant sites.

14. The location and design of the parking and other site improvements shall have minimal impact on natural resources. The parking area shall incorporate pervious material wherever feasible.
15. Pedestrian and bicycle access to the Project Site shall be promoted through the provision of pedestrian oriented walkways and bicycle facilities that link the Project Site with City sidewalk and bike trail network.
16. The Project Site shall be managed as an addition to the Key West Botanical Gardens.
17. The Project Site shall be developed and managed as a support parcel of the Overseas Heritage Trail recreational trail system and include trailhead facilities.
18. The Project Site shall be protected and managed as part of linked conservation lands and recreation opportunities along the Florida Keys Paddling Trail
19. Proposed site improvements shall be designed and located to minimize or eliminate the long term risk of storm damage or flooding in conjunction with appropriate hazard mitigation agencies or experts.
20. The requirements imposed by other grant program funds that may be sought for activities associated with the Project Site shall not conflict with the terms and conditions of this Agreement.

This Agreement including Exhibit "A", if required, embodies the entire agreement between the parties.

THE FLORIDA COMMUNITIES TRUST'S OBLIGATION TO PROVIDE FUNDS UNDER THIS AGREEMENT IS CONTINGENT UPON AN ANNUAL APPROPRIATION BY THE LEGISLATURE.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

CITY OF KEY WEST

FLORIDA COMMUNITIES TRUST

By: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Janice Browning  
 Executive Director  
 Date: \_\_\_\_\_

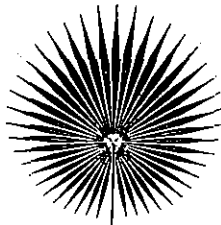
Approved as to Form and Legality:  
 By: \_\_\_\_\_  
 Print Name: \_\_\_\_\_

Approved as to Form and Legality:  
 By: \_\_\_\_\_  
 Trust Counsel

03-034-FF3  
 November 18, 2003  
 Reimbursement Acquisition

**Business Plan**  
**for**  
**The Key West**  
**Tropical**  
**Forest<sup>®</sup>**  
**& Botanical**  
**Garden**

Prepared by:



Key  
West  
Botanical  
Garden  
Society

## **B-1**

## **YEARS 2000- 2003**

The Key West Tropical Forest and Botanical Garden (hereafter referred to as the “garden”) was relatively unknown to most citizens who lived here and unknown to the majority of visitors. It lacked exposure, being boxed in by several developments including the golf course, the FCAA water towers, Mosquito Control Offices, Bayshore Manor, and Monroe County public works buildings. The condition of the garden made it vulnerable to developers. The first plan of action was to ensure that the property would be protected in perpetuity and give it deserved status for growth and exposure.

### **B- 1.1 PROTECTION/EXPOSURE**

In an effort to preserve the garden, the Society applied for and was awarded:

- STATE HISTORIC FILE AND NOMINATION FOR NATIONAL REGISTRY OF HISTORIC PLACES (master plan pg. 8)
- TRAILHEAD ON THE OVERSEAS HERITAGE HIGHWAY (master plan pg. 61)
- Federal Status as an arboretum/botanical garden, or a museum of living Collections (exhibit 1)

### **B-1.2 RESEARCH**

In order to form a plan of action, the Society needed to take some basic steps to understand its past history, where it stands today and where it should go in the future.

The Society then implemented 3 major research projects:

- a. SWOT (Strengths, weaknesses, opportunities and threats.) (exhibit 2)
- b. A DETAILED HISTORY (master plan pgs. 4 & 5)
- c. VISION WORKSHOP (exhibit 3)

Researching the garden’s history revealed that the true intent of the garden was to have it serve as a tourist attraction where visitors could see the tropical flora of the Keys as well as other tropical plants from around the world. In reviewing SWOT and the Vision workshop outcome, it became clear that the garden needed more visibility and space, plus a major renovation to include the following:

- Protect the current garden property from outside hazards
- Remove invasive and threatening species to local flora and fauna



- Improve the appearance while enhancing the tranquility
- Increase exposure to the garden
- Educate the public about this hidden treasure
- Construct a visitor center with proper facilities to accommodate the visitor
- Retain ambience and uniqueness of the native tropical forest sanctuary
- Incorporate the arts within the garden

Concurrently, the Society became aware plans to remove the adjacent County buildings and that a public works facility and EMS station were to be built on the site, reducing further the hope for a positive renovation of this forest. The possibility of the garden reclaiming back some 5.5 adjacent acres became the only solution for the preservation of the existing forest. The Society made a proposal to the County to purchase the land by finding a grant and finding the County alternate sites.

### **B-1.3 PLANNING**

The Society then made the following items happen:

- \*REVISION OF ITS MISSION STATEMENT (master plan pg.9)
- \*MASTER PLAN VISION AND CONCEPTUAL DRAWING (master plan pg.10)
- \*APPLICATION WITH THE CITY FOR AN FCT GRANT
- \* CREATION OF A MASTER PLAN

The Society asked Tom Pope, a well known and respected, local architect for help. Mr. Pope was selected for his renowned reputation for attention to detail in historic buildings, as well as his blend of structures to tropical landscape. His designs have been well documented in both Architectural Digest, as well as, Florida architecture magazines. The Society selected Raymond Jungles for the major design of the master plan for the following reasons:

- His long term knowledge of and passion for this garden since 1980
- His knowledge of local flora and fauna
- His landscape architectural style that incorporates “native”, “natural” and “tranquil”
- His international reputation for specializing in South Florida and Caribbean landscape

- His great enthusiasm for working with specialists, scientists and environmentalists

Utilizing the vision workshop data and working with pro bono help from both Raymond Jungles and Tom Pope, a conceptual plan was developed for the existing garden and the proposed new land acquisition.

Both Mr. Pope and Mr. Jungles donated their services.

The Society then commenced planning ways to raise funds for:

- Master plan vision and conceptual drawing
- Visitor center construction
- Master plan
- Educational materials

#### **B-1.4 FUNDING**

In 2001, the Society wrote and was awarded a \$576,000 grant from the Monroe County Tourist Development Council (TDC) for a visitor center, pavilion, waterfall, pond, stage and small office. The Society raised the funds to match the TDC grant in the amount of \$278,000. The Society also raised approximately \$60,000 during 2002 -2003 for completing the written master plan for Phase One, grant research for future projects within Phase One, maintenance, educational materials, operating and administration.

The Society was then awarded a second \$210,000 construction grant from TDC for installation of ADA accessible walkways and a 1.5 acre butterfly habitat with over \$25,000 in new plantings, which is currently being constructed for completion April 1, 2004. The Society must match this grant with 50% or \$105,000. The deadline for completion of this work is January 31, 2004.

#### **B-1.5 MASTER PLAN DEVELOPEMNT – PHASE ONE**

The Visitor Center was constructed during 2002 and opened in March 2003. The current visitor center is greeting an average of 25-30 visitors a day WITH NO ADVERTISING.

Project 2- ADA accessible walkways and a 1.5 acre butterfly habitat, is currently under construction and will be open April 2004.

### **B-1.6 OPERATIONS**

From 2000 until the end of 2002, the garden was open 24 hours a day. Although the memorandum stated that the County would open and lock the gate, and there would be regular police patrol, neither existed. The Society waited until there was a visitor center and boundary security to lock and unlock the front gate, which started in January 2003. Volunteers and some part time paid staff "man" the visitor center. The Garden is open with a volunteer present 6 days each week from 10:00 AM TO 4:00 PM. The Garden is closed on Wednesdays.

### **B-1.7 EDUCATION**

In 2000, the only education that existed was a trail brochure that was left in a box outside the fire gate. The brochures were sometimes rained on and sometimes blown away. Some tags existed on trees, but not very many.

In 2001, an annual children's program was started:

2001 = " The Living Coloring Book".

2002= " Butterfly Release"

2003= "Butterflies are Free"

In Dec 2002, Dr. Stuart Pimm and Duke University graduate students designed education boards for the new visitor center and a self guided tour with numbered stops and points of interest about the trees. The Garden now has much more educational information than ever before including plant, bird and butterfly lists. All the plants in the new entry area have been labeled.

### **B- 1.8 STAFFING**

No staff existed in 2000 and 2001. In 2002, we contracted a part time bookkeeper. In 2003, we contracted a full time maintenance person. All other tasks were done by volunteers, since all monies raised had to go to construction and maintenance.

### **B- 1.9 MARKETING/ADVERTISING**

Signs went up on US ONE in 2001 as well as a sign on College Road. The only marketing/advertising was for special events such as Hot Havana Nights, the Moonlight Sail, the Duke students and the children's events. In 2003, with the opening of the visitor center, public relations increased with more public interest stories about the garden and its plans. Due to impending demolition of

the county buildings, it was felt more prudent to await the completion of the demolition before doing any more marketing.

**B- 1.10            TOURISM**

Since March 2003, a period of nine months, the garden has had approximately 7,000 visitors come to the garden even though we only have 3 signs and limited public relations stories.

## **B - 2**

## **YEARS 2004-2006**

### **B- 2.1 PROTECTION/EXPOSURE – NEW LAND**

An FCT grant has been awarded permitting the City Commission the opportunity to reclaim a portion of garden land that was lost. The garden originally contained 55 acres. But, from 1935-1991, all but 7.5 acres was taken away.

During the title search phase done in 2002, it became known that the garden also had two waterfront parcels across College Road that are not directly accessible at this time.

The Society made every effort to find, write and get awarded funding for the majority of the 5.5 acres, which would then give access to the waterfront parcels.

The Florida's Communities Trust, a State environmental program, ranked the garden plan 12th out of 125 applications.

The FCT grant requires that the City pay 25% of the total appraised value and cost of closing to the County, which is estimated to be 4.5 million for the land so that the 25% would be \$1.2 million.

In addition, the Society is requesting reimbursement for current capital construction, past maintenance, and operating costs amounting to approximately \$200,000, which has already been agreed to in the existing City Memorandum. (exhibit 4)

The City and the Society shall then execute a lease commencing with the acquisition that will allow the Society to go forward with its fundraising plans for the development of both the current garden and the new land.

The City shall name a Committee, who will work with the Society to create the new lease agreement to be completed no later than June 1, 2004, which will be during the same time frame of the land closing.

## **B-2.2 RESEARCH**

Research now evolves from the garden's past and present to the potential of its future. Duke University, US Fish and Wildlife and Partners for Fish and Wildlife have all become partners in this project and will continue to research not only the species of flora and fauna, but also the habitats that can be built to attract back many rare species. Biological inventories will be carried out quarterly with help from these agencies.

Focus groups shall be done for community involvement in the garden specifically related to the meditation gardens and all religious factions of Key West being represented. Vision workshops will also commence with The Bahamian/ Caribbean and Cuban communities related to their respective gardens. Workshops will also be conducted with other organizations related to horticulture; i.e., Orchid, Native Plant and Palm Societies of South Florida

## **B-2.3 PLANNING**

The conceptual master plan has been developed. Once funded, the Society will enlist several firms to review the plan to ensure that it is the most cost effective, without compromising the vision components. A master plan for Phase Two shall be written to include the following components:

1. Architectural
2. Engineering
3. Landscape
4. Property infrastructure
5. Environmental requirements and needs
6. Educational components- signs- technology
7. ADA/safety
8. Pedestrian flow
9. Insurance liability
10. Operating
11. Education programs
12. Staffing/administration
13. Marketing/advertising
14. Community comments on specific gardens

Once all recommendations and reviews have been completed, construction drawings shall be executed and final costing. The Plan will then be submitted to the City for DRC review. Once all final approvals are in place, the Society will begin the bid process

#### **B-2.4 FUNDING PLAN**

An extraordinary project calls for an extraordinary fund raising drive. The Key West Tropical Forest and Botanical Garden is just such a project. With the addition of the Monroe County property of 5.5 acres, the current garden has the opportunity to break out of seclusion and its introverted status to become a world class, ecotourist attraction. What is proposed in the Master Plan is outstanding, but will only come to fruition with the City of Key West's support and a major fund raising campaign. Without both these components, the garden will not succeed.

From a Campaign perspective, the bigger the garden is, the more fundable it is. The addition of more land makes the garden look more dynamic, alive and growing and more appealing to a potential donor who wants to participate in something successful. Also, the more the garden is perceived as being run by a 501-c-3 charitable organization and not a City project, the more fundable it is. Individuals and foundations are not likely to make gifts for a City project. They are far more likely to make gifts to a charitable organization, which would also provide a tax benefit to the donor.

The garden is currently sustained by annual funds that have been sufficient to keep the garden open and do minor restoration and development. This has been an entirely volunteer effort up until now, operating on a shoestring budget. In order to accomplish what is envisioned for the garden as defined in the Master Plan will take a significant infusion of financial support in order to make it happen. The following paragraphs address a Campaign.

#### **Capital Campaign**

A capital campaign is an intensive, organized effort on the part of an organization to secure extraordinary gifts and pledges for a specific purpose or purposes over a specified period of time.

The KWBGS has spent the past three years (2001-2003) building its membership base, recruiting volunteers, strengthening its board of directors, developing a strategic and master plan, becoming better known, and expanding its financial support. All of these factors have been positioning the Society to make the garden more financially viable.

During the next three years (2004-2006), the KWBGs will conduct a thorough, comprehensive fund raising campaign with trained volunteer leadership seeking major gifts and pledges both locally and nationally for the development of the garden, incorporation of the new land, and the sustainability of this renewed and enlarged entity.

Major gift prospects are in the process of being identified and researched as the Society moves forward from the planning phase into the preliminary advanced phase of the campaign during which the major gifts will be sought. Major gifts are defined as \$10,000 and above. The preliminary goal at this time is \$15,000,000 and will be finally determined by a vote of the KWBGs Board of Directors.

Financial support will be sought from:

<u>Source</u>	<u>% of Goal</u>	<u>\$Amount</u>
• Individuals	30%	4,500,000
• Corporations	15%	2,250,000
• Private Foundations	15%	2,250,000
• Public Grant-Making Institutions	<u>40%</u>	<u>6,000,000</u>
	100%	\$15,000,000

### Annual Fund

The annual fund differs from a capital campaign in that it is money raised during the course of the year to support budgeted items that year or next. It is generally staff generated without the involvement of senior volunteer leadership recruited from the community. It is more limited in scope and generally does not look beyond current operating costs. Revenue is derived from various sources such as:

- Gate Donations
- Sponsored events
- Naming opportunities
- Membership
- Rental arrangements
- Licensing

The KWBGs annual fund during 2003 generated funds from half the sources listed above and will continue generating funds during the campaign from all sources listed above. The purpose of the campaign is to raise funds over and



above those generated for operational support, which is the focus of the annual fund.

#### **B-2.5 MASTER PLAN DEVELOPMENT FOR PHASE ONE**

The current garden will continue to be renovated, section-by-section, as grant monies become available. We have been highly successful in obtaining grants and raising the funds to match them. Before we can do any effective marketing or advertising to the Nation, we must complete Projects 3 & 4, which will make 3.5 acres of the garden ADA accessible, have the entire perimeter of the existing garden enclosed and limit the outside forces that disturb the tranquility. This will be completed from 2004-2006. Project 5 entails restoration of a very sensitive habitat that will be ongoing during 2004-2006, and continue through 2007.

#### **B-2.6 MASTERPLAN DEVELOPMENT FOR PHASE TWO**

During the later part of 2006, infrastructure will begin on Phase Two.

#### **B-2.7 OPERATIONS**

The garden will remain open to the public. Construction will occur during the summer months when it will be the least disruptive to garden visitors. The current hours are Daily 10-4, closed Wednesdays and certain holidays. Special access is available outside of these hours by request. Volunteers currently "man" the visitor center. A suggested donation, not admission is requested. The donations pay for reprint of brochures and supplies. A guided tour is given daily. The hours will increase as more volunteers are signed up.

#### **B-2.8 EDUCATION**

In 2004, The Society will start the first series of children/family education programs called "Bugs, Bats and Snakes Alive". This will be a series of 5 Saturday events in which specialists will be brought in with their respective critters for an educational program. An adult education program will also commence with 4 events – planting in the keys, native fragrant /spice plants, native butterfly gardening, and native palms. A specialist will do each program.

## **B-2.9 STAFFING**

For 2004, paid staff is contractual:

- 1 part time bookkeeper
- 1 part time accountant for the grants
- 1 part time CPA
- 1 full time maintenance person
- 1 part time certified arborist
- 1 part time education person
- 1 part time "events" person
- 1 part time public relations person
- 1 part time fundraising consultant

In 2005, the Society shall enter into an employee staff/contractual:

- 1 full time director of development
- 1 full time operations director
- 1 full time biodiversity director
- 1 part time education support staff
- 1 full time maintenance person
- 1 part time maintenance person
- 1 part time arborist
- 1 part time bookkeeper
- 1 part time technology person

In 2006, we will add:

- 1 full time technology person
- 1 full time project manager

## **B-2.10 MARKETING/ADVERTISING PLAN**

2004 - Rack cards have been produced and are planned for distribution through the Lodging Association and Island Advertising. All companies producing visitor maps and attraction brochures will be contacted for an update and placement on maps. Key TV has offered to broadcast the new 4-minute movie developed by Duke University graduate students of the Nicholas School for Earth Sciences. Local newspapers will be requested to post our hours. In addition, the public relations stories will continue during peak season and branch out to some specific national print related to the sciences. Signage has been increased near US One and on College Road. In addition, a new website has been established and certain websites will be alerted about bird sightings as this can help to attract birders worldwide even during development.

In 2005, the Society shall begin to seek TDC monies for advertising specific events and begin major advertising in South Florida. We will target avi-tourism

In 2006, the Society will begin to do a national public relation campaign utilizing sources from the Tourist Development Council to include stories in science, travel, airline magazines, travel and public television programs.

### **B- 2.11            TOURISM**

Based on the above marketing plan and completion of certain phases, we expect the annual visitation to be as follows:

Year	Annual visitors
2004	15,000.
2005	20,000
2006	25,000

## **B- 3**

## **YEARS 2007-2009**

### **B-3.1 PROTECTION/ EXPOSURE**

The Overseas Heritage Trail will now be complete to the Tropical Forest and Botanical Garden. In 2009, once the construction of Phase Two is 90% completed, application will commence for the National Registry of Historic Places, giving the garden national exposure.

### **B-3.2 RESEARCH**

In 2007, research will be conducted on best use of the adult education Tools: i.e. herbariums, libraries. Research will also commence for new event venues based on the new facilities.

### **B-3.3 PLANNING**

All planning will center on the needs and details for operating the new garden. Grand openings will need to be scheduled as the projects within this phase are completed.

Technology, hours of operation, staff scheduling, new opportunities for rentals, musical and art events will need extensive 1-3 year planning.

### **B- 3.4 FUNDING**

With the Capital Campaign reaching its conclusion and the \$15,000,000 being raised or pledged, construction will be in full swing to complete Phase 2 of the Key West Tropical Forest and Botanical Garden. Emphasis will be on making sure the goal was achieved and that pledges are being paid. The Society will make every effort to practice good stewardship of the gifts that it has been charged with, insuring that the money raised is spent as the donor intended and reporting such progress to the donor. The Campaign will conclude with a special event marking the close of the campaign and timed to coincide with the opening of another section of the garden.

The Annual Fund will see marked increases in the level of support because of increased membership, increased gate donations, greater attendance at sponsored events, more significant licensing arrangements, and greater use of the garden facilities via rental arrangements. Added to the annual revenue will also be sales via the gift shop.

Sources of income from the newly created facilities will be forecasted.

### **B-3.5 MASTER PLAN DEVELOPMENT –PHASE ONE**

Project 5 – the hammock will be completed during 2007-2008.

### **B-3.6 MASTER PLAN DEVELOPMENT –PHASE TWO**

Construction of the entire Phase Two will begin and be completed during this 3-year period.

### **B-3.7 OPERATIONS**

By the end of 2009, the garden hours will expand to 9-6 pm daily- closed only on major holidays. Special birding hours will occur during major migration times. Entry to the newly expanded garden will be at no charge. It is planned that visitors shall seek to purchase an admission ticket to the “Tropical forest” with a specific time, so that the visitor traffic is controlled and limited daily. A daily-guided tour will also be scheduled for the “hammock habitat”. Self-guided electronic tour mechanisms will be available for rental in various languages. Printed self guided tours for specialized collections will be available for sale. The adult education building shall serve as a public library for biodiversity, as well as holding classes. The amphitheatre will be utilized for special events, conferences and displays.

### **B-3.8 EDUCATION**

In keeping with our mission statement, we will emphasize the importance of the flora and fauna of the Florida Keys. Many of our species are threatened or endangered. It is important to both the local community and visitors to the Keys to realize the crisis and their human impact to these species, while having them enjoy their beauty and unique traits.

The majority of the programs will be held around both the school calendar year and the tourist calendar year, November through May, with some programs going through the summer months.

Once the land rehabilitation is completed, we will offer the following:

- I. 10 children’s educational events with help from different agencies focusing on a selected topic related to:
  - Butterflies / Butterfly and Nature Conservatory

- Birds/ Audubon Society
- Turtles/ PARC
- Insects/ Carlos de la Rosa, Ph.D. Pinellas County
- Bats/ Florida Bat Center
- Pond creatures/US Fish and Wildlife
- Snakes/ US Fish and Wildlife
- Snails/ Monroe County Extension Service
- Trees/ Nature Conservancy
- Flowers/Key West Garden Club

2. 10 adult education programs with help from professional speakers focusing on a special topic related to:

- Medicinal attributes from our native plants/ NOVA
- Planting a native garden/ University of Florida Monroe County Extension Service
- Bio-diversity and what it means to you/ Duke University
- Plants: the secrets to future solutions/ Sy Somer
- Butterfly gardening/ Butterfly and Nature Conservancy
- Hummingbird gardening/ US Fish and Wildlife
- Birds of the Florida Keys/ Audubon Society
- Orchids of the Keys and Caribbean / Orchid Society
- Tree snails are good! /US Fish and Wildlife
- What NOT to plant in your yard/ Nature Conservancy

3. In addition, we will hold 10 special educational tour programs that will allow access to our special habitat in the rear portion of the tropical forest, where by each tour will focus on a specific topic with special guest tour guides from various universities/ professions related to:

- Migratory birds – spring
- Migratory birds- fall
- Mangroves- their role
- Tropical hardwood hammocks
- Insects - their role
- Bio-diversity of a tropical wetland pond
- Bio-diversity in a tropical forest
- The Florida Keys ecosystem
- Rare plants of the Florida Keys

- Restoration of endangered species habitats

### **B- 3.9 STAFFING**

2007 – add

- 1 full time maintenance person
- 1 full time public relations person
- 3 full time security persons

2008- add

- 1 executive director
- 1 full time maintenance person
- 1 full time administration person

2009-add

- 1 full time maintenance person
- 1 full time bookkeeper
- 2 full time visitor center staff
- 3 full time tour guides

### **B - 3.10 MARKETING ADVERTISING**

In 2007, the garden will be marketed to the cruise ship industry with the intention of making the garden a pre-signup adventure. Cruise ship passengers will begin to visit the newly completed garden in 2009. A series of commercials for tourism television, hotel infomercials and local television will be developed to target the weekly visitors. In addition, the events schedule will be heightened and radio/newspaper advertising will be more frequent.

### **B- 3.11 TOURISM**

Year	Annual visitors
2007	40,000
2008	50,000
2009	100,000

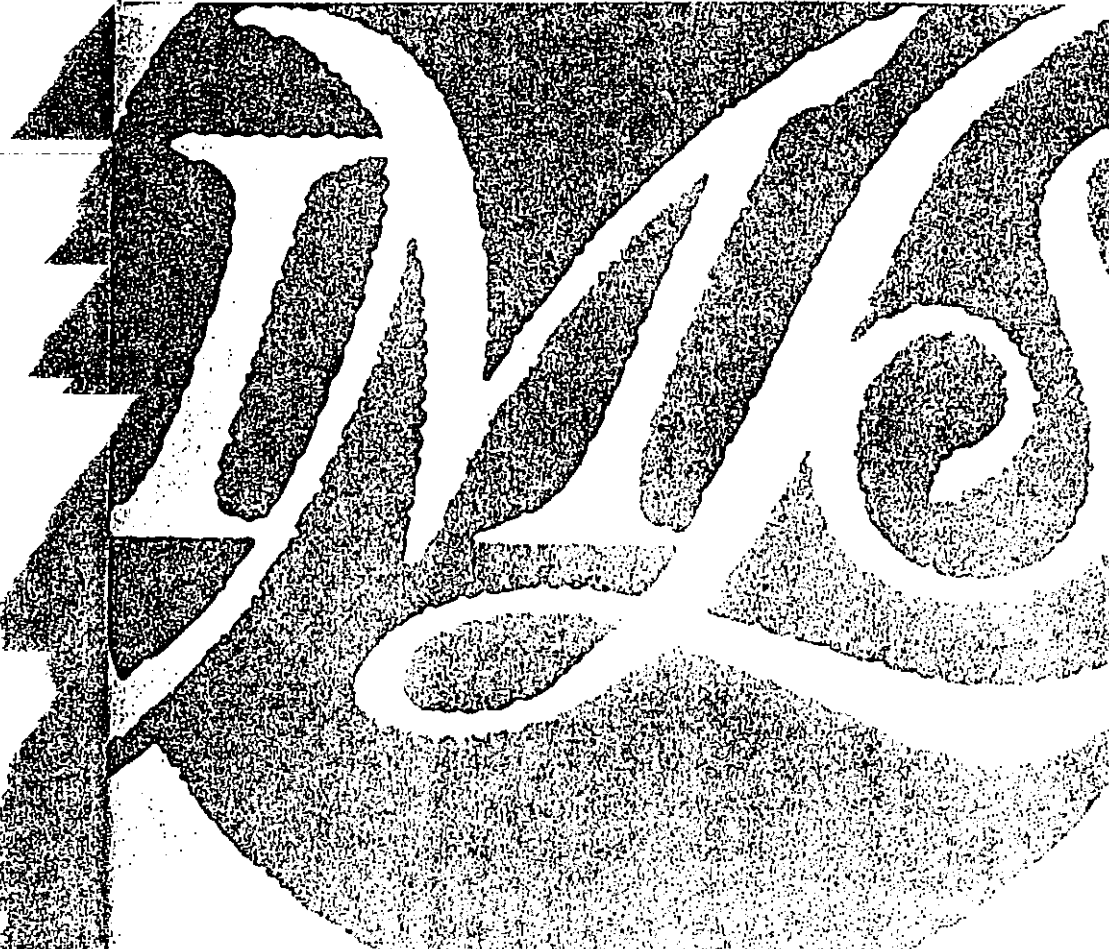


INSTITUTE of  
MUSEUM  
and LIBRARY  
SERVICES

## Overview

# What Is the Institute of Museum and Library Services?

Congress established the Institute of Museum and Library Services (IMLS) through the Museum and Library Services Act (MLSA) of 1996 as an independent federal grantmaking agency. IMLS promotes leadership, innovation, and a lifetime of learning by supporting museums and libraries throughout the United States and its territories. The Institute also supports partnership projects between museums and libraries and other community organizations.



*A federal agency  
that promotes  
leadership,  
innovation,  
and a lifetime  
of learning  
by supporting the  
nation's museums  
and libraries.*



## Eligibility Criteria for Museums

### General Eligibility

All types of museums, large and small, are eligible for funding. Eligible museums include aquariums, arboreta and botanical gardens, art museums, youth museums, general museums, historic houses and sites, history museums, nature centers, natural history and anthropology museums, planetariums, science and technology centers, specialized museums, and zoological parks. Federally operated and for-profit museums may not apply for IMLS funds.

An eligible museum must

- be organized as a public or private nonprofit institution that exists on a permanent basis for essentially educational or aesthetic purposes;
- care for and own or use tangible objects, whether animate or inanimate, and exhibit these objects on a regular basis through facilities that it owns or operates;
- have at least one professional staff member or the full-time equivalent, whether paid or unpaid, whose primary responsibility is the acquisition, care, or exhibition to the public of objects owned or used by the museum;
- be open and providing museum services to the general public (an institution that exhibits objects to the general public for at least 120 days a year fulfills this requirement);
- be located in one of the fifty U.S. states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau.

Museums located within multipurpose public or private nonprofit organizations such as municipalities, universities, historical societies, foundations, and cultural centers may apply for all IMLS museum funds. To be eligible, a museum located within a multipurpose organization must function as a discrete unit within its parent organization.

In addition, the museum must

- have at least one full-time professional staff member, or the equivalent, paid or unpaid, whose responsibilities are solely for the museum's services and operations;
- have a fully segregated and itemized operating budget within that of its parent organization; and
- be able to separately and distinctly fulfill all eligibility and application requirements of the grant program.

Prospective applicants that cannot fulfill all of these requirements should contact IMLS to discuss their eligibility before applying. IMLS may require additional supporting documentation from the applicant to determine the museum's autonomy. Each eligible applicant within a single parent organization should clearly delineate its own programs and operations in the application narrative.

## **Master Plan Meeting**

Phase One

SWOT - 5-11-00

**Present: Carolann Sharkey, Sandy Lee, Misha McRae, Maryann Warakomski, Joanne Meyers, Deandra Rollings**

**In order to begin to formulate a master plan, we have identified out strengths, weaknesses, opportunities and threats.**

### **Strengths:**

Frost Free

Huge space for Key West

Has a great history and legacy

One of the most peaceful areas of KW

"Calm" in the storm

great habitat for birds and migratory stop

great habitat for butterflies and migratory stop

great diversity of native plants

has a board of directors with the following characteristics: visionary, flexible, tenacious, articulate, perseverant, and imaginative.

### **Weaknesses:**

Lacks money

Has poor adjoining borders

Lacks major sponsors and business support

Little visibility – poor entrance

Lacks awareness- who we are and where we are

Loss of champion trees

Lacks many natives

Lacks grant writers

Lease not as long term as it should be- 6 years left

Lacks good water source and storage

No signage

No direction

No accountant

**Opportunities**

- Can plant more threatened and endangered species
- Botanical exchanges with Other Gardens
- Create a legacy with great status
- Become a world class Botanical Garden
- Propagation of rare species
- Reclamation of property and expansion
- Become the special part of AABGA
- Major place for research
- A major source for doing community service
- Become platform for partnerships with many other organizations

**Threats**

- Encroachments
- Ignorance
- Weather
- Resistance to change by opposing members
- Ecological factors

# Key West Botanical Garden Society

## Vision and Development Action Plan

### Botanical Garden Society Planning Committee:

Dean Carlson  
Joanne Meyers  
John Eicher  
Vidya Varani

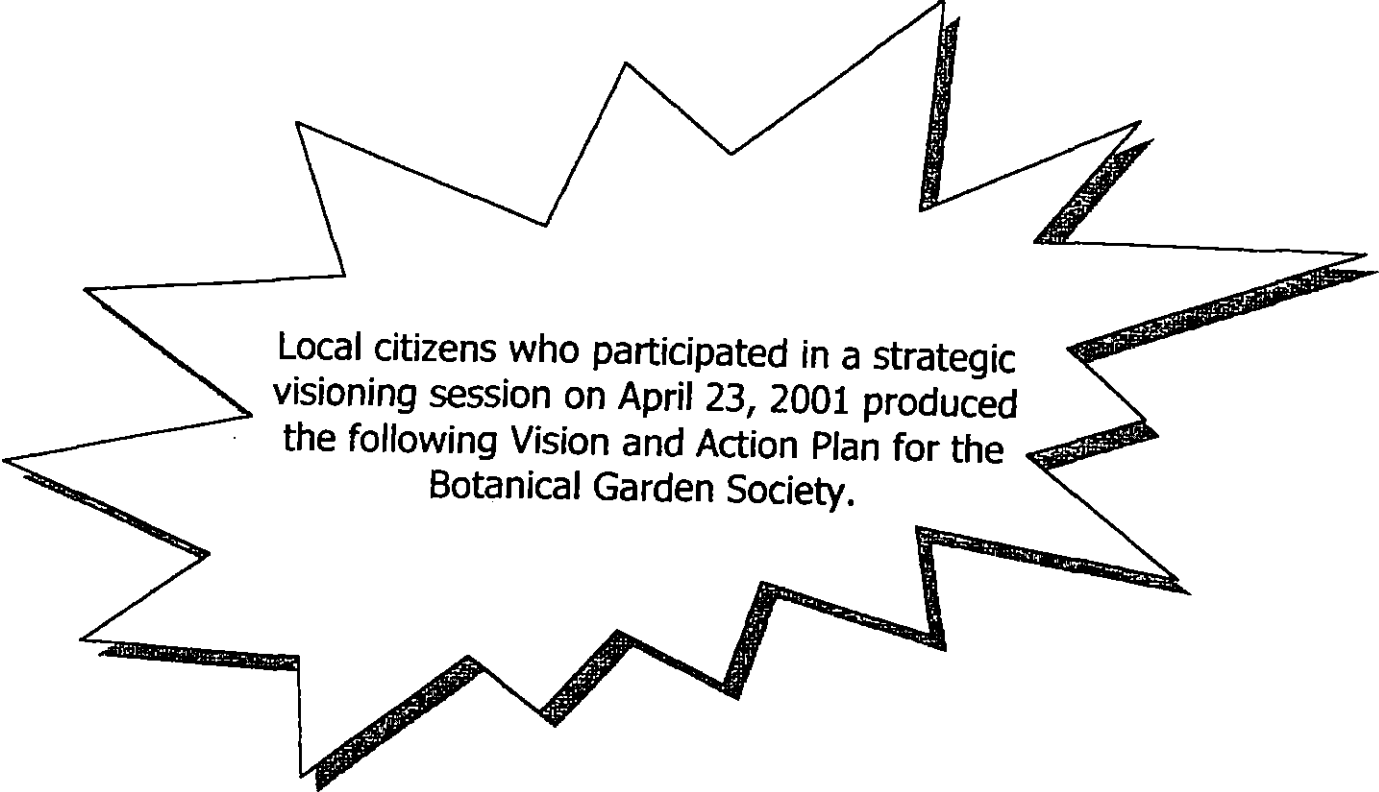
### Technical Support Provided by:

Paul Clayton, City of Key West  
Owen Trepanier, Key West Planning Department

The persons listed below have reviewed the contents of this document and agree that it represents an accurate description of the consensus reached through the Visioning and Planning process on April 23, 2001.

### - Visioning and Planning Participants -

Lenora Albury	Stephanie Coffey	Hal Howland	Deandra Rollings
Jeremy Anthony	Christopher Cowan	Raymond Jungles	Guy Ross
Michel Appollis	Ellie Crane	Sarah L. Kates	David L. Roumm
Lidia Batinovic	Pati Day	Tracy Kaufman	Gloria Sellers
Peter H. Batty	Betsy Dietz	Gail Keeler	Carolann Sharkey
Fran A. Bell	Ken Domanski	Marie Klemann	Cynthia Snell
Jill Benado	Margaret Domanski	Sandy Lee	Jeff Stotts
Raymond Blazevic	Raphael E. Doody	Deanna Lloyd	Ed Swift
Robert Bowden	John Eicher	John Loulan	Owen Trepanier
Larry Busloff	Linda Eicher	Misha McRae	Sid Waldman
Marjorie Butcko	David Eyer	Joanne Meyers	Maryann Warakowski
Dean Carlson	Susan Grimsley	Joe Miller	Jimmy Weekley
Paul Clayton	Joan Higgs	Joe Pizzo	
Kitty Clements	Elizabeth Holloway	Tom Pope	



Local citizens who participated in a strategic visioning session on April 23, 2001 produced the following Vision and Action Plan for the Botanical Garden Society.

This plan is a working document that is continually updated and modified under the direction of the Key West Botanical Garden Society with input and participation from all interested parties and individuals.

A special thanks to....

**Sponsorship for this planning and visioning program was provided by:**

## Contents

Botanical Gardens Vision Statement and Society Values .....	4
History of the Gardens .....	5
High Priority Goals & Outcomes .....	6
Identifying Society Goals .....	7
Botanical Garden Society Action Plan .....	9
Vision and Planning Participants .....	13

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*"If you can dream  
it, you can do it."*

-Walt Disney

- Botanical Gardens Vision Statement -

The Key West Botanical Gardens is a unique, high quality, tranquil sanctuary for plants, animals, humans and public art in native hammock; a true Key West hidden treasure.

- STRONG SOCIETY VALUES LEADING THE WAY -

Native hammock environment

Share, and educate the public about, this Key West hidden treasure

Preserve and enhance the tranquility

Preserve and enhance a sanctuary ambiance

Improve the appearance of the gardens

Strive for the high quality

Incorporate art into the gardens

Retain garden's uniqueness

---

"Vision without action is a dream,  
action without vision just passes time,  
vision with action can change the world."

- Joel Barker

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- HIGH PRIORITY GOALS & OUTCOMES -

**Key Measures of Success**

□ **Comprehensive Plan**

*The Botanical Garden Society will create a high quality living document to guide development of the gardens into the future.*

- Create a comprehensive plan outline using the visioning session results as a guideline for direction.
- Develop specific subcommittees with expertise to flesh-out specific areas of the plan.
- Put the outline to a vote of the Society's Board of Directors for formal adoption prior to full plan completion.

□ **Flora / Fauna**

*The Botanical Garden Society will professionally and sustainably manage the flora and fauna that depends on the garden's unique native hammock environment.*

- Create a Flora & Fauna Committee to oversee the development of policies, form subcommittees, find qualified professionals and volunteer assistants to handle all flora & fauna related activities and issues.
- Do a complete biological inventory.
- Create a program to rid the garden of all invasive exotic species.
- Create a native species preservation program.
- Create a tree snail preservation and propagation program.
- Establish a butterfly garden.
- Create a plant rescue program.

□ **Funding**

*The Botanical Garden Society will strive to develop a sustainable funding scheme that reflects and promotes the values of the Society.*

- Create a Funding Committee to oversee the development of policies, form subcommittees, find qualified professionals and volunteer assistants to handle all funding related activities and issues.
- Establish an endowment.
- Explore and pursue a tax referendum, possibly a bed tax.
- Create a capital campaign.
- Design, build and locate donation boxes.





## - BOTANICAL GARDEN SOCIETY ACTION PLAN -

Project	Timeline	Resources
<b>Planning</b>		
<ol style="list-style-type: none"> <li>1. Develop a plan outline</li> <li>2. Formally adopt the plan outline</li> <li>3. Develop specific subcommittees</li> </ol>	<p style="text-align: center;">Summer '01</p> <p style="text-align: center;">Fall/Winter '01</p>	<p>Key West Planning Department</p>
<b>Flora / Fauna</b>		
<ol style="list-style-type: none"> <li>1. Complete biological inventory - Identify champions, exotics and invasives.               <ol style="list-style-type: none"> <li>a. Professional survey and inventory of native species, exotics and invasives - accurate and exact to enable preservation of native and elimination of invasives to facilitate any future plans.</li> <li>b. Inventory fauna and develop appropriate plans to protect and enhance.</li> </ol> </li> <li>2. Eliminate invasive exotic species.               <ol style="list-style-type: none"> <li>a. Develop a removal strategy.</li> <li>b. Implement strategy.</li> </ol> </li> </ol>	<p style="text-align: center;">Winter '01</p>	<p>Volunteers in conjunction with professional(s)</p> <p>Seek grant assistance for City of Key West, other grantors, &amp; benefactors</p>
<b>Funding</b>		
<ol style="list-style-type: none"> <li>1. Create a Funding Subcommittee               <ol style="list-style-type: none"> <li>a. Develop funding Goals and strategies - base it on a Budget</li> <li>b. Create an Endowment</li> <li>c. Hire a grant writer to research and apply for grants</li> <li>d. Brainstorm new Fundraising Events                   <ul style="list-style-type: none"> <li>- Historic restoration</li> <li>- Own a Tree</li> <li>- Fund Art</li> <li>- Nature-"Save a Turtle" similar to Tree Snail</li> </ul> </li> </ol> </li> <li>2. Enlarge Membership and try to make membership Drives more effective.               <ol style="list-style-type: none"> <li>a. Create levels/categories of membership</li> <li>b. Enhance Awareness</li> </ol> </li> </ol>	<p style="text-align: center;">Winter '01</p>	



c. Make Annual Appeals

Project	Timeline	Resources
<b>Building / Construction</b>		
<ol style="list-style-type: none"> <li>1. Restrooms</li> <li>2. Buffer Noise</li> <li>3. Art display</li> <li>4. Gardens - ADA compliant</li> <li>5. Restore wall</li> <li>6. Keep building modest</li> </ol>		
<b>Public Relations</b>		
<ol style="list-style-type: none"> <li>1. Create "strong" signage</li> <li>2. Icon/Mascot for the gardens</li> <li>3. Brochures</li> <li>4. Maps</li> <li>5. Website</li> <li>6. News Letter, update to existing community newsletters</li> <li>7. Talking Boxes</li> </ol>		
<b>Area</b>		
<ol style="list-style-type: none"> <li>1. Survey the area</li> <li>2. Recoup lost land</li> <li>3. Expand the gardens</li> </ol>		
<b>Vision</b>		
<p>Create coherent inclusive and agreeable Vision for the Gardens to include:</p> <ol style="list-style-type: none"> <li>a. Native Hammock</li> <li>b. Improve appearance</li> <li>c. Tranquility</li> <li>d. Incorporate art</li> <li>e. Key West's Hidden Treasure</li> <li>f. Sanctuary (human, aviary) ambiance</li> <li>g. High Quality</li> <li>h. Unique Area</li> </ol>		

Project

Timeline

Resources

Administration

1. Develop a Chain of Command
2. Executive Director – Full Time
  - a. Salary \$35,000 - \$50,000 +/- Benefits
  - b. Duties to include:
    - Public Relations/News releases
    - Coordinate with Board Members
    - Coordinate with Public
    - Budget Recommendations
    - Liaison with other Gardens
    - Handle day to day issues & activities - hands on
3. Garden Administrator – Part Time
4. Volunteer Coordinator – Volunteer Position

Education

1. Self-guided tours.
  - a. Design the Visitor Center for self-guided tours
  - b. Design and price signage (electronic, written & brail)
  - c. Develop and price Maps
  - d. Investigate and price Talking boxes
  - e. Plants should be labeled
2. Goal of tours
  - a. Share the Botanical Treasures of the garden
  - b. Provide education, fun, entertaining, life experience
  - c. Design for high quality, low quantity use
  - d. Share the tranquility of the gardens
  - e. Educate public about the Wildlife
3. Specialized Science trips
  - a. Seasonally specific (bird migration, plant growth)
  - b. Treasure hunt – Interactive activities

Project	Timeline	Resources
Education (continued)		
<p>4. Docent training</p> <ul style="list-style-type: none"> <li>a. Create a Volunteer Development program</li> <li>b. Create Information Sheets</li> <li>c. Tour Expectations</li> <li>d. Look into hiring a Consultant (Fairchild Gardens)</li> <li>e. Fun/life experience/entertainment</li> <li>f.</li> </ul> <p>5. Group coordination</p> <p>Look into coordinating activities with other interested and appropriate organizations such as the Audubon Society and the Nature conservancy. Liaison with City, County, Garden Club, College &amp; DEP.</p> <p>6. Historical</p> <ul style="list-style-type: none"> <li>a. Restore/sustain endangered flora, fauna &amp; structures</li> <li>b. Show case the gardens history and significance to the community</li> </ul> <p>7. Funding for tours</p> <ul style="list-style-type: none"> <li>a. Donations</li> <li>b. Paid Tours</li> </ul> <p>8. Things to Avoid</p> <ul style="list-style-type: none"> <li>a. Large Groups that could damage the garden</li> <li>b. Commercialization of the tours</li> <li>c. Motorized Vehicles</li> </ul>		



MEMORANDUM OF UNDERSTANDING

This Memorandum Of Understanding entered into this 13<sup>th</sup> day of September, 1991, between the City of Key West, Florida, a municipal corporation organized and existing under the laws of the State of Florida, (hereinafter, "City") and the Key West Botanical Garden Society, Inc., a Florida nonprofit corporation (hereinafter, "Botanical Society").

WITNESSETH

WHEREAS, the City is the owner of a parcel of real property known as the Key West Botanical Garden and Arboretum (hereinafter, "the premises") located on Stock Island, Key West, Florida. (See attached Exhibit A, Legal Description adopted and incorporated herein by reference); and

WHEREAS, the City passed and adopted Resolution 2008 on January 3, 1961 establishing the property as a permanent Botanical Garden and Arboretum; and

WHEREAS, both the City and the Botanical Society are committed to the responsible management of the habitat of the only known extant population of the federally endangered species Orthalicus reses reses, The Stock Island Tree Snail, and both are committed to preserving the aesthetic beauty of the remnant tropical hammock which provides habitat for other threatened and endangered species; and

WHEREAS, the City agrees to be responsible for all ordinary costs incurred in preserving the permanent Botanical Garden and Arboretum pursuant to Resolution 2008, with any extraordinary expenses to be approved by the City Commission; and

WHEREAS, the City has previously leased the premises to the Key West Garden Club, a Florida corporation, and said lease expires in September 1991, and the Botanical Garden Committee of the Key West Garden Club assumed responsibility for the preservation and maintenance of the premises; and

WHEREAS, the Botanical Garden Committee of the Key West Garden Club, with the approval of the Key West Garden Club, formally formed the Key West Botanical Garden Society, Inc. for the sole purpose of expanding its membership to better



maintenance, to develop a long-range plan for the enhancement and beautification of the garden, and to encourage the educational use of the premises by all sectors of the community.

2. To encourage state and local agencies to use the premises as a botanical garden and arboretum as the parties hereto shall deem advisable.

3. That the Botanical Society shall not use the premises for any other purpose unless such purpose is approved by the City Commission or (as to one-time uses such as fundraisers) by the City Manager.

4. That any capital improvements to the premises shall be submitted to the City Manager for approval prior to commencement of construction, and the City Manager shall have the right to deny approval for same, and the Botanical Society shall obtain the approval of the City Building Department and the City Engineer and any necessary permits, prior to the commencement of construction. Capital improvements shall include provision of utility services to the premises.

5. That there shall, during the term of this Memorandum, be no mechanics' liens upon any buildings or improvements which may at any time be put upon or be upon said premises, and that in case of any mechanics' liens, the Botanical Society must pay off the same; and that if default in payment thereof shall continue for thirty (30) days after written notice, the City shall have the right and privilege, at its option, to pay off the same or any portion of the same, and the amount so paid, including expenses, shall, at the option of the City be due and payable by the Botanical Society with interest thereon at the rate of six (6) percent per annum, and in addition the City shall have the right to immediately terminate this Memorandum of Understanding without the necessity of providing any further notice to the Botanical Society.

6. That any permanent improvements to the premises shall become the exclusive property of the City at the conclusion of the term of this Memorandum of Understanding without the necessity of any instrument of conveyance.

7. That the Botanical Society will adhere to the Management Practices developed by the Nature Conservancy for Orthalicus reses reses, The Stock Island Tree Snail.

8. That the Botanical Society will not use or permit any person to use in any manner whatsoever the premises, nor any improvements now on or hereafter constructed or placed on said premises, nor any portion thereof, for any purpose calculated to injure the reputation of the premises or of the neighboring property, nor for any purpose or use in violation of federal, state, or local

law.

The City agrees:

1. To provide security, by routine police patrol, for the premises, at no greater level than that currently provided and contingent upon continued funding of the current level.
2. To provide two 55-gallon drums to be serviced for pickup by the City's solid waste contractor at no cost to Botanical Society, and to waive landfill tipping fees until final landfill closure only, of trimmings from the premises. Said fee waiver shall not extend beyond the landfill closure date of the City's landfill.
3. Opening and closing of the premises shall be the responsibility of staff at Bayshore Manor, Monday through Friday, opening to be at 8:00 a.m., closing at 5:00 p.m. Opening and closing on Saturdays and Sundays will be the responsibility of the Botanical Society.

The Memorandum of Understanding sets forth all the covenants, promises, agreements, and understandings between the City and the Botanical Society concerning the premises. No subsequent alteration, amendment, change, or addition to this Memorandum shall be binding upon the City or the Botanical Society unless reduced to writing and duly executed by both parties.

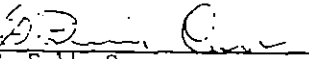
This memorandum shall be effective as of the 7th day of September, 1991 and for fifteen (15) years thereafter.

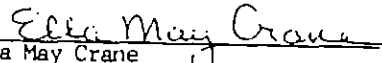
This Memorandum may be terminated by either party upon one (1) year written notice to the other party at the addresses set forth below, and may also be terminated by either party for material breach of the covenants and agreements contained herein upon thirty (30) days' written notice to the other party at the addresses set forth below.

In witness whereof, the parties hereto have executed this Memorandum of Understanding the day and year first above written.


CITY OF KEY WEST, FLORIDA  
P.O. BOX 1409  
KEY WEST, FL 33040-1409

KEY WEST BOTANICAL GARDEN SOCIETY, INC.  
P.O. BOX 2436  
KEY WEST, FL 33045-2436

By:   
G. Felix Cooper  
City Manager

By:   
Ella May Crane  
President

ATTEST:

  
Josephine Parker, City Clerk

ATTEST:

  
Margaret Chapin  
Secretary

(SEAL)

MEMORANDUM OF UNDERSTANDING AMENDMENT

THIS AMENDMENT is entered into this 13<sup>th</sup> day of September, 1991, between the City of Key West, Florida, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter "City"), and the Key West Botanical Garden Society, Inc., (hereinafter "Botanical Society.");

W I T N E S S E T H:

WHEREAS, the parties desire to add certain language to a Memorandum of Understanding approved by the City on July 16, 1991, in order to clarify the City's responsibilities under the Memorandum.

NOW, THEREFORE, in mutual consideration of the benefits accruing to the parties through the performance of the terms of this amendment, City and Botanical Society agree to amend that section of the Memorandum of Understanding that delineates the City's responsibilities to read as follows:

1. To provide security, by routine police patrol, for the premises, at no greater level than that currently provided and contingent upon continued funding of the current level.

2. To provide two 55-gallon drums to be serviced for pickup by the City's solid waste contractor at no cost to Botanical Society, and to waive landfill tipping fees until final landfill closure only, of trimmings from the premises. Said fee waiver shall not extend beyond the landfill closure date of the City's landfill.

3. To arrange with Monroe County Public Works Department for the opening and closing of the premises on weekdays, Monday through Friday, opening at 8:00 A.M. and closing at 5:00 P.M. Botanical Society is granted permission to open and close the premises at all times, including Saturdays and Sundays.

4. To continue in force the City's comprehensive liability insurance coverage against all claims of damages or injuries to persons or property arising out of the use of the premises as

allowed herein. The City agrees to hold harmless Botanical Society from any liability for claims of damage or injury to persons or property arising out of the use of the premises as provided herein, excluding any liability created out of the negligence of Botanical Society.

5. To waive the costs and fees involved in obtaining all necessary permits and approvals that are in the domain of the City of Key West relating to any improvements to the premises which have been approved by the City Commission or the City Manager as designee.

6. Should the City Commission decide that improvements to their property are appropriate, the City agrees to pay the service charges for all utility services that may be generated by any Commission approved improvements during the term of this Memorandum of Understanding.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding Amendment the day and year first above written.

CITY OF KEY WEST, FLORIDA  
P. O. Box 1409  
Key West, Florida 33040-1409

By G. Felix Cooper  
G. FELIX COOPER  
City Manager

KEY WEST BOTANICAL GARDEN  
SOCIETY, INC.  
P. O. Box 2436  
Key West, Florida 33045-2435

By Ella May Crane  
ELLA MAY CRANE  
President

ATTEST:  
Josephine Parker  
JOSEPHINE PARKER, City Clerk

ATTEST:  
Marjorie T. Chapin  
Secretary  
(SEAL)