

RESOLUTION NO. 21-225

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE CITY OF KEY WEST TO APPLY FOR COMMUNITY DEVELOPMENT BLOCK GRANT - CORONAVIRUS (CDBG-CV) FUNDING FOR THE RECONSTRUCTION OF THE KEYS OVERNIGHT TEMPORARY SHELTER (KOTS), IN A TOTAL AMOUNT UP TO \$4,300,000.00; AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS FOR THE GRANT APPLICATION UPON THE ADVICE AND CONSENT OF THE CITY ATTORNEY; AUTHORIZING ANY NECESSARY BUDGET ADJUSTMENTS OR TRANSFERS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Department of Economic Opportunity (DEO) is administering CDBG-CV funds, which are federally-awarded by the United States Department of Housing and Urban Development (HUD), and intended to help local governments prepare for, prevent or respond to the health and economic impacts of the coronavirus pandemic, and primarily benefit low- and moderate-income residents; and

WHEREAS, the City of Key West submitted a pre-application to DEO in March, 2021 for the reconstruction of KOTS, and has advertised and hosted public hearings on March 5, 2021, July 20, 2021 and October 8, 2021, to meet DEO public participation requirements; and

WHEREAS, the reconstruction of KOTS as a permanent, storm resistant concrete and steel facility will help prepare for impacts of the coronavirus pandemic by providing capacity in anticipation of individuals displaced by evictions related to the pandemic, and by providing centralized case management facilities to help residents through the pandemic; and

WHEREAS, local legislative approval is necessary to allow City staff to apply for such funding; and

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

Section 1: That the City of Key West is authorized to submit a grant application to the Florida Department of Economic Opportunity for Community Black Grant - Coronavirus (CDBG-CV) funding for the reconstruction of the Keys Overnight Temporary Shelter in an amount of up to \$4,300,000.00.

Section 2: That the City Manager is authorized to execute necessary grant application documents, upon the advice and consent of the City Attorney.

Section 3: That necessary budget transfers or adjustments in order to accept such grant funding, if awarded, are hereby authorized.

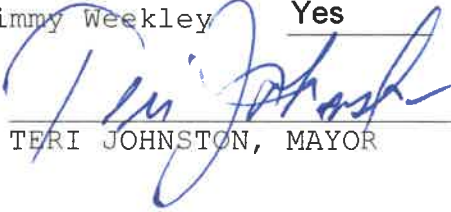
Section 4: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 19th day of October, 2021.

Authenticated by the Presiding Officer and Clerk of the Commission on 20th day of October, 2021.

Filed with the Clerk on October 20, 2021.

Mayor Teri Johnston	<u>Yes</u>
Vice Mayor Sam Kaufman	<u>Yes</u>
Commissioner Gregory Davila	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>


TERI JOHNSTON, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

RESOLUTION NO. 19-295

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED "KEYS OVERNIGHT TEMPORARY SHELTER (KOTS) AND ESSENTIAL GOVERNMENTAL EMPLOYEE HOUSING INTERLOCAL AGREEMENT" BETWEEN MONROE COUNTY AND THE CITY OF KEY WEST, FLORIDA; PROVIDING THAT DOCUMENTS FOR THE FORMAL TRANSFER OF PROPERTY WILL BE BROUGHT TO THE COMMISSION FOR FINAL APPROVAL; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West ("City") and Monroe County ("County") intend to enter into the attached interlocal agreement to allow the City to acquire a permanent site for the construction of a new Keys Overnight Temporary Shelter (KOTS), and in exchange for the County's acquisition of land for the construction of essential governmental employee housing; and

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

Section 1: That the attached "Keys Overnight Temporary Shelter (KOTS) and Essential Governmental Employee Housing Interlocal Agreement" between Monroe County and the City of Key West is hereby approved.

Section 2: That documents to effect the formal transfer of property between the City and the County will be brought before the City Commission for final review/approval.

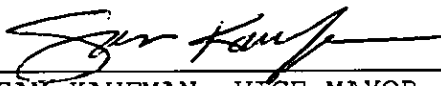
Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 17th day of September, 2019.

Authenticated by the Presiding Officer and Clerk of the Commission on 17th day of September, 2019.

Filed with the Clerk on September 18, 2019.

Mayor Teri Johnston	<u>Absent</u>
Vice Mayor Sam Kaufman	<u>Yes</u>
Commissioner Gregory Davila	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>


SAM KAUFMAN, VICE MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST

POST OFFICE BOX 1409
KEY WEST, FL 33041-1409
WWW.KEYWESTCITY.COM

EXECUTIVE SUMMARY

To: The City Commission for the City of Key West

From: James K. Scholl, City Manager

By: George B. Wallace, Assistant City Attorney

Date: August 30, 2019

RE: Proposed Interlocal Agreement between Monroe County and the City of Key West providing a long-term solution to the location of the current KOTS facility and providing the County with City Owned property for the construction of affordable housing designed to meet the needs of the Monroe County Sheriff's Department's employees and other first responder personnel.

Action statement:

Approve an Interlocal Agreement providing a long-term solution to the KOTS facility in exchange for deeding current City property to Monroe County for the construction of affordable housing for the Monroe County Sheriff's Department.

Background

Since 2004 the County has provided the City with land for the operation of KOTS which is located adjacent to, or constituting a portion of, the County property on which the Sheriff's Office is located. In 2017 The County voted to require the City to vacate the current premises no later than September 27, 2019. The County's request was stimulated by the Monroe County Sheriff's desire to utilize the property for potential affordable

housing needs of the Sheriff's employees. After extensive meetings between representatives on the County Commission, City Commission, City County and Sheriff's department management teams, the legal departments of all of the agencies as well as other interested parties the proposed Interlocal Agreement is being presented to provide a long-term solution to location of an overnight shelter facility for the homeless as well as a location for affordable housing for the Sheriff's Office employees.

If approved the following would occur:

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1. The City will deed the property located at 250 Trumbo Road to the County subject to a Restrictive Covenant requiring the property be used for affordable housing pursuant to the City's Affordable Housing ordinances. The deed will contain a reverter clause returning the property to the City should the County cease the use of the property for Affordable Housing. The pending zoning modification for the property will allow up to 40 units be placed on the property subject to design limitations.
 2. The City will acquire the use of an expanded area of the County property for 99 years or until the City can legally acquire the property by referendum or Charter amendment in the future. Any future conveyance of the property to the City would also contain a reverter clause should the City cease operation of a homeless shelter on the site. The City would be allowed to convert the use of the property for affordable housing without triggering the reverter clause. A "NEW KOTS" facility will be constructed by the City as soon as funding is available which will be located deeper into the property in order to lessen the impact of NEW KOTS on neighboring properties. Both parties will seek clarification or modification of Section 380.0666 Florida Statutes clarifying that Land Authority funds could be a source of needed funding should the respective governing bodies of the City and County desire to use that approach.
 3. There are various other detailed descriptions of the operation of NEW KOTS and other negotiated terms in the agreement.
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Funding considerations:

The cost to the City of approving the agreement is the nominal cost of recording proper documents estimated to be less than \$100.00.

Recommendation:

To approve the Interlocal Agreement as presented and execute, deliver and record as necessary property conveyance and restrictive document.

**KEYS OVERNIGHT TEMPORARY SHELTER (KOTS) AND ESSENTIAL
GOVERNMENTAL EMPLOYEE HOUSING
INTERLOCAL AGREEMENT**

This Agreement is made and entered into by MONROE COUNTY, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West, FL, 33040, ("COUNTY"), and the CITY of Key West, a municipal corporation of the State of Florida, whose address is 1300 White Street, Key West, Florida 33040 (the "CITY").

WHEREAS, the COUNTY, in general, and the CITY of Key West, specifically, have a significant population of homeless people; and

WHEREAS, CITY and COUNTY have determined that this agreement is in the best interests of the public; and

WHEREAS, the COUNTY owns a parcel of land situated on North Stock Island that includes the Premises used hereunder and more particularly described in Exhibit "A"; and

WHEREAS, the CITY has operated a homeless shelter known as the Keys Overnight Temporary Shelter ("KOTS") on COUNTY owned property designated for use by the MONROE COUNTY SHERIFF ("SHERIFF") as his headquarters and main jail since 2004; and

WHEREAS, the County assisted the City's operation of KOTS by providing land and payment of certain utilities since 2004; and

WHEREAS, the CITY has requested that KOTS remain on the COUNTY property that also serves as the Headquarters for the SHERIFF and the County Jail; and

WHEREAS, Monroe County Sheriff's Office ("SHERIFF"), finds it difficult to recruit and retain personnel due to the high cost of living in Monroe County; and

WHEREAS, on September 27, 2017, the Sheriff requested authorization from the County to build approximately 30 units of housing for his employees on the current site of KOTS; and

WHEREAS, on September 27, 2017, the COUNTY authorized staff to begin working with the CITY to develop the property where KOTS is currently located to build employee housing for the SHERIFF; and

WHEREAS, on September 27, 2017, the County Commission voted to advise the City that it had one year to vacate the premises of the current KOTS facility; and

WHEREAS, on July 18, 2018, the County Commission voted to extend the deadline for the City to vacate the premises until September 27, 2019; and

WHEREAS, the CITY has identified a parcel of CITY owned land on Trumbo Road on which the contemplated units of housing for Sheriff's employees can be built; and

WHEREAS, the City has represented to the COUNTY and the SHERIFF that the Trumbo property is in the process of being re-zoned to be eligible for constructing approximately 40 units of affordable housing under the CITY's Land Development Code and Comprehensive Plan; and.

WHEREAS, the parties agree that a land swap is the best mechanism to ensure each governmental entity of its ability to achieve its mutual goals of building a new KOTS facility on a suitable location and creating at least 30 units of affordable housing for the Sheriff's employees; and

WHEREAS, by approving this agreement, the County Commission rescinds all prior votes to direct the City to vacate the County's property current KOTS location; and

WHEREAS, CITY has agreed to bear the costs of construction of the "NEW KOTS" facility and the County has agreed to bear the costs of removing its sheds from the subject parcel in order to provide the City a site that is ready for the City to build upon; and

WHEREAS, Section 7.03(a) of the City Charter authorizes the City to convey City owned property to the County without a referendum; and

WHEREAS, Section 1.08 of the City Charter currently requires approval of the voters by referendum for acquisition of real property by any means; and

WHEREAS, the parties desire to enter into an interlocal agreement that would permit the CITY to use a portion of the COUNTY's Premises as a homeless persons safe zone commonly referred to as KOTS until such time as the City can formally accept conveyance of that portion of property from the County in exchange for a conveyance of the Trumbo property to the COUNTY for use as an affordable housing site for Sheriff's office and other public employees.

NOW, THEREFORE IT IS AGREED:

1. **PROPERTY**. The properties covered by this agreement include the following parcels:
 - A. "NEW KOTS" – a parcel of land shown on Exhibit A that is a portion of the parcel where the Monroe County Detention Center and Monroe County Sheriff's Headquarters Building is located.
 - B. "Trumbo Road" – the approximately 1.1 acre of vacant land on Trumbo Road that has a current street address of 250 Trumbo Road, Key West, and parcel number 00001720-000200.

The COUNTY agrees to lease to the CITY for its exclusive use the land designated as "NEW KOTS", hereafter "the Premises," as shown on Exhibit "A," which shall be made available to CITY in a scarified condition free of any existing utility installations or other structures. (Existing City improvements excluded.)

2. **DESIGN AND CONSTRUCTION.** The parties to this Agreement will work together to design and build at CITY'S sole expense the NEW KOTS facility taking into consideration the concerns of neighboring property owners and will design a staging area and adequate screening and landscaping so as to minimize visual or noise impacts on the neighboring properties.

The parties agree that the NEW KOTS facility will be completely fenced and have two gated entrances referred to as a main entrance and a service entrance. Both gated entrances are depicted on Exhibit A. The service entrance shall not be used by KOTS clients or staff except for deliveries or emergencies.

3. **SEQUENCE OF ACTIONS.**

A. Within 90 days of the effective date of this agreement, the CITY shall deed the Trumbo Property to the County free of all liens and encumbrances, in a form acceptable to the County Attorney. The deed shall contain a reversionary clause in favor of the City should the County abandon its intended use as affordable housing for the Sheriff and other public employees. The City's failure to convey the Trumbo property within 90 days of the effective date of this agreement, shall render the agreement void at the discretion of County. Prior to the conveyance the City shall record a Declaration of Restriction restricting the use of the property, in perpetuity, to workforce affordable housing as defined in Section 122-1465 through 122-122-1472 of the Land Development Regulations of the City.

B. Within 90 days of the effective date of this agreement,

- a. The COUNTY shall relocate the existing county-owned storage sheds and related infrastructure that currently exists on the site of the NEW KOTS property depicted in Exhibit A so that the site is suitable for building the NEW KOTS facility. The COUNTY anticipates that it will require no more than six weeks to provide a site that is ready for construction of the NEW KOTS facility.
- b. Contemporaneously with or prior to the COUNTY's efforts to clear the site for the NEW KOTS facility, the CITY may commence or complete the design and permitting process for constructing the NEW KOTS. The City shall provide the COUNTY and SHERIFF an opportunity to review and provide input prior to submitting the plans for approval by the City's building and planning departments.

- c. The COUNTY may begin the design and permitting process for constructing the affordable housing units on the Trumbo property independent of the design, permitting, and construction of the NEW KOTS facility on the jail property.
- C. The CITY shall continue to operate the existing KOTS until the NEW KOTS facility is opened and occupied. CITY shall make every reasonable effort to construct the NEW KOTS facility within 36 months of the final execution of this agreement. Both parties acknowledge budgetary funding hurdles remain to be overcome for the construction of NEW KOTS. The parties agree to jointly seek a legislative change to F.S. 380.0666 to insert language that would clearly authorize the use of Land Authority funds to aid in the cost of construction of the NEW KOTS facility.
- D. Within 60 days of the occupancy of NEW KOTS by the CITY, the CITY shall demolish the old KOTS facility.
- E. To the extent allowed by law, the COUNTY agrees to convey the NEW KOTS property to the CITY upon demand when the CITY is legally permitted to take title with or without a referendum, free of any liens and encumbrances in a form acceptable to the City Attorney. The deed shall contain a reversionary clause in favor of the County should the CITY abandon use of the property as a homeless shelter or a site for the construction of affordable housing should CITY determine not to continue to provide a homeless shelter at the NEW KOTS location

4. **TERM.** Subject to and upon the terms and conditions set forth herein, this Agreement shall continue in force for a term of 99 years commencing as of the 18th day of September 2019 and ending on the 17th day of September, 2118. Should the City acquire ownership of the NEW KOTS property subsequent to the County obtaining ownership of the Trumbo property, the parties will re-evaluate the continuing need for any portions of this agreement at the request of either party.

5 **USE AND CONDITIONS DURING THE LEASEHOLD PERIOD.**

- A. The Premises shall be used for the purposes of providing a homeless safe zone and provision of related services as determined by CITY. No signs of any kind shall be permitted except within the footprint of the Premises. If the Premises are used for any other purpose, the COUNTY shall have the option of immediately terminating this Agreement. The CITY shall not permit any use of the Premises in any manner that would obstruct or interfere with any COUNTY functions and duties.
- B. The CITY will further use and occupy the Premises in a careful and proper manner, and not commit any waste thereon. The CITY shall not cause, or allow to be caused, any objectionable activity of any nature on the Premises. Any

activities in any way involving hazardous materials or substances of any kind whatsoever, either as those terms may be defined under any State or Federal laws or regulations or as those terms are understood in common usage, are specifically prohibited. The CITY shall not use or occupy the Premises for any unlawful purpose and will, at the CITY's sole cost and expense, conform to and obey any present or future ordinance and/or rules, regulations, requirements and orders of governmental authorities or agencies respecting the use and occupation of the Premises.

- C. The CITY shall establish a "No Smoking" zone for that portion of the Premises which is adjacent to the Sheriff's Office propane tanks, according to the requirements of the Fire Marshals of the COUNTY and the CITY. This "No Smoking" zone shall be strictly enforced by the CITY.
- D. The CITY shall, through its agents and employees, prevent the unauthorized use of the Premises or the common areas, or any use thereof not in conformance with this Agreement. The CITY shall not permit the Premises to be used or occupied in any manner that will violate any laws or regulations of any applicable governmental authority or entity.
- E. The CITY, its officers, employees, agents, contractors, volunteers, and invitees shall have the same rights of ingress and egress along the right-of-way routes to the Premises as do other members of the general public. The CITY shall be responsible for ensuring that these common ways of ingress and egress are used by their officers, employees, agents, contractors, volunteers, and invitees in a reasonable and orderly manner, in cooperation with all other occupants and their officers, employees, agents and invitees. The CITY shall conduct itself and will cause its officers, employees, agents, and invitees to conduct themselves with full regard for the rights, convenience, and welfare of all other users of the public property of which the Premises is a sub-part.
- F. Unless otherwise agreed by separate agreement or amendment to this interlocal agreement, the CITY or its authorized designee shall be solely responsible for operating the homeless safe zone, including all maintenance, security, enforcement of rules and regulations, programs, transportation and any and all other aspects of operations.

6. **RENT.** Until such time as the City lawfully takes title to the NEW KOTS property, the CITY must pay the COUNTY the sum of ten dollars (\$10.00) per year, due on the first day of the contract year, payable in advance and remitted to the Monroe County Clerk's Office, 500 Whitehead Street, Key West, FL 33040.

7 **UTILITIES.** The CITY shall be provided \$5,000.00 a year for water, electrical and sewerage utilities at the Premises, by the COUNTY. Any other utilities, such as telephone or cable television, shall be provided, if at all, at the expense of the CITY. CITY shall be responsible for paying any and all costs of utility connection fees, impact fees, effluent

discharge units, or any other costs associated with the placement of utility infrastructure to provide utility services to the Premises.

8 **ALTERATIONS AND IMPROVEMENTS.**

- A. Until such time as the CITY takes title to the Premises, no structure or improvements of any kind, whether temporary or permanent, shall be placed upon the land without prior approval in writing by the COUNTY's Administrator (which shall not be unreasonably withheld), a building permit issued by CITY and any permits required by law by any other agency, federal or state. Any such structure or improvements shall be constructed in a good and workmanlike manner. The CITY shall be solely responsible for obtaining all necessary permits and paying impact fees required by any agency and any connection fees required by any utility.
- B. Portable or temporary advertising signs are prohibited.
- C. Upon occupancy of the NEW KOTS facility, the CITY shall demolish the existing facility at its own expense.

9 **MECHANIC'S LIENS.** The CITY shall not permit any mechanic's lien or liens to be placed on the Premises or on improvements on it. If a mechanic's lien is filed, it shall be the sole responsibility of the CITY or its officer, employee, agent, contractor or other representative causing the lien to be filed to discharge the lien and to hold harmless and defend the Department of Juvenile Justice, Monroe County Sheriff's Office, and Monroe County against enforcement of such lien. Pursuant to Section 713.01, Florida Statutes, the liens authorized in Chapter 713, Florida Statutes, do not apply to the COUNTY.

10 **RECORDS – ACCESS AND AUDITS.** The CITY shall maintain adequate and complete records for a period of four years after termination of this Agreement or as otherwise provided by law. The COUNTY, its officers, employees, agents and contractors shall have access to the CITY's books, records, and documents related to this Agreement upon request. The access to and inspection of such books, records, and documents by the COUNTY shall occur at any reasonable time.

11 **RELATIONSHIP OF PARTIES.** The CITY is and shall be an independent contractor and not an agent or servant of the COUNTY. The CITY shall exercise control, direction, and supervision over the means and manner that its personnel, contractors and volunteers perform the work for which purpose this Agreement is entered. The CITY shall have no authority whatsoever to act on behalf and/or as agent for the COUNTY in any promise, agreement or representation other than specifically provided for in this Agreement. The COUNTY shall at no time be legally responsible for any negligence on the part of the CITY, its employees, agents or volunteers resulting in either bodily or personal injury or property damage to any individual, property or corporation.

12 **TAXES.** The CITY must pay all taxes and assessments, if any, including any sales or use tax, levied by any government agency with respect to the CITY's operations on the Premises.

13 **INSURANCE.** The parties to this agreement stipulate that each is a state governmental agency as defined by Florida Statutes and represents to the other that it has purchased suitable Public Liability, Vehicle Liability, and Workers' Compensation insurance, or is self-insured, in amounts adequate to respond to any and all claims under federal or state actions for civil rights violations, which are not limited by Florida Statutes Section 768.28 and Chapter 440, as well as any and all claims within the limitations of Florida Statutes Section 768.28 and Chapter 440, arising out of the activities governed by this agreement.

To the extent allowed by law, each party shall be responsible for any acts of negligence on the part of its employees, agents, contractors, and subcontractors and shall defend, indemnify and hold the other party harmless from all claims arising out of such actions. Nothing contained herein shall be deemed to waive the CITY's sovereign immunity rights including but not limited to those expressed in Section 768.28, Florida Statutes.

The CITY agrees to keep in full force and effect the required insurance coverage during the term of this Agreement. If the insurance policies originally purchased which meet the requirements of this lease are canceled, terminated or reduced in coverage, then the LESSEE must immediately substitute complying policies so that no gap in coverage occurs. Copies of current policy certificates shall be filed with the COUNTY whenever acquired or amended.

14 **CONDITION OF PREMISES.** The CITY must keep the Premises in good order and condition. The CITY must promptly repair damage to the Premises. At the end of the term of this Agreement, the CITY must surrender the Premises to the COUNTY in the same good order and condition as the Premises were on the commencement of the term of this agreement, normal wear and tear excepted. The CITY is solely responsible for any improvements to land and appurtenances placed on the Premises. The CITY shall not commit waste on the Premises, nor maintain or permit a nuisance on the Premises. After termination or expiration of this Agreement, the CITY shall pay the COUNTY the cost of any repairs and clean-up necessary to restore the Premises to its condition at the commencement of this Agreement.

15 **HOLD HARMLESS.** To the extent allowed by law, the CITY is liable for and must fully defend, release, discharge, indemnify and hold harmless the COUNTY, the members of the County Commission, COUNTY officers and employees, and the Sheriff, and Sheriff's Office, and its officers and employees, from and against any and all claims, demands, causes of action, losses, costs and expenses of whatever type – including investigation and witness costs and expenses and attorney's fees and costs – that arise out of or are attributable to the CITY's operations on the Premises except for those claims, demands, damages, liabilities, actions, causes of action, losses, costs and expenses that are the result of the sole negligence of the COUNTY. The CITY's purchase of the insurance required under this Agreement does not release or vitiate its obligations under this paragraph. Neither the County nor the CITY waives any of its respective sovereign immunity rights including but not limited to those expressed in Section 768.28, Florida Statutes.

16 **NON-DISCRIMINATION.** The CITY for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of Premises or in the contracting for improvements to the Premises on the basis of race, color gender, or national origin.

17 **TERMINATION.** The COUNTY may treat the CITY in default and terminate this Agreement upon 90 days written notice, upon failure of the CITY to comply with any provision related to compliance with all laws, rules and regulations, provided CITY is first offered the opportunity to cure any said defaults within a reasonable time after notice of said violation. Any waiver of any breach of covenants herein contained shall not be deemed to be a continuing waiver and shall not operate to bar either party from declaring a forfeiture for any succeeding breach either of the same conditions or covenants or otherwise.

18 **CESSATION OF HOMELESS SAFE ZONE OPERATIONS.** If the City has not taken title to the property upon the natural expiration or early termination of this agreement, the operation of a homeless safe zone shall immediately be ceased and all improvements, equipment, and other personal property of the CITY, its officers, employees, contractors, agents, volunteers and invitees shall immediately be removed from the Premises. Any damage to the Premises which has occurred due to the use contemplated under this Agreement shall be immediately repaired and the Premises restored to its original condition. Should the CITY determine to cease operation of the homeless safe zone prior to the natural termination of this agreement, the CITY shall give COUNTY prior written notice of such intended cessation sixty (60) days before the effective date of the cessation of operation.

19 **ASSIGNMENT.** The CITY may not assign this Agreement or assign or subcontract any of its obligations under this Agreement without the approval of the COUNTY's Board of County Commissioners. All the obligations of this Agreement will extend to and bind the legal representatives, successors and assigns of the CITY and the COUNTY.

20. **SUBORDINATION.** This Agreement is subordinate to the laws and regulations of the United States, the State of Florida, the COUNTY and the CITY, whether in effect on commencement of this Agreement or adopted after that date.

21 **INCONSISTENCY.** If any item, condition or obligation of this Agreement is in conflict with other items in this Agreement, the inconsistencies shall be construed so as to give meaning to those terms which limit the COUNTY's responsibility and liability.

22 **GOVERNING LAWS/VENUE.** This Agreement is governed by the laws of the State of Florida and the United States. Venue for any dispute arising under this Agreement must be in Monroe County, Florida. In the event of any litigation, the prevailing party is entitled to a reasonable attorney's fee and costs.

23 **CONSTRUCTION.** This Agreement has been carefully reviewed by the CITY and the COUNTY. Therefore, this Agreement is not to be construed against any party of the basis of authorship.

24 **NOTICES.** Notices in this Agreement, unless otherwise specified, must be sent by certified mail to the following:

COUNTY:

Monroe County Administrator
1100 Simonton Street
Key West, FL 33040

CITY:

Key West City Manager
1300 White Street
Key West, FL 33040

25 **FULL UNDERSTANDING.** This Agreement is the parties' final mutual understanding. It replaces any earlier agreements or understandings, whether written or oral. This Agreement cannot be modified or replaced except by another written and signed agreement.

26 **EFFECTIVE DATE.** This Agreement will take effect upon the signature of the last party to the agreement.

[signatures on next page]

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

(SEAL)

ATTEST: KEVIN MADOK,
CLERK OF MONROE COUNTY, FLORIDA

MONROE COUNTY BOARD
OF COUNTY COMMISSIONERS

By: _____
Clerk

By: _____
Mayor Sylvia Murphy

(SEAL)

ATTEST: GHERYL SMITH,
CITY CLERK

CITY COMMISSION
CITY OF KEY WEST

By:  _____
Florida Clerk

By: _____
Vice Mayor Kaufman

ACCEPTANCE BY THIRD PARTY BENEFICIARY:

The Sheriff of Monroe County does hereby acknowledge that the Monroe County Sheriff's Office is an intended third- party beneficiary of this Agreement, that he has participated in and accepts the terms of this Agreement and that any future objections to the KOTS location as reflected on Exhibit A are waived.

MONROE COUNTY SHERIFF'S OFFICE

By: _____
Rick Ramsay, Monroe County Sheriff

Prepared by and Return to:
George B. Wallace, Esq.
P.O. Box 1409
Key West, FL 33041-1409
(305) 809-3770

Doc # 2250573 Blk# 3002 Pg# 336
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Filed and Recorded in Official Records of
MONROE COUNTY KEVIN MADOK, CPA

DECLARATION OF AFFORDABLE HOUSING RESTRICTIONS

This Declaration of Affordable Housing Restrictions (hereinafter "Declaration") is made and entered into this 17th day of September, 2019, by THE CITY OF KEY WEST, a Florida Municipality, (hereinafter "Declarant"), whose principal mailing address is 1300 White Street, Key West Florida, 33040.

This Declaration applies to the real property located at 250 Trumbo Road, in Key West, Florida, which is more fully described in the Legal Description attached hereto and incorporated herein as Exhibit A (hereinafter "Property").

WHEREAS, the Property is subject to regulation pursuant to Sections 122-1465 through 122-1500 of the Code of Ordinances of the City of Key West, Florida, as amended from time to time ("Work Force Housing Ordinance"), which ordinance establishes affordable housing categories to facilitate the development of housing designed to meet the needs of people employed by the local economy, establishes eligibility requirements for occupants of work force housing, and restricts the sales price of the Property and requires that the Property be sold at a price substantially less than fair market value to a purchaser within a specific income range; and

WHEREAS, Declarant as well as subsequent purchasers and tenants will benefit from the limitations and regulations placed on the Property by operation of this Declaration; and,

WHEREAS, the intent of the City of Key West (hereinafter "City") in imposing reasonable regulations on the Property is to establish and maintain the affordability of the Property for persons with incomes within a specified range; and

WHEREAS, the intent of Declarant is to preserve through this Declaration the affordability of the Property and to assign to the City the right to enforce compliance with this Declaration.

NOW, THEREFORE, the Declarant agrees that the Property shall be held and conveyed subject to the following affordable housing restrictions, covenants and conditions, which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns for the entire term of this Declaration.

I. DEFINITIONS

- A. "Declarant" shall mean the owner of the Property and any subsequent purchaser, devisee, transferee, grantee or holder of title of the Property or any portion of the Property.
- B. "Transfer" means any sale, assignment or transfer, voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in the Property, including but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, or an interest evidenced by a land contract by which possession of the Property is transferred and Declarant retains title.
- C. "Transferee" shall mean an individual, or individuals, who receive a Transfer of the Property from the Declarant.

All other terms shall have the same meaning given to them in the City's Work Force Housing Ordinance.

II. TERM AND ENFORCEABILITY

A. This Declaration shall run with the Property and bind the Declarant, his or her heirs, legal representatives, executors, successors in interest and assigns, in perpetuity from the effective date of this Declaration.

B. The Property is held and hereafter shall be held, conveyed, encumbered, used, rented, leased and occupied subject to these covenants, conditions, restrictions and limitations. All of the herein-stated covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land.

C. Any transferee or purchaser of the Property, or of any portion of or interest in the Property, by the acceptance of a deed therefore, whether from Declarant or from any subsequent purchaser of the Property, or by the signing of a contract or agreement to purchase the same, shall, by the acceptance of such deed or by the signing of such contract or agreement, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein. Any written instrument attempting or purporting to sell, convey, grant, transfer, exchange or assign any legal or equitable rights or interests to the Property shall be deemed null and void, where such instrument purports or evidences an attempt to sell, convey, grant, transfer, exchange or assign any right or interest to the Property where such instrument is inconsistent with or contrary to the conditions or covenants

contained herein. Any deed or instrument of conveyance executed by or on behalf of Declarant or any subsequent grantee, devisee, heir, assignee or other transferee shall expressly set forth verbatim this and the foregoing reservations, restrictions and covenants or, in lieu thereof, incorporate them by specific reference to this Declaration by Book and Page number(s) where recorded in the Public Records of Monroe County, Florida.

D. In order to preserve through this Declaration the affordability of the Property for persons with incomes within a specified range, the Declarant hereby grants and assigns to the City the right to monitor and enforce compliance with this Declaration. Declarant otherwise reserves the rights necessary to implement the provisions of this Declaration.

III. DECLARATION OF RENTAL LIMITS

A. Pursuant to Section 122-1467(c) of the Work Force Housing Ordinance, the total rental for any rental units to be constructed on the Property shall be based on each unit being affordable housing (moderate income). The rental may be mixed among affordable housing (low income), (median income), (moderate income) and (middle income) in order that the total value of rental does not exceed ten percent of the rental of all the affected units as affordable housing (moderate income).

IV. OCCUPANCY, LEASING AND USE OF THE PROPERTY

A. The subject property shall be operated, managed and otherwise administered as affordable work force housing and such other uses incidental to residential use as may be permitted by local zoning and land use regulations.

1. Occupancy shall be restricted to households or persons who derive at least 70 percent of its or his/her total income from gainful employment in Monroe County.

2. At the time an affordable housing (low income) unit is leased, the total income of the eligible household or persons shall not exceed 80 percent of the median household income for Monroe County (adjusted for family size). During the occupancy of the rental unit, the household's income may increase to an amount not to exceed 120 percent of the median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term. The monthly rent for the rental unit, not including utilities, shall not exceed 25 percent of that amount which represents 80 percent of the monthly median

household income of Monroe County (adjusted for family size).

3. At the time an affordable housing (median income) unit is leased, the total income of the eligible household or persons shall not exceed 100 percent of the median household income for Monroe County (adjusted for family size). During the occupancy of the rental unit, the household's income may increase to an amount not to exceed 140 percent of the median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term. The monthly rent for the rental unit, not including utilities, shall not exceed 25 percent of that amount which represents 100 percent of the monthly median household income of Monroe County (adjusted for family size).

4. At the time an affordable housing (moderate income) unit is leased, the total income of the eligible household or persons shall not exceed 120 percent of the median household income for Monroe County (adjusted for family size). During the occupancy of the rental unit, the household's income may increase to an amount not to exceed 160 percent of the median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term. The monthly rent for the rental unit, not including utilities, shall not exceed 25 percent of that amount which represents 120 percent of the monthly median household income of Monroe County (adjusted for family size).

5. At the time an affordable housing (middle income) unit is leased, the total income of the eligible household or persons shall not exceed 140 percent of the median household income for Monroe County (adjusted for family size). During the occupancy of the rental unit, the household's income may increase to an amount not to exceed 180 percent of the median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term. The monthly rent for the rental unit, not including utilities, shall not exceed 25 percent of that amount which represents 140 percent of the monthly median household income of Monroe County (adjusted for family size).

6. Eligibility is based on proof of legal residence in Monroe County.

7. Priority shall be given to families of four or more members for larger sized affordable work force housing units.

8. Annual household income means all amounts, monetary or not, which are received by any family member of the household, except income from employment of children (including foster children) under the age of 18 years. Family shall include the traditional family, (married or not) as well as domestic partnerships.

9. In the event that a tenant's income shall exceed the maximum allowable income under this section, and such shall occur for the first time during the last three months of a tenancy, then the landlord and tenant may extend a lease for a period of one year at the affordable rate.

10. The planning board may review a household's income and unique circumstances to determine eligibility and conformance with the intent of this ordinance to assure that people in need are not excluded and people without need are not included.

V. DEFAULTS AND REMEDIES: ASSIGNMENT OF RENTS

A. Upon any violation of the provisions of this Declaration the City may declare a default under this Declaration by delivering written notice thereof to the property owner. After providing written notice of default, the City may apply to a court of competent jurisdiction for specific performance of the Declaration, for an injunction prohibiting a proposed sale, transfer or lease in violation of this Declaration, for a declaration that a prohibited transfer or lease is void, or for any such other relief as may be appropriate.

B. Assignment of rents: Declarant hereby assigns to City the right to receive the rents due or collected from any units identified to be subject to this Declaration during the entire period those units are occupied in violation of any of the terms of this Declaration.

C. The remedies stated herein shall not be exclusive but shall be cumulative to all other remedies and rights the parties may lawfully exercise.

VI. REQUIREMENTS FOR WRITTEN REPORTS FROM DECLARANT

Declarant shall provide a written report to the City each year on January 1, or on such other date as specified by the City in writing, which includes a statement

that Declarant has complied with all provisions of this Declaration, or includes Declarant's explanation of any violation of any provision of this Declaration. The report shall be submitted within thirty (30) days of the specified date to the City, or to such other person or address designated by the City. Failure to provide a report in a timely manner, or any misrepresentations on the report, shall constitute a default under this Declaration.

VII. GENERAL PROVISIONS

A. The City may assign its rights and delegate its duties hereunder in writing. Upon such assignment the City shall notify the property owner.

B. If any action is brought to enforce the terms of this Declaration, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

C. If any one or more of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Declaration, and this Declaration shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

D. The terms of this Declaration shall be interpreted under the laws of the State of Florida and venue shall lie in Monroe County, Florida.

E. All notices required herein shall be sent by certified mail, return receipt requested, to the Declarant or subsequent property owner at the address of the Property and to the City or its designee at P.O. Box 1409, Key West, FL, 33041, or such other address that the City may subsequently provide in writing to the Declarant or subsequent property owner.

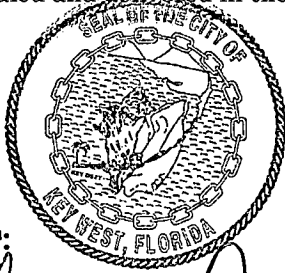
VIII. CONVERSION TO CONDOMINIUM FORM OF OWNERSHIP

A. In the event the Declarant or any subsequent owner or transferee proposes to convert ownership of the Property to condominium or a similar form of ownership, prior to the conversion, Declarant expressly agrees herein to execute an amended Declaration restricting the use, ownership, resale price, and occupancy of the affected units located on the Property in accordance with the provisions contained in Sections 122-1465 through 122-1500 of the Code of Ordinances of the City of Key West, Florida, as amended from time to time ("Work Force Housing Ordinance").

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the date written below.

Signed, sealed and delivered in the presence of:

(SEAL)



THE CITY OF KEY WEST FLORIDA,
a Florida Municipality

ATTEST:

By:

Cheryl Smith

Cheryl Smith, City Clerk

By:

Samuel Kaufman

Vice Mayor Kaufman

ABBREVIATIONS:	
A	ARC
AC	AIR CONDITIONER
CB	CATCH BASIN
CC	CONCRETE, BLOCK, STUCCO
CH	CHORD
CHB	CHORD BEARING
C&O	CURB AND GUTTER
CL	CHAIN LINK FENCE
CLF	CLEAR
CLC	CONCRETE
CLP	CONCRETE POST
CP	CORNER
CP	DELTA
CP	DUCTILE IRON PIPE
CP	EAST
EB	ENGINEERING BUSINESS NUMBER
ELEV	ELEVATION
ELEC	ELECTRIC
ENC	ENCROACHMENT
EP	EDGE OF PAVEMENT
EP	FOUND IRON PIPE
EP	FLORIDA POWER AND LIGHT
EP	FOUND
EP	IRON PIPE
EP	LENGTH
EP	SURVEYOR BUSINESS NUMBER
EP	MEASURED AND RECORD
EP	MEASURED
EP	MANHOLE
EP	NORTH
EP	NUMBER
EP	NAIL AND DISC
EP	NO IDENTIFICATION NUMBER
EP	NOT TO SCALE
EP	OBSERVED ANGLE
EP	OVERHEAD ELECTRIC
EP	OFFICIAL RECORDS BOOK
EP	ROUTE OR FEET
EP	SECOND OR INCH
EP	PLAT
EP	PLAT BOOK
EP	POINT OF COMPOUND CURVATURE
EP	POINT OF CURVATURE
EP	PAGE
EP	PLANTER
EP	PROFESSIONAL LAND SURVEYOR
EP	POINT OF INTERSECTION
EP	POINT OF BEGINNING
EP	POINT OF COMMENCEMENT
EP	POINT OF TERMINATION
EP	PROFESSIONAL SURVEYOR AND MAPPER
EP	RADIUS OR RECORD
EP	REGULAR
EP	RANGE
EP	REGISTERED LAND SURVEYOR
EP	RIGHT OF WAY
EP	SOUTH
EP	SECTION
EP	STATION
EP	SIDEWALK
EP	TANGENT
EP	SANITARY SEWER
EP	TOWNSHIP
EP	WEST
EP	WITH
EP	WOOD FENCE
EP	WATER METER
EP	WATER VALVE
EP	ZURWELLE-WHITTAKER, INC.

SURVEYOR'S NOTES:

- EXAMINATION OF THE ABSTRACT OF THE TITLE WILL HAVE TO BE MADE TO DETERMINE RECORD INSTRUMENTS IF ANY, AFFECTING THE PROPERTY.
- LOCATION AND IDENTIFICATION OF UNDERGROUND ENCROACHMENTS OR UTILITIES ON AND/OR ADJACENT TO THE PROPERTY WERE NOT SECURED AS SUCH INFORMATION WAS NOT REQUESTED.
- NO SEARCH OF PUBLIC RECORDS HAS BEEN MADE (BY THIS OFFICE) FOR ACCURACY AND/OR OMISSIONS.
- THIS CERTIFICATION IS ONLY FOR THE LANDS AS DESCRIBED, IT IS NOT A CERTIFICATION OF TITLE, ZONING, EASEMENTS, OR FREEDOM FROM ENCUMBRANCES, "TITLE" ABSTRACT NOT REVIEWED.
- THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT SHOWN ON THIS SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.
- THIS SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF ENTITIES NAMED HEREON AND THE CERTIFICATION DOES NOT EXTEND TO ANY UNNAMED PARTY.
- DIMENSIONS, BEARINGS OR ANGLES INDICATED HEREIN ARE MEASURED AND ARE THE SAME AS PLAT VALUES UNLESS OTHERWISE INDICATED BEARINGS ARE BASED ON SHOWN PLAT VALUES IF ANY OR AN ASSUMED VALUE.
- ALL RIGHTS OF WAYS SHOWN ARE PUBLIC UNLESS OTHERWISE NOTED.
- UTILITY FACILITIES WITHIN UTILITY EASEMENTS NOT NOTED AS VIOLATIONS, DRIVEWAYS OR PORTIONS THEREOF WITHIN ROADWAYS NOT NOTED AS VIOLATIONS OR ENCROACHMENTS.
- THE LEGAL DESCRIPTION WAS FURNISHED BY THE CLIENT.
- THIS DRAWING IS PROPERTY OF ZURWELLE-WHITTAKER, INC. AND CANNOT BE REPRODUCED WITHOUT WRITTEN CONSENT.
- THE ELEVATION INFORMATION SHOWN HEREON (IF ANY) IS RELATIVE TO THE NATIONAL GEODETIC VERTICAL DATUM, (N.G.V.D.), OF 1929 UNLESS OTHERWISE NOTED.
- BENCHMARK USED: NGS BENCHMARK & FPN (SEE BENCHMARK INFO).
- COORDINATES SHOWN ARE RELATIVE TO THE NORTH AMERICAN DATUM OF 1983/90 AS BASED ON THE STATE OF FLORIDA'S D.O.T. FLORIDA PERMANENT REFERENCE NETWORK (F.P.R.N.) A GPS/SSRS REFERENCE NETWORK, BASE STATION USED: FLWV (KEY WEST STATION).
- COORDINATE CONVERSIONS (IF ANY) HAVE BEEN CONVERTED USING CONVERSION VERSION 8.1, FROM U.S. ARMY CORPS OF ENGINEERS, ALEXANDRIA, VIRGINIA.
- UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL DATED SEAL OF A FLORIDA LICENSED PROFESSIONAL SURVEYOR AND MAPPER, THIS DRAWING SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.
- ACCURACY OF HORIZONTAL CONTROL FOR EXPECTED USE OF LAND AS DEFINED BY (S-17) THE FIELD MEASUREMENTS VERIFIED BY CALCULATIONS OF A CLOSED GEOMETRIC FIGURE BASED UPON FIELD INFORMATION TAKEN IN THE FIELD BY TOTAL STATION AND OR GPS.

X COMMERCIAL/HIGH RISK LINEAR: 1 FOOT IN 10,000 FEET
 SUBURBAN LINEAR: 1 FOOT IN 7,500 FEET
 RURAL LINEAR: 1 FOOT IN 5,000 FEET

LOCATION MAP (N.T.S.)



LEGAL DESCRIPTION:

A PORTION OF LAND ON THE ISLAND OF KEY WEST, MONROE COUNTY, PREPARED BY THE UNDERSIGNED FLORIDA AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

(POC) COMMENCING AT THE INTERSECTIONS OF THE EAST RIGHT-OF-WAY LINE OF TRUMBO ROAD AND THE NORTHEASTERLY RIGHT-OF-WAY LINE OF GRINNELL STREET; THENCE RUN NORTH ALONG THE EAST RW LINE OF TRUMBO ROAD FOR A DISTANCE OF 354.45 FEET TO THE (POB) POINT OF BEGINNING; THENCE CONTINUE NORTH ALONG THE EASTERLY RIGHT-OF-WAY LINE OF TRUMBO ROAD FOR A DISTANCE OF 250.00 FEET; THENCE ALL AT RIGHT ANGLES, EAST FOR A DISTANCE OF 195.00 FEET; THENCE SOUTH FOR A DISTANCE OF 200.00 FEET; THENCE EAST FOR A DISTANCE OF 15.00 FEET; THENCE SOUTH FOR A DISTANCE OF 50.00 FEET, THENCE WEST ALONG THE NORTHERLY BOUNDARY LINE OF THE "STEAMPLANT CONDO" FOR A DISTANCE OF 200.00 FEET BACK TO THE EAST RIGHT-OF-WAY LINE OF TRUMBO ROAD AND (POB) THE POINT OF BEGINNING.

BENCHMARK INFORMATION:

1 National Geodetic Survey, Rational Data = JULY 16, 2010

AA0002 TIDAL BM - This is a Tidal Bench Mark.

AA0003 DESIGNATION - TIDAL 23 STA 8 90

AA0002 PD - AA0002

AA0002 STATE/COUNTRY - FLORIDA/US

AA0002 COUNTRY - US

AA0002 USGS QUAD - KEY WEST (1971)

AA0003 TOURIST SURVEY CONTROL

AA0002

AA0002 NAD 83 (1983) POSITION - 24 33 40, (N) 091 43 13, (E) SCALED.

AA0002 NAVD 84 ORTHO HEIGHT - 0.563 (meters) 1.85 (feet) ADJUSTED

AA0002

AA0002 GEOD HEIGHT - 21.727 (meters) GEOD13B

AA0002 DYNAMIC HEIGHT - 0.562 (meters) 1.84 (feet) COMP

AA0002 MODELED GRAVITY - 978.8543 (mgals) NAVD 85

AA0002 VERT ORDER - FIRST CLASS

AA0002 SUPERSEDED SURVEY CONTROL

AA0002 NGVD 29 (1971/92) 0.97 (m) 3.2 (ft) COMPUTED 1 2

SURVEYORS NOTE:

DRAWING SCALE 1"= 20' SHEET SIZE 24"x36"

ALL INTERIOR PROPERTY ANGLES ARE 90° UNLESS OTHERWISE NOTED



MONROE COUNTY SURVEYING & MAPPING, INC.
SURVEYORS & MAPPERS, CIVIL ENGINEERS
 A DIVISION OF ZURWELLE-WHITTAKER, INC. (ESTAB. 1926)
 1100 TRUMAN AVENUE, KEY WEST, FL 33040 CERTIFICATE OF AUTHORIZATION NO. LB28236
 PH: (786) 325-4668 OR (202) 293-9446 FAX: (202) 531-0568 WWW.MCSMCO.COM
 MEMBER: FLORIDA LAND SURVEYORS' COUNCIL, FLORIDA SURVEYING AND MAPPING SOCIETY

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS
250 TRUMBO ROAD
KEY WEST, FL 33040

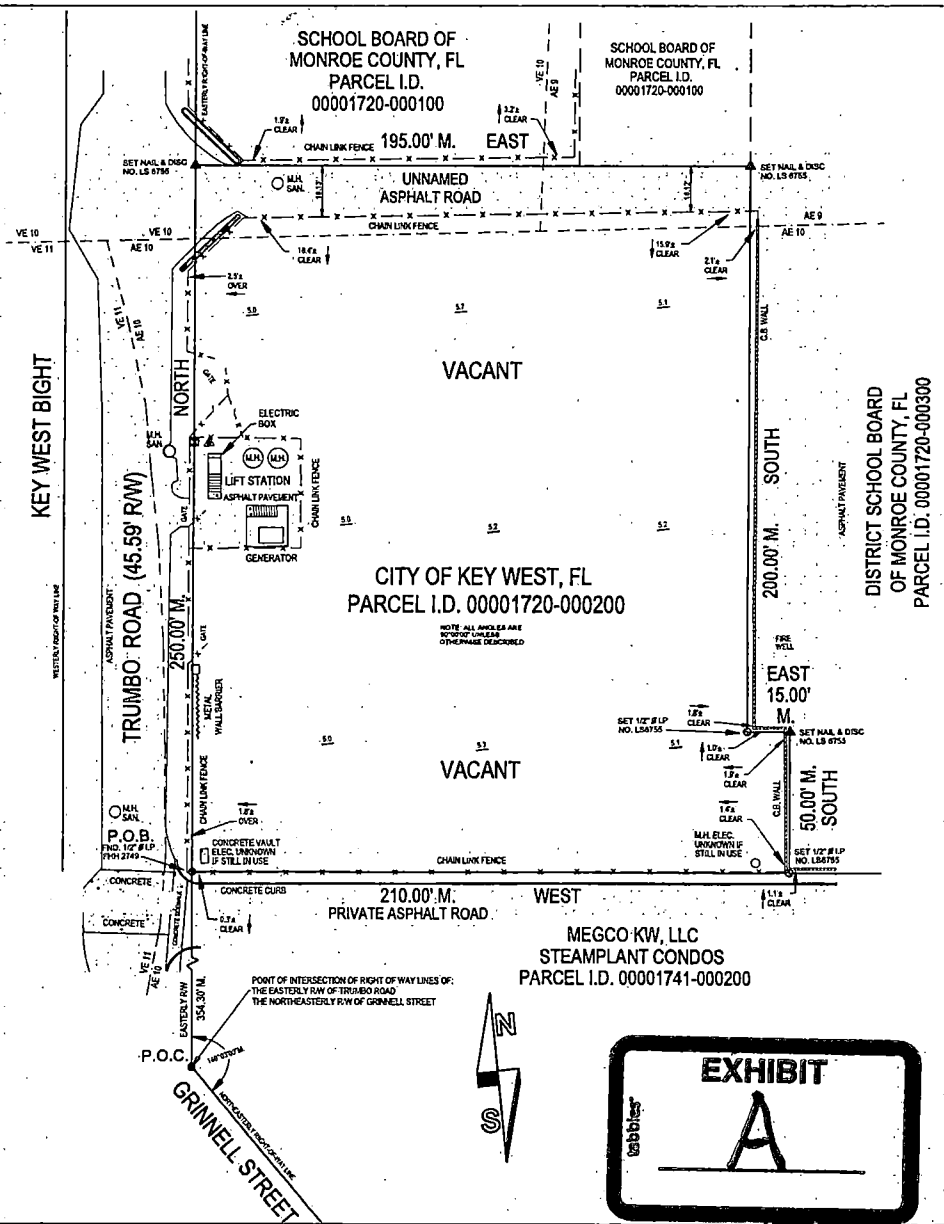
Eddie A. Martinez
EDDIE A. MARTINEZ
 PROFESSIONAL SURVEYOR AND MAPPER NO. 136785
 STATE OF FLORIDA

JOB No. N/A DRAWN: DRF
 FIELD BOOK: FILE REVISED: EAM
 SCALE: 1"= 20' SHEET No. 1 OF 1

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE ATTACHED "BOUNDARY SURVEY" WAS PREPARED UNDER MY DIRECTION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT THE SURVEY MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO CHAPTER 34-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027, ALSO THAT THERE ARE NO VISIBLE ENCROACHMENTS OTHER THAN SHOWN HEREON.

CAD FILE:
 E:\Data\MSM\Surveying\Monroe County\ROAD ROAD MON LOT 10 COUNTY 012019.dwg



**KEYS OVERNIGHT TEMPORARY SHELTER (KOTS) AND ESSENTIAL
GOVERNMENTAL EMPLOYEE HOUSING
INTERLOCAL AGREEMENT**

This Agreement is made and entered into by MONROE COUNTY, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West, FL, 33040, ("COUNTY"), and the CITY of Key West, a municipal corporation of the State of Florida, whose address is 1300 White Street, Key West, Florida 33040 (the "CITY").

WHEREAS, the COUNTY, in general, and the CITY of Key West, specifically, have a significant population of homeless people; and

WHEREAS, CITY and COUNTY have determined that this agreement is in the best interests of the public; and

WHEREAS, the COUNTY owns a parcel of land situated on North Stock Island that includes the Premises used hereunder and more particularly described in Exhibit "A"; and

WHEREAS, the CITY has operated a homeless shelter known as the Keys Overnight Temporary Shelter ("KOTS") on COUNTY owned property designated for use by the MONROE COUNTY SHERIFF ("SHERIFF") as his headquarters and main jail since 2004; and

WHEREAS, the County assisted the City's operation of KOTS by providing land and payment of certain utilities since 2004; and

WHEREAS, the CITY has requested that KOTS remain on the COUNTY property that also serves as the Headquarters for the SHERIFF and the County Jail; and

WHEREAS, Monroe County Sheriff's Office ("SHERIFF"), finds it difficult to recruit and retain personnel due to the high cost of living in Monroe County; and

WHEREAS, on September 27, 2017, the Sheriff requested authorization from the County to build approximately 30 units of housing for his employees on the current site of KOTS; and

WHEREAS, on September 27, 2017, the COUNTY authorized staff to begin working with the CITY to develop the property where KOTS is currently located to build employee housing for the SHERIFF; and

WHEREAS, on September 27, 2017, the County Commission voted to advise the City that it had one year to vacate the premises of the current KOTS facility; and

WHEREAS, on July 18, 2018, the County Commission voted to extend the deadline for the City to vacate the premises until September 27, 2019; and

WHEREAS, the CITY has identified a parcel of CITY owned land on Trumbo Road on which the contemplated units of housing for Sheriff's employees can be built; and

WHEREAS, the City has represented to the COUNTY and the SHERIFF that the Trumbo property is in the process of being re-zoned to be eligible for constructing approximately 40 units of affordable housing under the CITY's Land Development Code and Comprehensive Plan; and.

WHEREAS, the parties agree that a land swap is the best mechanism to ensure each governmental entity of its ability to achieve its mutual goals of building a new KOTS facility on a suitable location and creating at least 30 units of affordable housing for the Sheriff's employees; and

WHEREAS, by approving this agreement, the County Commission rescinds all prior votes to direct the City to vacate the County's property current KOTS location; and

WHEREAS, CITY has agreed to bear the costs of construction of the "NEW KOTS" facility and the County has agreed to bear the costs of removing its sheds from the subject parcel in order to provide the City a site that is ready for the City to build upon; and

WHEREAS, Section 7.03(a) of the City Charter authorizes the City to convey City owned property to the County without a referendum; and

WHEREAS, Section 1.08 of the City Charter currently requires approval of the voters by referendum for acquisition of real property by any means; and

WHEREAS, the parties desire to enter into an interlocal agreement that would permit the CITY to use a portion of the COUNTY's Premises as a homeless persons safe zone commonly referred to as KOTS until such time as the City can formally accept conveyance of that portion of property from the County in exchange for a conveyance of the Trumbo property to the COUNTY for use as an affordable housing site for Sheriff's office and other public employees.

NOW, THEREFORE IT IS AGREED:

1. **PROPERTY.** The properties covered by this agreement include the following parcels:
 - A. "NEW KOTS" – a parcel of land shown on Exhibit A that is a portion of the parcel where the Monroe County Detention Center and Monroe County Sheriff's Headquarters Building is located.
 - B. "Trumbo Road" – the approximately 1.1 acre of vacant land on Trumbo Road that has a current street address of 250 Trumbo Road, Key West, and parcel number 00001720-000200.

The COUNTY agrees to lease to the CITY for its exclusive use the land designated as "NEW KOTS", hereafter "the Premises," as shown on Exhibit "A," which shall be made available to CITY in a scarified condition free of any existing utility installations or other structures. (Existing City improvements excluded.)

2. **DESIGN AND CONSTRUCTION.** The parties to this Agreement will work together to design and build at CITY'S sole expense the NEW KOTS facility taking into consideration the concerns of neighboring property owners and will design a staging area and adequate screening and landscaping so as to minimize visual or noise impacts on the neighboring properties.

The parties agree that the NEW KOTS facility will be completely fenced and have two gated entrances referred to as a main entrance and a service entrance. Both gated entrances are depicted on Exhibit A. The service entrance shall not be used by KOTS clients or staff except for deliveries or emergencies.

3. **SEQUENCE OF ACTIONS.**

A. Within 90 days of the effective date of this agreement, the CITY shall deed the Trumbo Property to the County free of all liens and encumbrances, in a form acceptable to the County Attorney. The deed shall contain a reversionary clause in favor of the City should the County abandon its intended use as affordable housing for the Sheriff and other public employees. The City's failure to convey the Trumbo property within 90 days of the effective date of this agreement, shall render the agreement void at the discretion of County. Prior to the conveyance the City shall record a Declaration of Restriction restricting the use of the property, in perpetuity, to workforce affordable housing as defined in Section 122-1465 through 122-122-1472 of the Land Development Regulations of the City.

B. Within 90 days of the effective date of this agreement,

- a. The COUNTY shall relocate the existing county-owned storage sheds and related infrastructure that currently exists on the site of the NEW KOTS property depicted in Exhibit A so that the site is suitable for building the NEW KOTS facility. The COUNTY anticipates that it will require no more than six weeks to provide a site that is ready for construction of the NEW KOTS facility.
- b. Contemporaneously with or prior to the COUNTY's efforts to clear the site for the NEW KOTS facility, the CITY may commence or complete the design and permitting process for constructing the NEW KOTS. The City shall provide the COUNTY and SHERIFF an opportunity to review and provide input prior to submitting the plans for approval by the City's building and planning departments.

- c. The COUNTY may begin the design and permitting process for constructing the affordable housing units on the Trumbo property independent of the design, permitting, and construction of the NEW KOTS facility on the jail property.
 - C. The CITY shall continue to operate the existing KOTS until the NEW KOTS facility is opened and occupied. CITY shall make every reasonable effort to construct the NEW KOTS facility within 36 months of the final execution of this agreement. Both parties acknowledge budgetary funding hurdles remain to be overcome for the construction of NEW KOTS. The parties agree to jointly seek a legislative change to F.S. 380.0666 to insert language that would clearly authorize the use of Land Authority funds to aid in the cost of construction of the NEW KOTS facility.
 - D. Within 60 days of the occupancy of NEW KOTS by the CITY, the CITY shall demolish the old KOTS facility.
 - E. To the extent allowed by law, the COUNTY agrees to convey the NEW KOTS property to the CITY upon demand when the CITY is legally permitted to take title with or without a referendum, free of any liens and encumbrances in a form acceptable to the City Attorney. The deed shall contain a reversionary clause in favor of the County should the CITY abandon use of the property as a homeless shelter or a site for the construction of affordable housing should CITY determine not to continue to provide a homeless shelter at the NEW KOTS location
4. **TERM.** Subject to and upon the terms and conditions set forth herein, this Agreement shall continue in force for a term of 99 years commencing as of the 18th day of September 2019 and ending on the 17th day of September, 2118. Should the City acquire ownership of the NEW KOTS property subsequent to the County obtaining ownership of the Trumbo property, the parties will re-evaluate the continuing need for any portions of this agreement at the request of either party.

5 **USE AND CONDITIONS DURING THE LEASEHOLD PERIOD.**

- A. The Premises shall be used for the purposes of providing a homeless safe zone and provision of related services as determined by CITY. No signs of any kind shall be permitted except within the footprint of the Premises. If the Premises are used for any other purpose, the COUNTY shall have the option of immediately terminating this Agreement. The CITY shall not permit any use of the Premises in any manner that would obstruct or interfere with any COUNTY functions and duties.
- B. The CITY will further use and occupy the Premises in a careful and proper manner, and not commit any waste thereon. The CITY shall not cause, or allow to be caused, any objectionable activity of any nature on the Premises. Any

activities in any way involving hazardous materials or substances of any kind whatsoever, either as those terms may be defined under any State or Federal laws or regulations or as those terms are understood in common usage, are specifically prohibited. The CITY shall not use or occupy the Premises for any unlawful purpose and will, at the CITY's sole cost and expense, conform to and obey any present or future ordinance and/or rules, regulations, requirements and orders of governmental authorities or agencies respecting the use and occupation of the Premises.

- C. The CITY shall establish a "No Smoking" zone for that portion of the Premises which is adjacent to the Sheriff's Office propane tanks, according to the requirements of the Fire Marshals of the COUNTY and the CITY. This "No Smoking" zone shall be strictly enforced by the CITY.
- D. The CITY shall, through its agents and employees, prevent the unauthorized use of the Premises or the common areas, or any use thereof not in conformance with this Agreement. The CITY shall not permit the Premises to be used or occupied in any manner that will violate any laws or regulations of any applicable governmental authority or entity.
- E. The CITY, its officers, employees, agents, contractors, volunteers, and invitees shall have the same rights of ingress and egress along the right-of-way routes to the Premises as do other members of the general public. The CITY shall be responsible for ensuring that these common ways of ingress and egress are used by their officers, employees, agents, contractors, volunteers, and invitees in a reasonable and orderly manner, in cooperation with all other occupants and their officers, employees, agents and invitees. The CITY shall conduct itself and will cause its officers, employees, agents, and invitees to conduct themselves with full regard for the rights, convenience, and welfare of all other users of the public property of which the Premises is a sub-part.
- F. Unless otherwise agreed by separate agreement or amendment to this interlocal agreement, the CITY or its authorized designee shall be solely responsible for operating the homeless safe zone, including all maintenance, security, enforcement of rules and regulations, programs, transportation and any and all other aspects of operations.

6. **RENT.** Until such time as the City lawfully takes title to the NEW KOTS property, the CITY must pay the COUNTY the sum of ten dollars (\$10.00) per year, due on the first day of the contract year, payable in advance and remitted to the Monroe County Clerk's Office, 500 Whitehead Street, Key West, FL 33040.

7 **UTILITIES.** The CITY shall be provided \$5,000.00 a year for water, electrical and sewerage utilities at the Premises, by the COUNTY. Any other utilities, such as telephone or cable television, shall be provided, if at all, at the expense of the CITY. CITY shall be responsible for paying any and all costs of utility connection fees, impact fees, effluent

discharge units, or any other costs associated with the placement of utility infrastructure to provide utility services to the Premises.

8 **ALTERATIONS AND IMPROVEMENTS.**

- A. Until such time as the CITY takes title to the Premises, no structure or improvements of any kind, whether temporary or permanent, shall be placed upon the land without prior approval in writing by the COUNTY's Administrator (which shall not be unreasonably withheld), a building permit issued by CITY and any permits required by law by any other agency, federal or state. Any such structure or improvements shall be constructed in a good and workmanlike manner. The CITY shall be solely responsible for obtaining all necessary permits and paying impact fees required by any agency and any connection fees required by any utility.
- B. Portable or temporary advertising signs are prohibited.
- C. Upon occupancy of the NEW KOTS facility, the CITY shall demolish the existing facility at its own expense.

9 **MECHANIC'S LIENS.** The CITY shall not permit any mechanic's lien or liens to be placed on the Premises or on improvements on it. If a mechanic's lien is filed, it shall be the sole responsibility of the CITY or its officer, employee, agent, contractor or other representative causing the lien to be filed to discharge the lien and to hold harmless and defend the Department of Juvenile Justice, Monroe County Sheriff's Office, and Monroe County against enforcement of such lien. Pursuant to Section 713.01, Florida Statutes, the liens authorized in Chapter 713, Florida Statutes, do not apply to the COUNTY.

10 **RECORDS – ACCESS AND AUDITS.** The CITY shall maintain adequate and complete records for a period of four years after termination of this Agreement or as otherwise provided by law. The COUNTY, its officers, employees, agents and contractors shall have access to the CITY's books, records, and documents related to this Agreement upon request. The access to and inspection of such books, records, and documents by the COUNTY shall occur at any reasonable time.

11 **RELATIONSHIP OF PARTIES.** The CITY is and shall be an independent contractor and not an agent or servant of the COUNTY. The CITY shall exercise control, direction, and supervision over the means and manner that its personnel, contractors and volunteers perform the work for which purpose this Agreement is entered. The CITY shall have no authority whatsoever to act on behalf and/or as agent for the COUNTY in any promise, agreement or representation other than specifically provided for in this Agreement. The COUNTY shall at no time be legally responsible for any negligence on the part of the CITY, its employees, agents or volunteers resulting in either bodily or personal injury or property damage to any individual, property or corporation.

12 **TAXES.** The CITY must pay all taxes and assessments, if any, including any sales or use tax, levied by any government agency with respect to the CITY's operations on the Premises.

13 **INSURANCE.** The parties to this agreement stipulate that each is a state governmental agency as defined by Florida Statutes and represents to the other that it has purchased suitable Public Liability, Vehicle Liability, and Workers' Compensation insurance, or is self-insured, in amounts adequate to respond to any and all claims under federal or state actions for civil rights violations, which are not limited by Florida Statutes Section 768.28 and Chapter 440, as well as any and all claims within the limitations of Florida Statutes Section 768.28 and Chapter 440, arising out of the activities governed by this agreement.

To the extent allowed by law, each party shall be responsible for any acts of negligence on the part of its employees, agents, contractors, and subcontractors and shall defend, indemnify and hold the other party harmless from all claims arising out of such actions. Nothing contained herein shall be deemed to waive the CITY's sovereign immunity rights including but not limited to those expressed in Section 768.28, Florida Statutes.

The CITY agrees to keep in full force and effect the required insurance coverage during the term of this Agreement. If the insurance policies originally purchased which meet the requirements of this lease are canceled, terminated or reduced in coverage, then the LESSEE must immediately substitute complying policies so that no gap in coverage occurs. Copies of current policy certificates shall be filed with the COUNTY whenever acquired or amended.

14 **CONDITION OF PREMISES.** The CITY must keep the Premises in good order and condition. The CITY must promptly repair damage to the Premises. At the end of the term of this Agreement, the CITY must surrender the Premises to the COUNTY in the same good order and condition as the Premises were on the commencement of the term of this agreement, normal wear and tear excepted. The CITY is solely responsible for any improvements to land and appurtenances placed on the Premises. The CITY shall not commit waste on the Premises, nor maintain or permit a nuisance on the Premises. After termination or expiration of this Agreement, the CITY shall pay the COUNTY the cost of any repairs and clean-up necessary to restore the Premises to its condition at the commencement of this Agreement.

15 **HOLD HARMLESS.** To the extent allowed by law, the CITY is liable for and must fully defend, release, discharge, indemnify and hold harmless the COUNTY, the members of the County Commission, COUNTY officers and employees, and the Sheriff, and Sheriff's Office, and its officers and employees, from and against any and all claims, demands, causes of action, losses, costs and expenses of whatever type – including investigation and witness costs and expenses and attorney's fees and costs – that arise out of or are attributable to the CITY's operations on the Premises except for those claims, demands, damages, liabilities, actions, causes of action, losses, costs and expenses that are the result of the sole negligence of the COUNTY. The CITY's purchase of the insurance required under this Agreement does not release or vitiate its obligations under this paragraph. Neither the County nor the CITY waives any of its respective sovereign immunity rights including but not limited to those expressed in Section 768.28, Florida Statutes.

16 **NON-DISCRIMINATION.** The CITY for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of Premises or in the contracting for improvements to the Premises on the basis of race, color gender, or national origin.

17 **TERMINATION.** The COUNTY may treat the CITY in default and terminate this Agreement upon 90 days written notice, upon failure of the CITY to comply with any provision related to compliance with all laws, rules and regulations, provided CITY is first offered the opportunity to cure any said defaults within a reasonable time after notice of said violation. Any waiver of any breach of covenants herein contained shall not be deemed to be a continuing waiver and shall not operate to bar either party from declaring a forfeiture for any succeeding breach either of the same conditions or covenants or otherwise.

18 **CESSATION OF HOMELESS SAFE ZONE OPERATIONS.** If the City has not taken title to the property upon the natural expiration or early termination of this agreement, the operation of a homeless safe zone shall immediately be ceased and all improvements, equipment, and other personal property of the CITY, its officers, employees, contractors, agents, volunteers and invitees shall immediately be removed from the Premises. Any damage to the Premises which has occurred due to the use contemplated under this Agreement shall be immediately repaired and the Premises restored to its original condition. Should the CITY determine to cease operation of the homeless safe zone prior to the natural termination of this agreement, the CITY shall give COUNTY prior written notice of such intended cessation sixty (60) days before the effective date of the cessation of operation.

19 **ASSIGNMENT.** The CITY may not assign this Agreement or assign or subcontract any of its obligations under this Agreement without the approval of the COUNTY's Board of County Commissioners. All the obligations of this Agreement will extend to and bind the legal representatives, successors and assigns of the CITY and the COUNTY.

20. **SUBORDINATION.** This Agreement is subordinate to the laws and regulations of the United States, the State of Florida, the COUNTY and the CITY, whether in effect on commencement of this Agreement or adopted after that date.

21 **INCONSISTENCY.** If any item, condition or obligation of this Agreement is in conflict with other items in this Agreement, the inconsistencies shall be construed so as to give meaning to those terms which limit the COUNTY's responsibility and liability.

22 **GOVERNING LAWS/VENUE.** This Agreement is governed by the laws of the State of Florida and the United States. Venue for any dispute arising under this Agreement must be in Monroe County, Florida. In the event of any litigation, the prevailing party is entitled to a reasonable attorney's fee and costs.

23 **CONSTRUCTION.** This Agreement has been carefully reviewed by the CITY and the COUNTY. Therefore, this Agreement is not to be construed against any party of the basis of authorship.

24 **NOTICES.** Notices in this Agreement, unless otherwise specified, must be sent by certified mail to the following:

COUNTY:

Monroe County Administrator
1100 Simonton Street
Key West, FL 33040

CITY:

Key West City Manager
1300 White Street
Key West, FL 33040

25 **FULL UNDERSTANDING.** This Agreement is the parties' final mutual understanding. It replaces any earlier agreements or understandings, whether written or oral. This Agreement cannot be modified or replaced except by another written and signed agreement.

26 **EFFECTIVE DATE.** This Agreement will take effect upon the signature of the last party to the agreement.

[signatures on next page]



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

ATTEST: KEVIN MADOK,
CLERK OF MONROE COUNTY, FLORIDA

MONROE COUNTY BOARD
OF COUNTY COMMISSIONERS

By: Gamely Starnock
Deputy Clerk (BOCC APPROVED 9/18/19)

By: Sylvia J. Murphy
Mayor Sylvia Murphy
MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Pedro J. Mercado
PEDRO J. MERCADO
ASSISTANT COUNTY ATTORNEY
Date 10/21/19

(SEAL)

ATTEST: CHERYL SMITH,
CITY CLERK

CITY COMMISSION
CITY OF KEY WEST

By: Cheryl Smith
Clerk

By: Sam Kaufman
Vice Mayor Kaufman

ACCEPTANCE BY THIRD PARTY BENEFICIARY:

The Sheriff of Monroe County does hereby acknowledge that the Monroe County Sheriff's Office is an intended third- party beneficiary of this Agreement, that he has participated in and accepts the terms of this Agreement and that any future objections to the KOTS location as reflected on Exhibit A are waived.

MONROE COUNTY SHERIFF'S OFFICE

By: _____
Rick Ramsay, Monroe County Sheriff

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



ATTEST: KEVIN MADOK,
CLERK OF MONROE COUNTY, FLORIDA

MONROE COUNTY BOARD
OF COUNTY COMMISSIONERS

By: Samuel Stumacher
Deputy Clerk (BOLL APPROVED 9/18/19)

By: Sylvia J. Murphy
Mayor Sylvia Murphy
MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Pedro J. Mercado
PEDRO J. MERCADO
ASSISTANT COUNTY ATTORNEY
Date 10/21/19

(SEAL)

ATTEST: CHERYL SMITH,
CITY CLERK

CITY COMMISSION
CITY OF KEY WEST

By: _____
Clerk

By: _____
Mayor Teri Johnston

ACCEPTANCE BY THIRD PARTY BENEFICIARY:

The Sheriff of Monroe County does hereby acknowledge that the Monroe County Sheriff's Office is an intended third- party beneficiary of this Agreement, that he has participated in and accepts the terms of this Agreement and that any future objections to the KOTS location as reflected on Exhibit A are waived.

MONROE COUNTY SHERIFF'S OFFICE

By: Rick Ramsay
Rick Ramsay, Monroe County Sheriff

MONROE COUNTY SHERIFF'S OFFICE

APPROVED AS TO FORM:

Patrick J. McCullah
PATRICK J. McCULLAH
GENERAL COUNSEL

DATE: 10/10/2019

EXHIBIT A

SKETCH AND LEGAL DESCRIPTION OF NEW KOTS

SKETCH & DESCRIPTION
Keys Overnight Temporary Shelter (KOTS)
PORTION OF TIF DEED NUMBER 19725
STOCK ISLAND
MONROE COUNTY, FLORIDA



SURVEYOR'S NOTES:

1. Reproductions of this Sketch are not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.
2. No Title Opinion or Abstract to the subject property has been provided. It is possible that there are Deeds, Easements, or other instruments (recorded or unrecorded) which may affect the subject property. No search of the Public Records has been made by the Surveyor.
3. The land description shown hereon was prepared by the Surveyor.
4. Bearings shown hereon are referenced to the legal description recorded in Official Records Book 1490, Page 291 of the Public Records of Monroe County, Florida based on Grid North of the North American Datum of 1927 (NAD 27) of the Florida State Plane Coordinate System with the north right-of-way line of Sunset Marina Road having a bearing of N 63°32'06" E.
5. Data shown hereon was compiled from instrument(s) of record and does not constitute a boundary survey.
6. Abbreviation Legend: A= Arc Distance, Δ= Central Angle, E= Easting, F.D.O.T.= Florida Department of Transportation, ID.= Identification, M.C.R.= Monroe County Records, MHTL= Mean High Tide Line, N= Northing, P.B.= Plat Book; PG.= Page; P.O.B. Point of Beginning; P.O.C. = Point of Commencement, R= Radius; R/W = Right-of-Way; sq. ft.= square feet, TIF= Trustees of the Internal Improvement Trust Fund of the State of Florida.

CERTIFICATION:

I HEREBY CERTIFY that the attached Sketch and Description of the hereon described property is true and correct to the best of my knowledge and belief as prepared under my direction. I FURTHER CERTIFY that this Sketch and Description meets the Standards of Practice set forth in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Date: September 04, 2019

Digitally signed by Keith M.
Chee-A-Tow
Date: 2019.09.04 17:20:06 -04'00'

KEITH M. CHEE-A-TOW, P.L.S.
Florida Registration No. 5328
AVIROM & ASSOCIATES, INC.
L.B. No. 3300

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BOCA RATON, FLORIDA 33432
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JOB #: **11227-2**

SCALE: N/A

DATE: 09/04/2019

BY: K.C.

CHECKED: K.M.C-A-T

F.B. N/A PG. N/A

SHEET: **1 OF 5**

SKETCH & DESCRIPTION
Keys Overnight Temporary Shelter (KOTS)
 PORTION OF TIF DEED NUMBER 19725
 STOCK ISLAND
 MONROE COUNTY, FLORIDA

LEGAL DESCRIPTION:

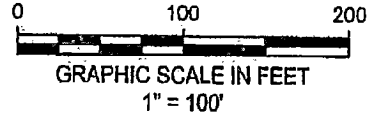
A parcel of land being a portion of land as described in Official Records Book 1490, Page 291 of the Public Records of Monroe County, formerly submerged in the Bay of Florida, being a part of the Trustees of the Internal Improvement Trust Fund of the State of Florida (TIIF) Deed Number 19725, said parcel being in Section 27, Township 67 South, Range 25 East in Monroe County, Florida being more particularly described by metes and bounds as follows:

COMMENCE at the Point of Beginning (Point #9) of said parcel of land as described in said Public Records having coordinates of N=89066.35' & E=250957.42', (said coordinates based on Grid North of the North American Datum of 1927 - NAD 27) with all subsequent coordinates being referenced thereto; thence S 63°32'06" E for a distance of 47.66 feet to Point #32 (N=89045.11' & E=251000.08') being the westerly and curved right of way line of Junior College Road (now College Road as laid out and currently in use); said curve being concave to the southeast and having a radius of 984.84 feet; thence northeasterly along the said curved right of way line for an arc distance of 66.04 feet to Point #31 (N=89098.13' & E=251039.42'); thence N 63°32'06" W for a distance of 316.58 feet to Point #30 (N=89239.22' & E=250756.02'); thence S 40°23'19" W for a distance of 157.23 feet to Point #29 (N=89119.46' & E=250654.14'); thence N 56°50'29" W for a distance of 483.59 feet to Point #28 (N=89383.96' & E=250249.30'); thence S 74°46'08" W for a distance of 80.26 feet to Point #27 (N=89362.88' & E=250171.86') and the POINT OF BEGINNING of the described parcel; thence S 43°21'06" E a distance of 44.02 feet; thence S 31°20'02" W a distance of 5.17 feet; thence S 45°01'05" W a distance of 14.62 feet; thence N 44°51'01" W a distance of 166.36 feet; thence S 45°08'59" W a distance of 28.30 feet; thence N 42°07'31" W a distance of 52.20 feet; thence S 49°22'22" W a distance of 69.17 feet; thence N 40°56'30" W a distance of 110.21 feet; thence S 49°19'57" W a distance of 43.48 feet; thence N 40°40'03" W a distance of 75.03 feet; thence N 14°10'00" E a distance of 47.99 feet; thence N 40°09'54" W a distance of 72.63 feet to the Approximate Mean High Tide Line of Florida Bay (MHTL) and the boundary as described in said Public Records; thence along said boundary as described in said Public Records for the next four courses and distances: N 38°26'33" E a distance of 93.87 feet to Point #24 (N=89695.14' & E=249833.32'); thence S 52°04'36" E a distance of 195.00 feet to Point #25 (N=89575.29' & E=249987.14'); thence S 13°16'39" W a distance of 22.30 feet to Point #26 (N=89553.59' & E=249982.02'); thence S 44°52'02" E a distance of 269.09 feet; to Point #27 (N=89362.88' & E=250171.86') and the POINT OF BEGINNING.

Said lands lying and being in Section 27, Township 67 South, Range 25 East on Stock Island, Monroe County, Florida containing 42,593.06 square feet (0.978 acre) more or less.

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--	--	---

SKETCH & DESCRIPTION
Keys Overnight Temporary Shelter (KOTS)
 PORTION OF TIIF DEED NUMBER 19725
 STOCK ISLAND
 MONROE COUNTY, FLORIDA



FLORIDA BAY

OWNER:
Sunset Marina LLC

Parcel ID: 00072080-001400

OWNER:
STOCK ISLAND APARTMENTS LLC
 Parcel ID: 00072083-000100

OWNER:
Monroe County

Parcel ID: 00072080-000101

FLORIDA BAY

LINE	BEARING	DISTANCE
L1	S 43°21'06" E	44.02'
L2	S 31°20'02" W	5.17'
L3	S 45°01'05" W	14.62'
L4	S 45°08'59" W	28.30'
L5	N 42°07'31" W	52.20'
L6	S 49°22'22" W	69.17'
L7	S 49°19'57" W	43.48'
L8	N 40°40'03" W	75.03'
L9	N 14°10'00" E	47.99'
L10	N 40°09'54" W	72.63'

REMAINING PORTION OF:
Trustees of the Internal
Improvement Trust Fund of the
State of Florida (TIIF) Deed
Number 19725

MATCH LINE (SEE SHEET 5)

MATCH LINE (SEE SHEET 4)

REVISIONS



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JOB #: 11227-2

SCALE: 1" = 100'

DATE: 09/04/2019

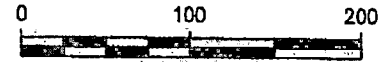
BY: K.C.

CHECKED: K.M.C-A-T

F.B. N/A PG. N/A

SHEET: 3 OF 5

SKETCH & DESCRIPTION
Keys Overnight Temporary Shelter (KOTS)
 PORTION OF TIIF DEED NUMBER 19725
 STOCK ISLAND
 MONROE COUNTY, FLORIDA



GRAPHIC SCALE IN FEET
 1" = 100'

MATCH LINE (SEE SHEET 3)

OWNER:
STOCK ISLAND APARTMENTS LLC
 Parcel ID: 00072083-000100

OWNER:
Monroe County
 Parcel ID: 00072080-000101

REMAINING PORTION OF:
Trustees of the Internal
Improvement Trust Fund
of the State of Florida
(TIIF) Deed Number 19725

MATCH LINE
(SEE SHEET 5)

241.24'
 S 56°13'32" W

179.70'
 S 27°02'03" W

MH7L

POINT #29
 N=85119.46
 E=250654.14

POINT #30
 N=89239.22
 E=250756.02

OWNER:
HENKEL, ROBERT
 Parcel ID: 00072080-005014

SUNSET MARINA ROAD

NORTH R/W LINE
 (BEARING BASIS)

POINT #31
 N=89098.13
 E=251039.42

WEST R/W LINE
 R= 984.84'
 Δ= 03°50'31"
 A= 66.04°

P.O.C.
 POINT #9
 N=89066.35
 E=250957.42

COLLEGE ROAD
 (FORMERLY JUNIOR COLLEGE ROAD)

OWNER:
TIIF

Parcel ID: 00072080-001403

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JOB #: 11227-2

SCALE: 1" = 100'

DATE: 09/04/2019

BY: K.C.

CHECKED: K.M.C-A-T

F.B. N/A **PG.** N/A

SHEET: 4 OF 5

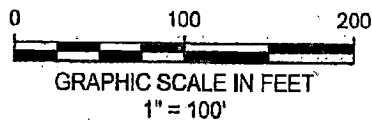
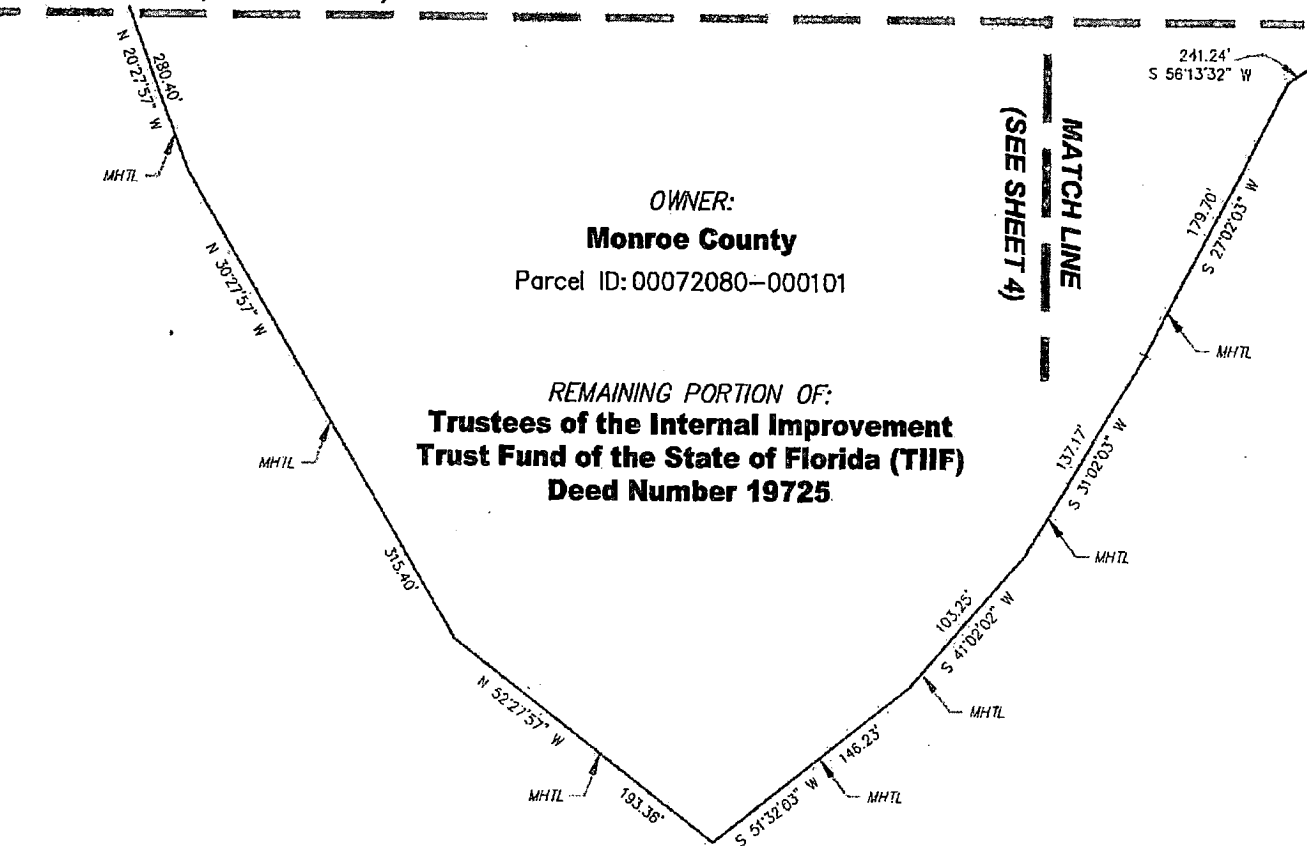
SKETCH & DESCRIPTION
Keys Overnight Temporary Shelter (KOTS)
 PORTION OF TIF DEED NUMBER 19725
 STOCK ISLAND
 MONROE COUNTY, FLORIDA

MATCH LINE (SEE SHEET 3)

**MATCH LINE
(SEE SHEET 4)**

OWNER:
Monroe County
 Parcel ID: 00072080-000101

REMAINING PORTION OF:
**Trustees of the Internal Improvement
 Trust Fund of the State of Florida (TIIF)
 Deed Number 19725**



FLORIDA BAY

REVISIONS



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JOB #: **11227-2**

SCALE: **1" = 100'**

DATE: **09/04/2019**

BY: **K.C.**

CHECKED: **K.M.C-A-T**

F.B. **N/A** PG. **N/A**

SHEET: **5 OF 5**

**KEYS OVERNIGHT TEMPORARY SHELTER (KOTS) AND ESSENTIAL
GOVERNMENTAL EMPLOYEE HOUSING
INTERLOCAL AGREEMENT**

This Agreement is made and entered into by MONROE COUNTY, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West, FL, 33040, ("COUNTY"), and the CITY of Key West, a municipal corporation of the State of Florida, whose address is 1300 White Street, Key West, Florida 33040 (the "CITY").

WHEREAS, the COUNTY, in general, and the CITY of Key West, specifically, have a significant population of homeless people; and

WHEREAS, CITY and COUNTY have determined that this agreement is in the best interests of the public; and

WHEREAS, the COUNTY owns a parcel of land situated on North Stock Island that includes the Premises used hereunder and more particularly described in Exhibit "A"; and

WHEREAS, the CITY has operated a homeless shelter known as the Keys Overnight Temporary Shelter ("KOTS") on COUNTY owned property designated for use by the MONROE COUNTY SHERIFF ("SHERIFF") as his headquarters and main jail since 2004; and

WHEREAS, the County assisted the City's operation of KOTS by providing land and payment of certain utilities since 2004; and

WHEREAS, the CITY has requested that KOTS remain on the COUNTY property that also serves as the Headquarters for the SHERIFF and the County Jail; and

WHEREAS, Monroe County Sheriff's Office ("SHERIFF"), finds it difficult to recruit and retain personnel due to the high cost of living in Monroe County; and

WHEREAS, on September 27, 2017, the Sheriff requested authorization from the County to build approximately 30 units of housing for his employees on the current site of KOTS; and

WHEREAS, on September 27, 2017, the COUNTY authorized staff to begin working with the CITY to develop the property where KOTS is currently located to build employee housing for the SHERIFF; and

WHEREAS, on September 27, 2017, the County Commission voted to advise the City that it had one year to vacate the premises of the current KOTS facility; and

WHEREAS, on July 18, 2018, the County Commission voted to extend the deadline for the City to vacate the premises until September 27, 2019; and

WHEREAS, the CITY has identified a parcel of CITY owned land on Trumbo Road on which the contemplated units of housing for Sheriff's employees can be built; and

WHEREAS, the City has represented to the COUNTY and the SHERIFF that the Trumbo property is in the process of being re-zoned to be eligible for constructing approximately 40 units of affordable housing under the CITY's Land Development Code and Comprehensive Plan; and.

WHEREAS, the parties agree that a land swap is the best mechanism to ensure each governmental entity of its ability to achieve its mutual goals of building a new KOTS facility on a suitable location and creating at least 30 units of affordable housing for the Sheriff's employees; and

WHEREAS, by approving this agreement, the County Commission rescinds all prior votes to direct the City to vacate the County's property current KOTS location; and

WHEREAS, CITY has agreed to bear the costs of construction of the "NEW KOTS" facility and the County has agreed to bear the costs of removing its sheds from the subject parcel in order to provide the City a site that is ready for the City to build upon; and

WHEREAS, Section 7.03(a) of the City Charter authorizes the City to convey City owned property to the County without a referendum; and

WHEREAS, Section 1.08 of the City Charter currently requires approval of the voters by referendum for acquisition of real property by any means; and

WHEREAS, the parties desire to enter into an interlocal agreement that would permit the CITY to use a portion of the COUNTY's Premises as a homeless persons safe zone commonly referred to as KOTS until such time as the City can formally accept conveyance of that portion of property from the County in exchange for a conveyance of the Trumbo property to the COUNTY for use as an affordable housing site for Sheriff's office and other public employees.

NOW, THEREFORE IT IS AGREED:

1. **PROPERTY**. The properties covered by this agreement include the following parcels:
 - A. "NEW KOTS" – a parcel of land shown on Exhibit A that is a portion of the parcel where the Monroe County Detention Center and Monroe County Sheriff's Headquarters Building is located.
 - B. "Trumbo Road" – the approximately 1.1 acre of vacant land on Trumbo Road that has a current street address of 250 Trumbo Road, Key West, and parcel number 00001720-000200.

The COUNTY agrees to lease to the CITY for its exclusive use the land designated as "NEW KOTS", hereafter "the Premises," as shown on Exhibit "A," which shall be made available to CITY in a scarified condition free of any existing utility installations or other structures. (Existing City improvements excluded.)

2. **DESIGN AND CONSTRUCTION.** The parties to this Agreement will work together to design and build at CITY'S sole expense the NEW KOTS facility taking into consideration the concerns of neighboring property owners and will design a staging area and adequate screening and landscaping so as to minimize visual or noise impacts on the neighboring properties.

The parties agree that the NEW KOTS facility will be completely fenced and have two gated entrances referred to as a main entrance and a service entrance. Both gated entrances are depicted on Exhibit A. The service entrance shall not be used by KOTS clients or staff except for deliveries or emergencies.

3. **SEQUENCE OF ACTIONS.**

A. Within 90 days of the effective date of this agreement, the CITY shall deed the Trumbo Property to the County free of all liens and encumbrances, in a form acceptable to the County Attorney. The deed shall contain a reversionary clause in favor of the City should the County abandon its intended use as affordable housing for the Sheriff and other public employees. The City's failure to convey the Trumbo property within 90 days of the effective date of this agreement, shall render the agreement void at the discretion of County. Prior to the conveyance the City shall record a Declaration of Restriction restricting the use of the property, in perpetuity, to workforce affordable housing as defined in Section 122-1465 through 122-122-1472 of the Land Development Regulations of the City.

B. Within 90 days of the effective date of this agreement,

- a. The COUNTY shall relocate the existing county-owned storage sheds and related infrastructure that currently exists on the site of the NEW KOTS property depicted in Exhibit A so that the site is suitable for building the NEW KOTS facility. The COUNTY anticipates that it will require no more than six weeks to provide a site that is ready for construction of the NEW KOTS facility.
- b. Contemporaneously with or prior to the COUNTY's efforts to clear the site for the NEW KOTS facility, the CITY may commence or complete the design and permitting process for constructing the NEW KOTS. The City shall provide the COUNTY and SHERIFF an opportunity to review and provide input prior to submitting the plans for approval by the City's building and planning departments.

- c. The COUNTY may begin the design and permitting process for constructing the affordable housing units on the Trumbo property independent of the design, permitting, and construction of the NEW KOTS facility on the jail property.
 - C. The CITY shall continue to operate the existing KOTS until the NEW KOTS facility is opened and occupied. CITY shall make every reasonable effort to construct the NEW KOTS facility within 36 months of the final execution of this agreement. Both parties acknowledge budgetary funding hurdles remain to be overcome for the construction of NEW KOTS. The parties agree to jointly seek a legislative change to F.S. 380.0666 to insert language that would clearly authorize the use of Land Authority funds to aid in the cost of construction of the NEW KOTS facility.
 - D. Within 60 days of the occupancy of NEW KOTS by the CITY, the CITY shall demolish the old KOTS facility.
 - E. To the extent allowed by law, the COUNTY agrees to convey the NEW KOTS property to the CITY upon demand when the CITY is legally permitted to take title with or without a referendum, free of any liens and encumbrances in a form acceptable to the City Attorney. The deed shall contain a reversionary clause in favor of the County should the CITY abandon use of the property as a homeless shelter or a site for the construction of affordable housing should CITY determine not to continue to provide a homeless shelter at the NEW KOTS location
4. **TERM.** Subject to and upon the terms and conditions set forth herein, this Agreement shall continue in force for a term of 99 years commencing as of the 18th day of September 2019 and ending on the 17th day of September, 2118. Should the City acquire ownership of the NEW KOTS property subsequent to the County obtaining ownership of the Trumbo property, the parties will re-evaluate the continuing need for any portions of this agreement at the request of either party.

5 **USE AND CONDITIONS DURING THE LEASEHOLD PERIOD.**

- A. The Premises shall be used for the purposes of providing a homeless safe zone and provision of related services as determined by CITY. No signs of any kind shall be permitted except within the footprint of the Premises. If the Premises are used for any other purpose, the COUNTY shall have the option of immediately terminating this Agreement. The CITY shall not permit any use of the Premises in any manner that would obstruct or interfere with any COUNTY functions and duties.
- B. The CITY will further use and occupy the Premises in a careful and proper manner, and not commit any waste thereon. The CITY shall not cause, or allow to be caused, any objectionable activity of any nature on the Premises. Any

activities in any way involving hazardous materials or substances of any kind whatsoever, either as those terms may be defined under any State or Federal laws or regulations or as those terms are understood in common usage, are specifically prohibited. The CITY shall not use or occupy the Premises for any unlawful purpose and will, at the CITY's sole cost and expense, conform to and obey any present or future ordinance and/or rules, regulations, requirements and orders of governmental authorities or agencies respecting the use and occupation of the Premises.

- C. The CITY shall establish a "No Smoking" zone for that portion of the Premises which is adjacent to the Sheriff's Office propane tanks, according to the requirements of the Fire Marshals of the COUNTY and the CITY. This "No Smoking" zone shall be strictly enforced by the CITY.
- D. The CITY shall, through its agents and employees, prevent the unauthorized use of the Premises or the common areas, or any use thereof not in conformance with this Agreement. The CITY shall not permit the Premises to be used or occupied in any manner that will violate any laws or regulations of any applicable governmental authority or entity.
- E. The CITY, its officers, employees, agents, contractors, volunteers, and invitees shall have the same rights of ingress and egress along the right-of-way routes to the Premises as do other members of the general public. The CITY shall be responsible for ensuring that these common ways of ingress and egress are used by their officers, employees, agents, contractors, volunteers, and invitees in a reasonable and orderly manner, in cooperation with all other occupants and their officers, employees, agents and invitees. The CITY shall conduct itself and will cause its officers, employees, agents, and invitees to conduct themselves with full regard for the rights, convenience, and welfare of all other users of the public property of which the Premises is a sub-part.
- F. Unless otherwise agreed by separate agreement or amendment to this interlocal agreement, the CITY or its authorized designee shall be solely responsible for operating the homeless safe zone, including all maintenance, security, enforcement of rules and regulations, programs, transportation and any and all other aspects of operations.

6. **RENT.** Until such time as the City lawfully takes title to the NEW KOTS property, the CITY must pay the COUNTY the sum of ten dollars (\$10.00) per year, due on the first day of the contract year, payable in advance and remitted to the Monroe County Clerk's Office, 500 Whitehead Street, Key West, FL 33040.

7 **UTILITIES.** The CITY shall be provided \$5,000.00 a year for water, electrical and sewerage utilities at the Premises, by the COUNTY. Any other utilities, such as telephone or cable television, shall be provided, if at all, at the expense of the CITY. CITY shall be responsible for paying any and all costs of utility connection fees, impact fees, effluent

discharge units, or any other costs associated with the placement of utility infrastructure to provide utility services to the Premises.

8 **ALTERATIONS AND IMPROVEMENTS.**

- A. Until such time as the CITY takes title to the Premises, no structure or improvements of any kind, whether temporary or permanent, shall be placed upon the land without prior approval in writing by the COUNTY's Administrator (which shall not be unreasonably withheld), a building permit issued by CITY and any permits required by law by any other agency, federal or state. Any such structure or improvements shall be constructed in a good and workmanlike manner. The CITY shall be solely responsible for obtaining all necessary permits and paying impact fees required by any agency and any connection fees required by any utility.
- B. Portable or temporary advertising signs are prohibited.
- C. Upon occupancy of the NEW KOTS facility, the CITY shall demolish the existing facility at its own expense.

9 **MECHANIC'S LIENS.** The CITY shall not permit any mechanic's lien or liens to be placed on the Premises or on improvements on it. If a mechanic's lien is filed, it shall be the sole responsibility of the CITY or its officer, employee, agent, contractor or other representative causing the lien to be filed to discharge the lien and to hold harmless and defend the Department of Juvenile Justice, Monroe County Sheriff's Office, and Monroe County against enforcement of such lien. Pursuant to Section 713.01, Florida Statutes, the liens authorized in Chapter 713, Florida Statutes, do not apply to the COUNTY.

10 **RECORDS – ACCESS AND AUDITS.** The CITY shall maintain adequate and complete records for a period of four years after termination of this Agreement or as otherwise provided by law. The COUNTY, its officers, employees, agents and contractors shall have access to the CITY's books, records, and documents related to this Agreement upon request. The access to and inspection of such books, records, and documents by the COUNTY shall occur at any reasonable time.

11 **RELATIONSHIP OF PARTIES.** The CITY is and shall be an independent contractor and not an agent or servant of the COUNTY. The CITY shall exercise control, direction, and supervision over the means and manner that its personnel, contractors and volunteers perform the work for which purpose this Agreement is entered. The CITY shall have no authority whatsoever to act on behalf and/or as agent for the COUNTY in any promise, agreement or representation other than specifically provided for in this Agreement. The COUNTY shall at no time be legally responsible for any negligence on the part of the CITY, its employees, agents or volunteers resulting in either bodily or personal injury or property damage to any individual, property or corporation.

12 **TAXES.** The CITY must pay all taxes and assessments, if any, including any sales or use tax, levied by any government agency with respect to the CITY's operations on the Premises.

13 **INSURANCE.** The parties to this agreement stipulate that each is a state governmental agency as defined by Florida Statutes and represents to the other that it has purchased suitable Public Liability, Vehicle Liability, and Workers' Compensation insurance, or is self-insured, in amounts adequate to respond to any and all claims under federal or state actions for civil rights violations, which are not limited by Florida Statutes Section 768.28 and Chapter 440, as well as any and all claims within the limitations of Florida Statutes Section 768.28 and Chapter 440, arising out of the activities governed by this agreement.

To the extent allowed by law, each party shall be responsible for any acts of negligence on the part of its employees, agents, contractors, and subcontractors and shall defend, indemnify and hold the other party harmless from all claims arising out of such actions. Nothing contained herein shall be deemed to waive the CITY's sovereign immunity rights including but not limited to those expressed in Section 768.28, Florida Statutes.

The CITY agrees to keep in full force and effect the required insurance coverage during the term of this Agreement. If the insurance policies originally purchased which meet the requirements of this lease are canceled, terminated or reduced in coverage, then the LESSEE must immediately substitute complying policies so that no gap in coverage occurs. Copies of current policy certificates shall be filed with the COUNTY whenever acquired or amended.

14 **CONDITION OF PREMISES.** The CITY must keep the Premises in good order and condition. The CITY must promptly repair damage to the Premises. At the end of the term of this Agreement, the CITY must surrender the Premises to the COUNTY in the same good order and condition as the Premises were on the commencement of the term of this agreement, normal wear and tear excepted. The CITY is solely responsible for any improvements to land and appurtenances placed on the Premises. The CITY shall not commit waste on the Premises, nor maintain or permit a nuisance on the Premises. After termination or expiration of this Agreement, the CITY shall pay the COUNTY the cost of any repairs and clean-up necessary to restore the Premises to its condition at the commencement of this Agreement.

15 **HOLD HARMLESS.** To the extent allowed by law, the CITY is liable for and must fully defend, release, discharge, indemnify and hold harmless the COUNTY, the members of the County Commission, COUNTY officers and employees, and the Sheriff, and Sheriff's Office, and its officers and employees, from and against any and all claims, demands, causes of action, losses, costs and expenses of whatever type – including investigation and witness costs and expenses and attorney's fees and costs – that arise out of or are attributable to the CITY's operations on the Premises except for those claims, demands, damages, liabilities, actions, causes of action, losses, costs and expenses that are the result of the sole negligence of the COUNTY. The CITY's purchase of the insurance required under this Agreement does not release or vitiate its obligations under this paragraph. Neither the County nor the CITY waives any of its respective sovereign immunity rights including but not limited to those expressed in Section 768.28, Florida Statutes.

16 **NON-DISCRIMINATION.** The CITY for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of Premises or in the contracting for improvements to the Premises on the basis of race, color gender, or national origin.

17 **TERMINATION.** The COUNTY may treat the CITY in default and terminate this Agreement upon 90 days written notice, upon failure of the CITY to comply with any provision related to compliance with all laws, rules and regulations, provided CITY is first offered the opportunity to cure any said defaults within a reasonable time after notice of said violation. Any waiver of any breach of covenants herein contained shall not be deemed to be a continuing waiver and shall not operate to bar either party from declaring a forfeiture for any succeeding breach either of the same conditions or covenants or otherwise.

18 **CESSATION OF HOMELESS SAFE ZONE OPERATIONS.** If the City has not taken title to the property upon the natural expiration or early termination of this agreement, the operation of a homeless safe zone shall immediately be ceased and all improvements, equipment, and other personal property of the CITY, its officers, employees, contractors, agents, volunteers and invitees shall immediately be removed from the Premises. Any damage to the Premises which has occurred due to the use contemplated under this Agreement shall be immediately repaired and the Premises restored to its original condition. Should the CITY determine to cease operation of the homeless safe zone prior to the natural termination of this agreement, the CITY shall give COUNTY prior written notice of such intended cessation sixty (60) days before the effective date of the cessation of operation.

19 **ASSIGNMENT.** The CITY may not assign this Agreement or assign or subcontract any of its obligations under this Agreement without the approval of the COUNTY's Board of County Commissioners. All the obligations of this Agreement will extend to and bind the legal representatives, successors and assigns of the CITY and the COUNTY.

20. **SUBORDINATION.** This Agreement is subordinate to the laws and regulations of the United States, the State of Florida, the COUNTY and the CITY, whether in effect on commencement of this Agreement or adopted after that date.

21 **INCONSISTENCY.** If any item, condition or obligation of this Agreement is in conflict with other items in this Agreement, the inconsistencies shall be construed so as to give meaning to those terms which limit the COUNTY's responsibility and liability.

22 **GOVERNING LAWS/VENUE.** This Agreement is governed by the laws of the State of Florida and the United States. Venue for any dispute arising under this Agreement must be in Monroe County, Florida. In the event of any litigation, the prevailing party is entitled to a reasonable attorney's fee and costs.

23 **CONSTRUCTION.** This Agreement has been carefully reviewed by the CITY and the COUNTY. Therefore, this Agreement is not to be construed against any party of the basis of authorship.

24 **NOTICES.** Notices in this Agreement, unless otherwise specified, must be sent by certified mail to the following:

COUNTY:

Monroe County Administrator
1100 Simonton Street
Key West, FL 33040

CITY:

Key West City Manager
1300 White Street
Key West, FL 33040

25 **FULL UNDERSTANDING.** This Agreement is the parties' final mutual understanding. It replaces any earlier agreements or understandings, whether written or oral. This Agreement cannot be modified or replaced except by another written and signed agreement.

26 **EFFECTIVE DATE.** This Agreement will take effect upon the signature of the last party to the agreement.

[signatures on next page]



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

ATTEST: KEVIN MADOK,
CLERK OF MONROE COUNTY, FLORIDA

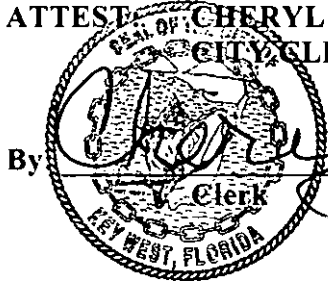
MONROE COUNTY BOARD
OF COUNTY COMMISSIONERS

By: Gandy Starnick
Deputy Clerk (BOCC APPROVED 9/18/19)

By: Sylvia J. Murphy
Mayor Sylvia Murphy
MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Pedro J. Mercado
PEDRO J. MERCADO
ASSISTANT COUNTY ATTORNEY
Date 10/21/19

(SEAL)

ATTEST: CHERYL SMITH,
CITY CLERK



By:

Cheryl Smith
Clerk

By:

Sam Kaufman
Vice Mayor Kaufman

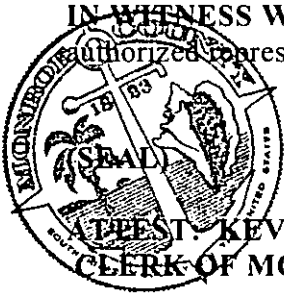
ACCEPTANCE BY THIRD PARTY BENEFICIARY:

The Sheriff of Monroe County does hereby acknowledge that the Monroe County Sheriff's Office is an intended third- party beneficiary of this Agreement, that he has participated in and accepts the terms of this Agreement and that any future objections to the KOTS location as reflected on Exhibit A are waived.

MONROE COUNTY SHERIFF'S OFFICE

By: _____
Rick Ramsay, Monroe County Sheriff

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



ATTEST: KEVIN MADOK,
CLERK OF MONROE COUNTY, FLORIDA

MONROE COUNTY BOARD
OF COUNTY COMMISSIONERS

By: Gamely Stannett
Deputy Clerk (BocC APPROVED 9/18/19)

By: Sylvia J. Murphy
Mayor Sylvia Murphy
MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Pedro J. Mercado
PEDRO J. MERCADO
ASSISTANT COUNTY ATTORNEY
Date 10/21/19

(SEAL)

ATTEST: CHERYL SMITH,
CITY CLERK

CITY COMMISSION
CITY OF KEY WEST

By: _____
Clerk

By: _____
Mayor Teri Johnston

ACCEPTANCE BY THIRD PARTY BENEFICIARY:

The Sheriff of Monroe County does hereby acknowledge that the Monroe County Sheriff's Office is an intended third- party beneficiary of this Agreement, that he has participated in and accepts the terms of this Agreement and that any future objections to the KOTS location as reflected on Exhibit A are waived.

MONROE COUNTY SHERIFF'S OFFICE

By: Rick Ramsay
Rick Ramsay, Monroe County Sheriff

MONROE COUNTY SHERIFF'S OFFICE
APPROVED AS TO FORM:

Patrick J. McCullah
PATRICK J. McCULLAH
GENERAL COUNSEL

DATE: 10/10/2019

EXHIBIT A

SKETCH AND LEGAL DESCRIPTION OF NEW KOTS

SKETCH & DESCRIPTION
Keys Overnight Temporary Shelter (KOTS)
PORTION OF TIF DEED NUMBER 19725
STOCK ISLAND
MONROE COUNTY, FLORIDA



SURVEYOR'S NOTES:

1. Reproductions of this Sketch are not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.
2. No Title Opinion or Abstract to the subject property has been provided. It is possible that there are Deeds, Easements, or other instruments (recorded or unrecorded) which may affect the subject property. No search of the Public Records has been made by the Surveyor.
3. The land description shown hereon was prepared by the Surveyor.
4. Bearings shown hereon are referenced to the legal description recorded in Official Records Book 1490, Page 291 of the Public Records of Monroe County, Florida based on Grid North of the North American Datum of 1927 (NAD 27) of the Florida State Plane Coordinate System with the north right-of-way line of Sunset Marina Road having a bearing of N 63°32'06" E.
5. Data shown hereon was compiled from instrument(s) of record and does not constitute a boundary survey.
6. Abbreviation Legend: A= Arc Distance, Δ= Central Angle, E= Easting, F.D.O.T.= Florida Department of Transportation, ID.= Identification, M.C.R.= Monroe County Records, MHTL= Mean High Tide Line, N= Northing, P.B.= Plat Book; PG.= Page; P.O.B. Point of Beginning; P.O.C. = Point of Commencement, R= Radius; R/W = Right-of-Way; sq. ft.= square feet, TIF= Trustees of the Internal Improvement Trust Fund of the State of Florida.

CERTIFICATION:

I HEREBY CERTIFY that the attached Sketch and Description of the hereon described property is true and correct to the best of my knowledge and belief as prepared under my direction. I FURTHER CERTIFY that this Sketch and Description meets the Standards of Practice set forth in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Date: September 04, 2019

Digitally signed by Keith M.
Chee-A-Tow

Date: 2019.09.04 17:20:06 -04'00'

KEITH M. CHEE-A-TOW, P.L.S.
Florida Registration No. 5328
AVIROM & ASSOCIATES, INC.
L.B. No. 3300

REVISIONS		AVIROM & ASSOCIATES, INC.	JOB #: 11227-2
		SURVEYING & MAPPING	SCALE: N/A
		50 S.W. 2nd AVENUE, SUITE 102	DATE: 09/04/2019
		BOCA RATON, FLORIDA 33432	BY: K.C.
		(561) 392-2594 / www.AVIROMSURVEY.com	CHECKED: K.M.C-A-T
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		SHEET: 1 OF 5	

SKETCH & DESCRIPTION
Keys Overnight Temporary Shelter (KOTS)
 PORTION OF TIF DEED NUMBER 19725
 STOCK ISLAND
 MONROE COUNTY, FLORIDA

LEGAL DESCRIPTION:

A parcel of land being a portion of land as described in Official Records Book 1490, Page 291 of the Public Records of Monroe County, formerly submerged in the Bay of Florida, being a part of the Trustees of the Internal Improvement Trust Fund of the State of Florida (TIF) Deed Number 19725, said parcel being in Section 27, Township 67 South, Range 25 East in Monroe County, Florida being more particularly described by metes and bounds as follows:

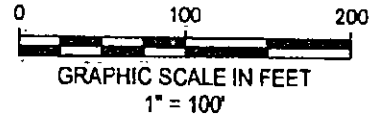
COMMENCE at the Point of Beginning (Point #9) of said parcel of land as described in said Public Records having coordinates of N=89066.35' & E=250957.42', (said coordinates based on Grid North of the North American Datum of 1927 - NAD 27) with all subsequent coordinates being referenced thereto; thence S 63°32'06" E for a distance of 47.66 feet to Point #32 (N=89045.11' & E=251000.08') being the westerly and curved right of way line of Junior College Road (now College Road as laid out and currently in use); said curve being concave to the southeast and having a radius of 984.84 feet; thence northeasterly along the said curved right of way line for an arc distance of 66.04 feet to Point #31 (N=89098.13' & E=251039.42'); thence N 63°32'06" W for a distance of 316.58 feet to Point #30 (N=89239.22' & E=250756.02'); thence S 40°23'19" W for a distance of 157.23 feet to Point #29 (N=89119.46' & E=250654.14'); thence N 56°50'29" W for a distance of 483.59 feet to Point #28 (N=89383.96' & E=250249.30'); thence S 74°46'08" W for a distance of 80.26 feet to Point #27 (N=89362.88' & E=250171.86') and the POINT OF BEGINNING of the described parcel; thence S 43°21'06" E a distance of 44.02 feet; thence S 31°20'02" W a distance of 5.17 feet; thence S 45°01'05" W a distance of 14.62 feet; thence N 44°51'01" W a distance of 166.36 feet; thence S 45°08'59" W a distance of 28.30 feet; thence N 42°07'31" W a distance of 52.20 feet; thence S 49°22'22" W a distance of 69.17 feet; thence N 40°56'30" W a distance of 110.21 feet; thence S 49°19'57" W a distance of 43.48 feet; thence N 40°40'03" W a distance of 75.03 feet; thence N 14°10'00" E a distance of 47.99 feet; thence N 40°09'54" W a distance of 72.63 feet to the Approximate Mean High Tide Line of Florida Bay (MHTL) and the boundary as described in said Public Records; thence along said boundary as described in said Public Records for the next four courses and distances:

N 38°26'33" E a distance of 93.87 feet to Point #24 (N=89695.14' & E=249833.32'); thence S 52°04'36" E a distance of 195.00 feet to Point #25 (N=89575.29' & E=249987.14'); thence S 13°16'39" W a distance of 22.30 feet to Point #26 (N=89553.59' & E=249982.02'); thence S 44°52'02" E a distance of 269.09 feet; to Point #27 (N=89362.88' & E=250171.86') and the POINT OF BEGINNING.

Said lands lying and being in Section 27, Township 67 South, Range 25 East on Stock Island, Monroe County, Florida containing 42,593.06 square feet (0.978 acre) more or less.

REVISIONS		AVIROM & ASSOCIATES, INC.	JOB #:	11227-2
		SURVEYING & MAPPING	SCALE:	N/A
		50 S.W. 2nd AVENUE, SUITE 102	DATE:	09/04/2019
		BOCA RATON, FLORIDA 33432	BY:	K.C.
		(561) 392-2594 / www.AVIROMSURVEY.com	CHECKED:	K.M.C-A-T
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			SHEET:	2 OF 5

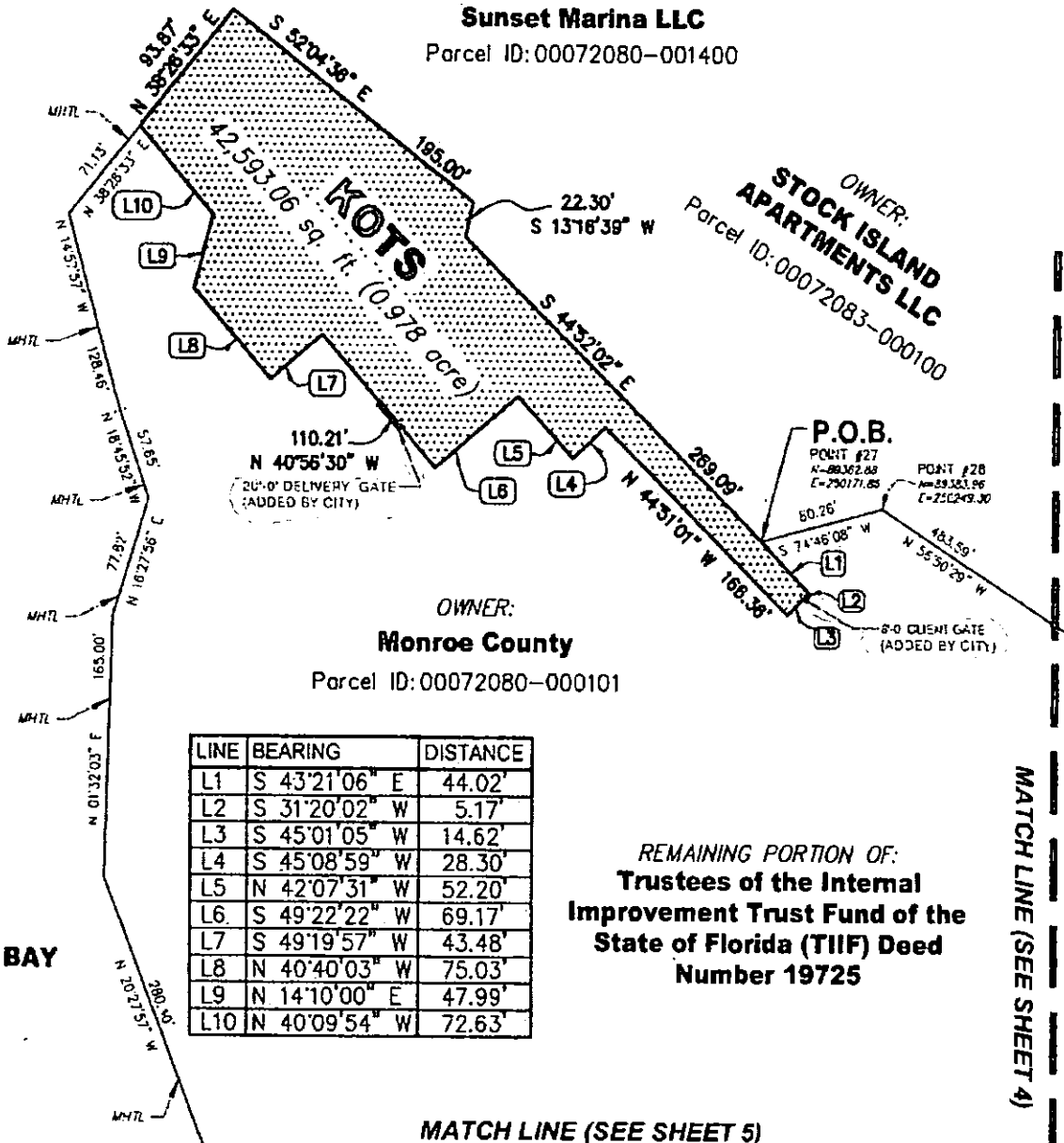
SKETCH & DESCRIPTION
Keys Overnight Temporary Shelter (KOTS)
 PORTION OF TIF DEED NUMBER 19725
 STOCK ISLAND
 MONROE COUNTY, FLORIDA



FLORIDA BAY

OWNER:
Sunset Marina LLC
 Parcel ID: 00072080-001400

OWNER:
STOCK ISLAND APARTMENTS LLC
 Parcel ID: 00072083-000100



OWNER:
Monroe County
 Parcel ID: 00072080-000101

LINE	BEARING	DISTANCE
L1	S 43°21'06" E	44.02'
L2	S 31°20'02" W	5.17'
L3	S 45°01'05" W	14.62'
L4	S 45°08'59" W	28.30'
L5	N 42°07'31" W	52.20'
L6	S 49°22'22" W	69.17'
L7	S 49°19'57" W	43.48'
L8	N 40°40'03" W	75.03'
L9	N 14°10'00" E	47.99'
L10	N 40°09'54" W	72.63'

REMAINING PORTION OF:
Trustees of the Internal
Improvement Trust Fund of the
State of Florida (TIIF) Deed
Number 19725

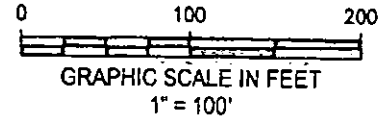
REVISIONS



AVIROM & ASSOCIATES, INC.
SURVEYING & MAPPING
 50 S.W. 2nd AVENUE, SUITE 102
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SCALE:	1" = 100'
DATE:	09/04/2019
BY:	K.C.
CHECKED:	K.M.C-A-T
F.B.	N/A PG. N/A
SHEET:	3 OF 5

SKETCH & DESCRIPTION
Keys Overnight Temporary Shelter (KOTS)
 PORTION OF T1IF DEED NUMBER 19725
 STOCK ISLAND
 MONROE COUNTY, FLORIDA



MATCH LINE (SEE SHEET 3)

STOCK ISLAND APARTMENTS LLC
 OWNER:
 Parcel ID: 00072083-000100

Monroe County
 OWNER:
 Parcel ID: 00072080-000101

REMAINING PORTION OF:
Trustees of the Internal
Improvement Trust Fund
of the State of Florida
(TIIF) Deed Number 19725

MATCH LINE
(SEE SHEET 5)

241.24'
 S 56°13'32" W

179.70'
 S 27°02'03" W

POINT #29
 N=85112.48
 E=250854.14

483.53'

N 56°50'26" W

S 40°23'19" W

157.23'

108.08'

S 40°23'20" W

N 63°32'10" W

206.48'

S 63°32'06" E

17.66'

316.56'

NORTH R/W LINE
 (BEARING BASIS)

WEST R/W LINE

R= 984.84'
 Δ= 03°50'31"
 A= 66.04'

POINT #31
 N=85098.13
 E=251039.42

POINT #32
 N=85043.11
 E=251000.08

POINT #9
 N=85066.35
 E=250957.42

P.O.C.

SUNSET MARINA ROAD

COLLEGE ROAD
 (FORMERLY JUNIOR COLLEGE ROAD)

OWNER:
TIIF
 Parcel ID: 00072080-001403

REVISIONS



AVIROM & ASSOCIATES, INC.
SURVEYING & MAPPING
 50 S.W. 2nd AVENUE, SUITE 102
 BOCA RATON, FLORIDA 33432
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JOB #:	11227-2
SCALE:	1" = 100'
DATE:	08/04/2019
BY:	K.C.
CHECKED:	K.M.C-A-T
F.B. N/A PG. N/A	
SHEET:	4 OF 5

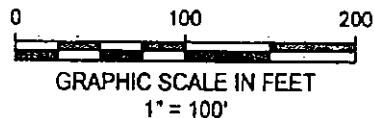
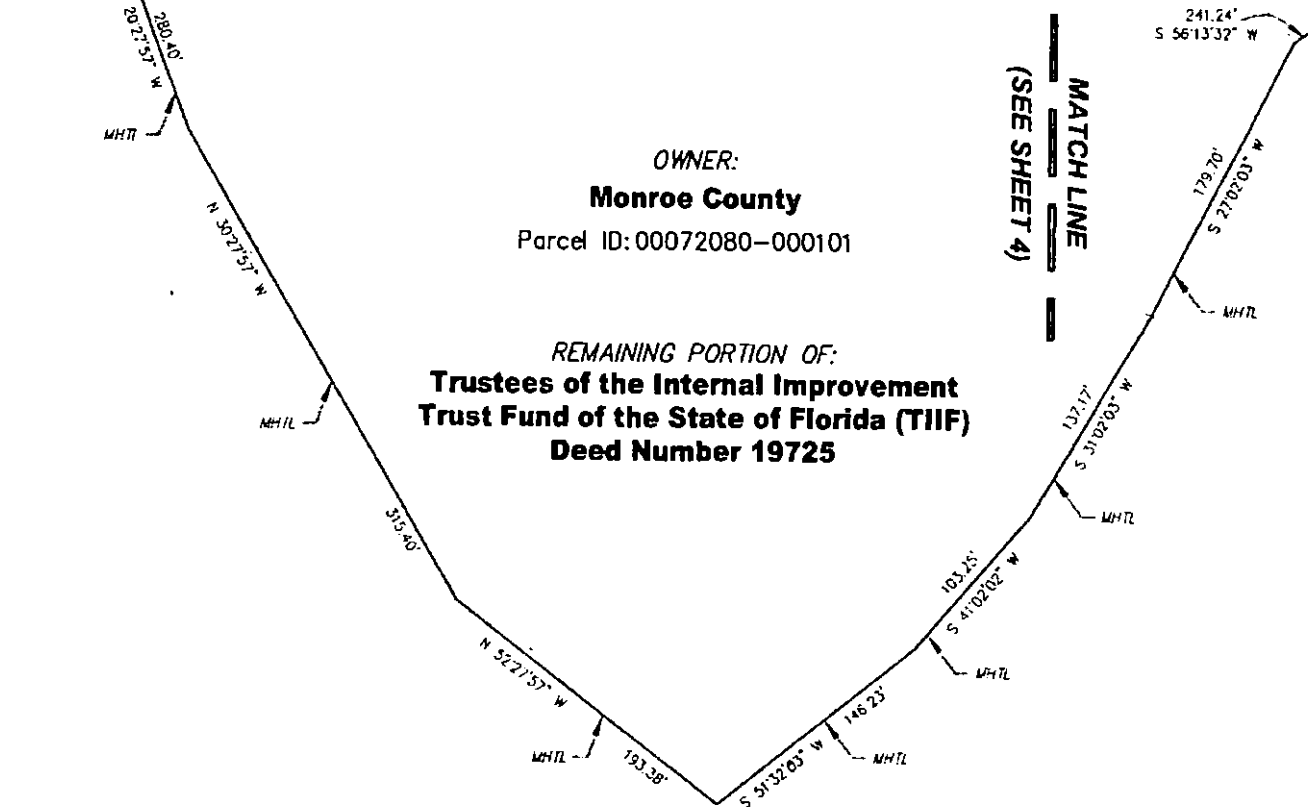
SKETCH & DESCRIPTION
Keys Overnight Temporary Shelter (KOTS)
 PORTION OF TIF DEED NUMBER 19725
 STOCK ISLAND
 MONROE COUNTY, FLORIDA

MATCH LINE (SEE SHEET 3)

**MATCH LINE
(SEE SHEET 4)**

OWNER:
Monroe County
 Parcel ID: 00072080-000101

REMAINING PORTION OF:
Trustees of the Internal Improvement
Trust Fund of the State of Florida (TIIF)
Deed Number 19725



FLORIDA BAY

REVISIONS



AVIROM & ASSOCIATES, INC.
SURVEYING & MAPPING

50 S.W. 2nd AVENUE, SUITE 102
 BOCA RATON, FLORIDA 33432
 (561) 382-2594 / www.AVIROMSURVEY.com

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JOB #: **11227-2**

SCALE: **1" = 100'**

DATE: **09/04/2019**

BY: **K.C.**

CHECKED: **K.M.C-A-T**

F.B. **N/A** PG. **N/A**

SHEET: **5 OF 5**

RESOLUTION NO. 19-295

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED "KEYS OVERNIGHT TEMPORARY SHELTER (KOTS) AND ESSENTIAL GOVERNMENTAL EMPLOYEE HOUSING INTERLOCAL AGREEMENT" BETWEEN MONROE COUNTY AND THE CITY OF KEY WEST, FLORIDA; PROVIDING THAT DOCUMENTS FOR THE FORMAL TRANSFER OF PROPERTY WILL BE BROUGHT TO THE COMMISSION FOR FINAL APPROVAL; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West ("City") and Monroe County ("County") intend to enter into the attached interlocal agreement to allow the City to acquire a permanent site for the construction of a new Keys Overnight Temporary Shelter (KOTS), and in exchange for the County's acquisition of land for the construction of essential governmental employee housing; and

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

Section 1: That the attached "Keys Overnight Temporary Shelter (KOTS) and Essential Governmental Employee Housing Interlocal Agreement" between Monroe County and the City of Key West is hereby approved.

Section 2: That documents to effect the formal transfer of property between the City and the County will be brought before the City Commission for final review/approval.

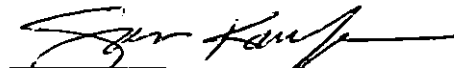
Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 17th day of September, 2019.

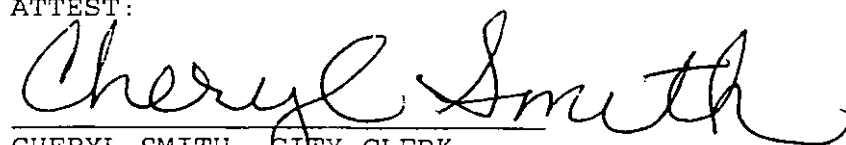
Authenticated by the Presiding Officer and Clerk of the Commission on 17th day of September, 2019.

Filed with the Clerk on September 18, 2019.

Mayor Teri Johnston	<u>Absent</u>
Vice Mayor Sam Kaufman	<u>Yes</u>
Commissioner Gregory Davila	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>


SAM, KAUFMAN, VICE MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

OFFICE OF THE CITY ATTORNEY



PHONE: (305) 809-3770
FAX: (305) 809-3771

THE CITY OF KEY WEST

POST OFFICE BOX 1409
KEY WEST, FL 33041-1409
WWW.KEYWESTCITY.COM

EXECUTIVE SUMMARY

To: The City Commission for the City of Key West

From: James K. Scholl, City Manager

By: George B. Wallace, Assistant City Attorney

Date: August 30, 2019

RE: Proposed Interlocal Agreement between Monroe County and the City of Key West providing a long-term solution to the location of the current KOTS facility and providing the County with City Owned property for the construction of affordable housing designed to meet the needs of the Monroe County Sheriff's Department's employees and other first responder personnel.

Action statement:

Approve an Interlocal Agreement providing a long-term solution to the KOTS facility in exchange for deeding current City property to Monroe County for the construction of affordable housing for the Monroe County Sheriff's Department.

Background

Since 2004 the County has provided the City with land for the operation of KOTS which is located adjacent to, or constituting a portion of, the County property on which the Sheriff's Office is located. In 2017 The County voted to require the City to vacate the current premises no later than September 27, 2019. The County's request was stimulated by the Monroe County Sheriff's desire to utilize the property for potential affordable

housing needs of the Sheriff's employees. After extensive meetings between representatives on the County Commission, City Commission, City County and Sheriff's department management teams, the legal departments of all of the agencies as well as other interested parties the proposed Interlocal Agreement is being presented to provide a long- term solution to location of an overnight shelter facility for the homeless as well as a location for affordable housing for the Sheriff's Office employees.

If approved the following would occur:

-
1. The City will deed the property located at 250 Trumbo Road to the County subject to a Restrictive Covenant requiring the property be used for affordable housing pursuant to the City's Affordable Housing ordinances. The deed will contain a reverter clause returning the property to the City should the County cease the use of the property for Affordable Housing. The pending zoning modification for the property will allow up to 40 units be placed on the property subject to design limitations.
 2. The City will acquire the use of an expanded area of the County property for 99 years or until the City can legally acquire the property by referendum or Charter amendment in the future. Any future conveyance of the property to the City would also contain a reverter clause should the City cease operation of a homeless shelter on the site. The City would be allowed to convert the use of the property for affordable housing without triggering the reverter clause. A "NEW KOTS" facility will be constructed by the City as soon as funding is available which will be located deeper into the property in order to lesson the impact of NEW KOTS on neighboring properties. Both parties will seek clarification or modification of Section 380.0666 Florida Statutes clarifying that Land Authority funds could be a source of needed funding should the respective governing bodies of the City and County desire to use that approach.
 3. There are various other detailed descriptions of the operation of NEW KOTS and other negotiated terms in the agreement.
-

Funding considerations:

The cost to the City of approving the agreement is the nominal cost of recording proper documents estimated to be less than \$100.00.

Recommendation:

To approve the Interlocal Agreement as presented and execute, deliver and record as necessary property conveyance and restrictive document.

Prepared by and Return to:
George B. Wallace, Esq.
P.O. Box 1409
Key West, FL 33041-1409
(305) 809-3770

DECLARATION OF AFFORDABLE HOUSING RESTRICTIONS

This Declaration of Affordable Housing Restrictions (hereinafter "Declaration") is made and entered into this 17th day of September, 2019, by THE CITY OF KEY WEST, a Florida Municipality, (hereinafter "Declarant"), whose principal mailing address is 1300 White Street, Key West Florida, 33040.

This Declaration applies to the real property located at 250 Trumbo Road, in Key West, Florida, which is more fully described in the Legal Description attached hereto and incorporated herein as Exhibit A (hereinafter "Property").

WHEREAS, the Property is subject to regulation pursuant to Sections 122-1465 through 122-1500 of the Code of Ordinances of the City of Key West, Florida, as amended from time to time ("Work Force Housing Ordinance"), which ordinance establishes affordable housing categories to facilitate the development of housing designed to meet the needs of people employed by the local economy, establishes eligibility requirements for occupants of work force housing, and restricts the sales price of the Property and requires that the Property be sold at a price substantially less than fair market value to a purchaser within a specific income range; and

WHEREAS, Declarant as well as subsequent purchasers and tenants will benefit from the limitations and regulations placed on the Property by operation of this Declaration; and,

WHEREAS, the intent of the City of Key West (hereinafter "City") in imposing reasonable regulations on the Property is to establish and maintain the affordability of the Property for persons with incomes within a specified range; and

WHEREAS, the intent of Declarant is to preserve through this Declaration the affordability of the Property and to assign to the City the right to enforce compliance with this Declaration.

NOW, THEREFORE, the Declarant agrees that the Property shall be held and conveyed subject to the following affordable housing restrictions, covenants and conditions, which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns for the entire term of this Declaration.

I. DEFINITIONS

- A. "Declarant" shall mean the owner of the Property and any subsequent purchaser, devisee, transferee, grantee or holder of title of the Property or any portion of the Property.
- B. "Transfer" means any sale, assignment or transfer, voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in the Property, including but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, or an interest evidenced by a land contract by which possession of the Property is transferred and Declarant retains title.
- C. "Transferee" shall mean an individual, or individuals, who receive a Transfer of the Property from the Declarant.

All other terms shall have the same meaning given to them in the City's Work Force Housing Ordinance.

II. TERM AND ENFORCEABILITY

A. This Declaration shall run with the Property and bind the Declarant, his or her heirs, legal representatives, executors, successors in interest and assigns, in perpetuity from the effective date of this Declaration.

B. The Property is held and hereafter shall be held, conveyed, encumbered, used, rented, leased and occupied subject to these covenants, conditions, restrictions and limitations. All of the herein-stated covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land.

C. Any transferee or purchaser of the Property, or of any portion of or interest in the Property, by the acceptance of a deed therefore, whether from Declarant or from any subsequent purchaser of the Property, or by the signing of a contract or agreement to purchase the same, shall, by the acceptance of such deed or by the signing of such contract or agreement, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein. Any written instrument attempting or purporting to sell, convey, grant, transfer, exchange or assign any legal or equitable rights or interests to the Property shall be deemed null and void, where such instrument purports or evidences an attempt to sell, convey, grant, transfer, exchange or assign any right or interest to the Property where such instrument is inconsistent with or contrary to the conditions or covenants

contained herein. Any deed or instrument of conveyance executed by or on behalf of Declarant or any subsequent grantee, devisee, heir, assignee or other transferee shall expressly set forth verbatim this and the foregoing reservations, restrictions and covenants or, in lieu thereof, incorporate them by specific reference to this Declaration by Book and Page number(s) where recorded in the Public Records of Monroe County, Florida.

D. In order to preserve through this Declaration the affordability of the Property for persons with incomes within a specified range, the Declarant hereby grants and assigns to the City the right to monitor and enforce compliance with this Declaration. Declarant otherwise reserves the rights necessary to implement the provisions of this Declaration.

III. DECLARATION OF RENTAL LIMITS

A. Pursuant to Section 122-1467(c) of the Work Force Housing Ordinance, the total rental for any rental units to be constructed on the Property shall be based on each unit being affordable housing (moderate income). The rental may be mixed among affordable housing (low income), (median income), (moderate income) and (middle income) in order that the total value of rental does not exceed ten percent of the rental of all the affected units as affordable housing (moderate income).

IV. OCCUPANCY, LEASING AND USE OF THE PROPERTY

A. The subject property shall be operated, managed and otherwise administered as affordable work force housing and such other uses incidental to residential use as may be permitted by local zoning and land use regulations.

1. Occupancy shall be restricted to households or persons who derive at least 70 percent of its or his/her total income from gainful employment in Monroe County.

2. At the time an affordable housing (low income) unit is leased, the total income of the eligible household or persons shall not exceed 80 percent of the median household income for Monroe County (adjusted for family size). During the occupancy of the rental unit, the household's income may increase to an amount not to exceed 120 percent of the median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term. The monthly rent for the rental unit, not including utilities, shall not exceed 25 percent of that amount which represents 80 percent of the monthly median

household income of Monroe County (adjusted for family size).

3. At the time an affordable housing (median income) unit is leased, the total income of the eligible household or persons shall not exceed 100 percent of the median household income for Monroe County (adjusted for family size). During the occupancy of the rental unit, the household's income may increase to an amount not to exceed 140 percent of the median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term. The monthly rent for the rental unit, not including utilities, shall not exceed 25 percent of that amount which represents 100 percent of the monthly median household income of Monroe County (adjusted for family size).

4. At the time an affordable housing (moderate income) unit is leased, the total income of the eligible household or persons shall not exceed 120 percent of the median household income for Monroe County (adjusted for family size). During the occupancy of the rental unit, the household's income may increase to an amount not to exceed 160 percent of the median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term. The monthly rent for the rental unit, not including utilities, shall not exceed 25 percent of that amount which represents 120 percent of the monthly median household income of Monroe County (adjusted for family size).

5. At the time an affordable housing (middle income) unit is leased, the total income of the eligible household or persons shall not exceed 140 percent of the median household income for Monroe County (adjusted for family size). During the occupancy of the rental unit, the household's income may increase to an amount not to exceed 180 percent of the median household income for Monroe County (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term. The monthly rent for the rental unit, not including utilities, shall not exceed 25 percent of that amount which represents 140 percent of the monthly median household income of Monroe County (adjusted for family size).

6. Eligibility is based on proof of legal residence in Monroe County.

7. Priority shall be given to families of four or more members for larger sized affordable work force housing units.

8. Annual household income means all amounts, monetary or not, which are received by any family member of the household, except income from employment of children (including foster children) under the age of 18 years. Family shall include the traditional family, (married or not) as well as domestic partnerships.

9. In the event that a tenant's income shall exceed the maximum allowable income under this section, and such shall occur for the first time during the last three months of a tenancy, then the landlord and tenant may extend a lease for a period of one year at the affordable rate.

10. The planning board may review a household's income and unique circumstances to determine eligibility and conformance with the intent of this ordinance to assure that people in need are not excluded and people without need are not included.

V. DEFAULTS AND REMEDIES: ASSIGNMENT OF RENTS

A. Upon any violation of the provisions of this Declaration the City may declare a default under this Declaration by delivering written notice thereof to the property owner. After providing written notice of default, the City may apply to a court of competent jurisdiction for specific performance of the Declaration, for an injunction prohibiting a proposed sale, transfer or lease in violation of this Declaration, for a declaration that a prohibited transfer or lease is void, or for any such other relief as may be appropriate.

B. Assignment of rents: Declarant hereby assigns to City the right to receive the rents due or collected from any units identified to be subject to this Declaration during the entire period those units are occupied in violation of any of the terms of this Declaration.

C. The remedies stated herein shall not be exclusive but shall be cumulative to all other remedies and rights the parties may lawfully exercise.

VI. REQUIREMENTS FOR WRITTEN REPORTS FROM DECLARANT

Declarant shall provide a written report to the City each year on January 1, or on such other date as specified by the City in writing, which includes a statement

that Declarant has complied with all provisions of this Declaration, or includes Declarant's explanation of any violation of any provision of this Declaration. The report shall be submitted within thirty (30) days of the specified date to the City, or to such other person or address designated by the City. Failure to provide a report in a timely manner, or any misrepresentations on the report, shall constitute a default under this Declaration.

VII. GENERAL PROVISIONS

A. The City may assign its rights and delegate its duties hereunder in writing. Upon such assignment the City shall notify the property owner.

B. If any action is brought to enforce the terms of this Declaration, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

C. If any one or more of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Declaration, and this Declaration shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

D. The terms of this Declaration shall be interpreted under the laws of the State of Florida and venue shall lie in Monroe County, Florida.

E. All notices required herein shall be sent by certified mail, return receipt requested, to the Declarant or subsequent property owner at the address of the Property and to the City or its designee at P.O. Box 1409, Key West, FL, 33041, or such other address that the City may subsequently provide in writing to the Declarant or subsequent property owner.

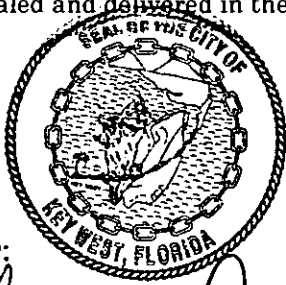
VIII. CONVERSION TO CONDOMINIUM FORM OF OWNERSHIP

A. In the event the Declarant or any subsequent owner or transferee proposes to convert ownership of the Property to condominium or a similar form of ownership, prior to the conversion, Declarant expressly agrees herein to execute an amended Declaration restricting the use, ownership, resale price, and occupancy of the affected units located on the Property in accordance with the provisions contained in Sections 122-1465 through 122-1500 of the Code of Ordinances of the City of Key West, Florida, as amended from time to time ("Work Force Housing Ordinance").

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the date written below.

Signed, sealed and delivered in the presence of:

(SEAL)



THE CITY OF KEY WEST FLORIDA,
a Florida Municipality

ATTEST:

By:

Cheryl Smith

Cheryl Smith, City Clerk

By:

Samuel Kaufman

Vice Mayor Kaufman