

RESOLUTION NO. 93-533

A RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF ATTACHED LEASE AGREEMENT BETWEEN THE CITY OF KEY WEST AND UTILITY BOARD OF THE CITY OF KEY WEST, FLORIDA (CITY ELECTRIC SYSTEM) FOR THE PARKING GARAGE; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED by the City Commission of the City of Key West, Florida as follows that the attached Lease Agreement between the City of Key West and Utility Board of the City of Key West (City Electric System) is hereby approved. The City Manager is hereby authorized to execute said Agreement on behalf of the City of Key West, and the City Clerk is hereby authorized to attest to his signature and affix the Seal of the City thereto.

This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 16th day of November, 1993.

Authenticated by Mayor pro tem and City Clerk on November 18, 1993.


HARRY L. BETHEL, MAYOR PROTEM

ATTEST:


JOSEPHINE PARKER, CITY CLERK

93-533

LEASE AGREEMENT

This indenture made this 13th day of October, 1993, between UTILITY BOARD OF THE CITY OF KEY WEST, FLORIDA (CITY ELECTRIC SYSTEM), Lessor, hereinafter called CES and CITY OF KEY WEST, FL, Lessee, hereinafter called the City.

WITNESSETH:

1. **Description of premises.** CES does hereby lease to the City the premises located in Key West, Monroe County, Florida, described as:

Part of Lot Two (2), Square Twenty (20), according the Wm. A. Whitehead's Map of the Island of Key West delineated in 1829, but better described by metes and bounds as follows:

Commencing at the intersection of the Southwesterly right of way line of Grinnell Street and the Southeasterly right of way line of Caroline Street, said point of intersection to be the point of beginning of the parcel of land hereinafter described: From said point of beginning, thence run in a Southwesterly direction along the Southeasterly right of way line of Caroline Street a distance of One Hundred Twenty (120) feet to a point; thence at a right angle run in a Southeasterly direction for a distance of Two Hundred Twenty-One (221) feet to a point, said point being on the Northwesterly right of way line of James Street; thence at a right angle run in a Northeasterly direction along the Northwesterly right of way line of James Street for a distance of One Hundred Twenty (120) feet out to the Southwesterly right of way line of Grinnell Street; thence at a right angle run in a Northwesterly direction along the Southwesterly right of way line of Grinnell Street for a distance of Two Hundred Twenty-One (221) feet back to the Point of Beginning.

2. **Term.** **TO HAVE AND TO HOLD** the above described premises unto the City for and during the term of 30 years commencing the 1st day of January, 1994, and ending on the 31st day of December, 2023. This lease is not assignable.

3. **Rents and Security.** The City, in consideration of the leasing of the premises aforesaid, does hereby covenant and agree to pay Ten Dollars (\$10.00) and other considerations.

4. **Taxes.** This hereby covenanted, stipulated and agreed between the parties hereto that the City will agree to pay all taxes, fees, licenses or charges whatsoever on the real property, buildings or improvements as they become due.

5. **Use of Premises, Generally.** City will build at the leased site a three story parking facility with 300 parking spaces, comprised of 250 Park and Ride spaces. Fifty (50) ground floor parking spaces dedicated for sole use by CES employees will also be provided. CES employees will be provided parking decals by the City or be provided a dedicated separate entrance. CES parking shall be free of charge. City shall have sole control of the facility during the term of the lease.

6. **Utilities.** The City agrees to comply with all applicable federal, state and local codes and the proper use of electricity, gas, water, sewer and other utilities to the subject premises. The city agrees to pay all monthly fees for water, sewer, electric, telephone, etc., for the entire facility.

7. **Design Review.** CES shall have the opportunity to review and comment on the architectural style of the facility. Reasonable requests from CES for changes in the architectural style of the facility will be made by the City. During the design stage, the City shall review the feasibility of constructing a drive-up window for the purpose of paying utility bills.

8. **Construction.** The construction of the Park and Ride facility is scheduled to begin February 1, 1994, and be completed by January 31, 1995. CES agrees to provide alternate CES employee parking during the construction period. Should such facility not be operational within a period of twenty-four (24) months from date of this lease, this lease shall be null and void.

9. **Control and Maintenance.** The City shall perform and be responsible for the cost of all repair and/or maintenance necessary to keep the demised premises in good order, repair and conditions and in a clean, sanitary and safe condition in accordance with all directions, rules and regulations of governmental agencies having jurisdiction. The City agrees to maintain the entire proposed facility, including CES' parking sections. The City also agrees to maintain in good order parking facility gate areas, ticket booth, restrooms, transfer shelter and related equipment for the duration of the lease. The City shall be responsible for providing security for the facility.

10. **Parking Fees.** All revenue generated from the City's two hundred and fifty (250) Park and Ride spaces shall be dedicated to support of the Key West Transit System. CES shall have the right to generate and collect revenue for CES' fifty (50) employee parking spaces. This revenue shall be dedicated for CES.

11. **Existing conditions.** The City shall be responsible for performing soil quality test of existing property for determination of soil contamination. Any soil contamination remedial work required for the new facility shall be the responsibility of the City.

12. **Manner of Payment and Giving Notice.** The checks for rental occurring hereunder shall be forwarded to City Electric System, 1001 James Street, Key West, Florida 33041-6100, and all notices given to CES hereunder shall be forwarded to CES, return receipt requested, until the City is notified otherwise in writing.

13. **CES's Covenant.** Upon the payment by the City of the rents provided, and upon the observation and performance of all the covenants, terms and conditions on the City's part to be observed and performed, the City shall peacefully and quietly hold and enjoy the subject premises for the term hereby demise without hindrance or interruption by CES or any other person or persons lawfully or equitably claiming by, through or under CES subject nevertheless, to the terms of this lease.

14. **Indemnification/Insurance.**

A. The City shall hold harmless, indemnify and defend CES, its directors, officers, employees and agents against any claim, action, loss, damage, injury, liability, cost and expense of whatever kind or nature (including, but not by way of limitation, attorney's fees and court costs) arising out of or incidental to this agreement, excluding only the negligence of CES, its directors, officers, employees or agents.

B. The City shall purchase and maintain, at a minimum, the following insurance coverages throughout the term of the lease. In addition, property insurance shall be maintained during construction.

Commercial General Liability

i. The City's insurance shall cover those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C. Medical Payments.

ii. The City shall maintain minimum limits of:

	<u>Limits</u>
General Aggregate Limit (Other than Products/Completed Operations)	\$1,000,000

Products-Completed Operations Aggregate Limit	\$1,000,000
Personal & Advertising Injury Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Legal Liability Limit	\$50,000

Personal Auto Policy

i. The City's insurance shall cover those sources of liability which would be covered by part IV of the latest edition of the standard Business Auto Policy (ISO Form CA 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements. Coverage shall include owned, non-owned and hired autos.

ii. The minimum limits to be maintained by the City (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1,000,000 per accident combined single limit for bodily injury liability and property damage liability.

iii. The Utility Board of the City of Key West shall be named Additional Insured on all insurance policies.

Property Insurance

i. During construction, the City's insurance shall cover those sources of loss that would be covered by the latest edition of the standard Builder's Risk form (ISO Form CP 00 20 and Cause of Loss - Special Form CP 10 30) as filed for use in the State of Florida by the Insurance Services Office without attachment of restrictive endorsements.

ii. The City shall maintain an amount of insurance equal to 100% of the completed value of the structure(s) and include The Utility Board of the City of Key West, Florida as an insured.

iii. Following completion of construction, the City's insurance shall cover those sources of loss that would be covered by the latest editions of Insurance Services Office forms CP 00 10 and CP 10 30 without the attachment of restrictive endorsements.

iv. The City shall maintain an amount of insurance equal to 100% of the insurable replacement cost value of the structure(s) inclusive of improvements or betterments and shall include The Utility Board of the City of Key West, Florida as an insured.

Workers' Compensation/Employers' Liability

i. The City's insurance shall cover all employees for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance; without restrictive endorsements. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the United States Longshoremen and Harbor Workers' Compensation Act, Maritime including Jones Act, Federal Employers Liability Act and any other applicable federal or state law.

ii. Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy. The minimum amount of coverage for those coverages customarily insured under Part Two of the standard Workers' Compensation (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1,000,000 bodily injury by accident each accident, \$1,000,000 bodily injury by disease each employee, and \$1,000,000 bodily injury by disease policy limit or aggregate where such aggregate is applicable under the terms of the standard Workers' Compensation Policy.

C. All policies shall provide (to the extent such provisions are obtainable) the City and CES with at least forty-five (45) days written notice of cancellations, non-renewal or restriction in coverage. CES shall be included as an Additional Insured on the general liability and automobile liability policies.

A certificate or certificates of insurance shall be provided to the Lessor prior to the effective date of the lease and at least thirty (30) days prior to each renewal.

D. In the event the City refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required pursuant to this lease, that CES may, at their option, procure, or renew such insurance and all amounts of money paid therefore, shall be payable for with by the party who has failed to procure such insurance with interest at the current highest legal rate allowed in the State of Florida on the date of such purchase.

E. The City shall be responsible for the cost to repair or replace any of their contents or improvements and betterments in the event of damage or destruction.

15. **Observation of Laws and Ordinances.** The City agrees to observe, comply with and execute promptly, at their expense, during the term hereof all laws, rules, requirements, orders, directives, ordinances and

regulations and any and all governmental authorities or agencies and of all municipal departments, bureaus, boards and officials due to its use or occupancy of the subject premises, and to obtain and maintain during the term thereof any and all certificates, licenses, and other documents necessary for lawful occupation and operation.

16. **Surrender at End of Term.** Upon the expiration of the term hereof or sooner termination of this lease as herein provided, the City agrees to surrender and yield possession of the premises peacefully and without further notice, and in good order and condition but subject to ordinary wear and reasonable use thereof. In the event the City discontinues use, refuses to repair or abandons the facility, City shall be responsible for cost of demolition and disposal of the facility.

17. **Entire Agreement.** This lease sets forth all covenants, promises, agreements and understandings between CES and the City concerning the subject premises. Except as here and otherwise provided, no subsequent alteration, amendment, change, or addition to this lease shall be binding upon CES and the City unless reduced to writing and signed by both parties.

18. **Partial Invalidity.** If any term, covenant or addition of this lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, insofar as is reasonable the remainder of this lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this lease shall be valid and be enforced to the fullest extent permitted by law.

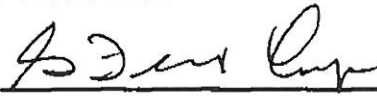
IN WITNESS THEREOF, the parties hereunto executed this lease the day and year first written above.

UTILITY BOARD OF THE CITY OF KEY WEST

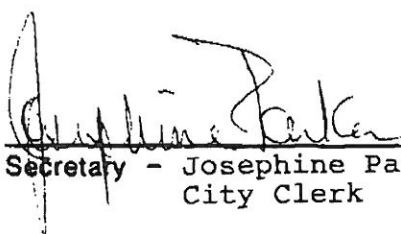
BY: _____

Secretary

CITY OF KEY WEST


BY: G. Felix Cooper
City Manager

11-19-93


Secretary - Josephine Parker
City Clerk

UTILITY BOARD OF THE CITY OF KEY WEST

POST OFFICE DRAWER 6100
KEY WEST, FLORIDA 33041-6100



TELEPHONE: (305) 294-5272
TELECOPIER: (305) 294-3685

October 19, 1993

HAND DELIVERED

Mr. Felix Cooper
City Manager
City of Key West
P. O. Box 1409
Key West, Florida 33041-1409



RE: Lease Agreement - Parking Garage

Dear Mr. Cooper:

Please find enclosed five (5) copies of the lease agreement between The City of Key West and The Utility Board of Key West. This agreement has been modified to incorporate changes made at the Utility Board meeting of October 13, 1993.

Please sign all five copies and return. Upon completion by City Electric System, I will return one executed original for your files.

If any questions develop, please do not hesitate to call.

Sincerely,

UTILITY BOARD-CITY OF KEY WEST
"CITY ELECTRIC SYSTEM"
Robert R. Padron, General Manager

A handwritten signature in dark ink, appearing to read "Dale Z. Finigan".

Dale Z. Finigan
Superintendent of Engineering

DZF/sm

cc:
R. Padron, L. Carey, L. Thompson
File (2)

Enclosure

UTILITY BOARD MEMBERS:

William T. Cates, Chairman • Marty Arnold, Vice-Chairman
Otha P. Cox, Member • Leonard H. Knowles, Member • John H. Robinson, Jr., Member