

RESOLUTION NO. 17-204

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED "FIRST AMENDMENT TO LEASE AGREEMENT," FOR RENEWAL OF THE LEASE AGREEMENT FOR THREE (3) POCKET PARKS LOCATED IN THE 600 BLOCK OF LOUISA STREET, 3541 FLAGLER AVENUE, AND 627 GRINNELL STREET BETWEEN THE UTILITY BOARD OF THE CITY OF KEY WEST AND THE CITY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in Resolution No. 13-001, the City Commission approved a lease between the City and the Utility Board of the City of Key West for three pocket parks; and

WHEREAS, both parties desire to extend the Agreement for an additional five (5) years, as set forth in the attached First Amendment to Lease, for public benefit; and

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

Section 1: That the attached "First Amendment to Lease Agreement" for three (3) pocket parks located in the 600 Block of Louisa Street, at 3541 Flagler Avenue and at 627 Grinnell Street, between the Utility Board of the City of Key West and the City is hereby approved.

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

Passed and adopted by the City Commission at a meeting held this 15 day of August, 2017.

Authenticated by the Presiding Officer and Clerk of the Commission on _____ day of August, 2017.

Filed with the Clerk on August 16, 2017.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Clayton Lopez	<u>Absent</u>
Commissioner Sam Kaufman	<u>Yes</u>
Commissioner Richard Payne	<u>Yes</u>
Commissioner Margaret Romero	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Absent</u>

ATTEST:


CHERYL SMITH, CITY CLERK


CRAIG CATES, MAYOR

FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment to Lease Agreement is entered into this 16 day of August, 2017, by and between the UTILITY BOARD OF THE CITY OF KEY WEST, FLORIDA (KEYS ENERGY SERVICES) hereinafter ("LESSOR") and the CITY OF KEY WEST, FLORIDA, (CITY), (hereinafter "LESSEE").

WITNESSETH

WHEREAS, LESSOR and LESSEE entered into a Lease Agreement-Pocket Parks on the 11th day of October 2012, (the "Lease Agreement"), pertaining to the premises located as described therein and commonly referred to as the "Pocket Parks"; and

WHEREAS, the LESSOR and LESSEE now desire to amend their Lease Agreement which is attached hereto as Exhibit "A",

NOW, THEREFORE, in mutual consideration of the benefits conferred upon the parties by the terms of this Amendment, LESSOR and LESSEE agree as follows:

Section 1: The Parties mutually agree to the exercise by CITY of the first five (5) year option to extend the lease term commencing on the 1st day of October 2017, and ending on the 30th day of September 2022 unless further extended by the parties as provided in paragraph two (2) of the Lease Agreement.

Except as modified herein, the Lease Agreement as amended shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have made this First Amendment to Lease Agreement on the date first written above.

THE CITY OF KEY WEST

By: 
Craig Cates, Mayor



ATTEST


CHERYL SMITH, CITY CLERK

UTILITY BOARD OF THE CITY OF KEY
WEST FLORIDA

By: 
Peter Batty, Chairman

ATTEST:

LEASE AGREEMENT – POCKET PARKS

This Lease Agreement is made the 10th day of October 2012, between the UTILITY BOARD OF THE CITY OF KEY WEST, FLORIDA (KEYS ENERGY SERVICES), Lessor, hereinafter called "KEYS" and the CITY OF KEY WEST, FLORIDA, Lessee, hereinafter called "City."

WITNESSETH:

1. Description of Premises. KEYS does hereby lease to the City the "Premises" located in Key West, Monroe County, Florida, described as:

LOCATION	ADDRESS	PROPERTY SIZE	REAL ESTATE NUMBER
Louisa Street	600 Block Louisa St. Key West, Florida 33040	30'X30' = 900 Sq. Ft.	RE# 00028400-000000
Flagler Avenue & 18 th Street	3541 Flagler Avenue Key West, Florida 33040	50'X50' = 2,500 Sq. Ft.	RE# 00052460-000000
Grinnell Street & Angela Street	627 Grinnell Street Key West, Florida 33040	50'X95' = 4,750 Sq. Ft.	RE# 00010990-000000

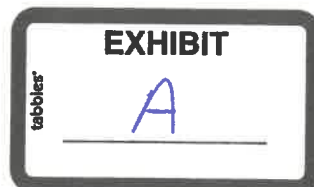
2. Term. KEYS leases the above described Premises to the City for a term of five (5) years commencing the 1st day of October, 2012, and ending on the 30th day of September, 2017. This lease is not assignable. The agreement shall have three (3) mutual agreed upon option extensions. Each extension shall be for a period of five (5) years.

3. Rents and Security. The City, in consideration of the leasing of the Premises does hereby covenant and agree to pay Ten Dollars total (\$10.00) per year and other consideration for each site.

4. Taxes. It is hereby covenanted, stipulated and agreed between the parties hereto that the City will agree to pay all taxes, fees, licenses or charges whatsoever on the real property, buildings or improvements as they become due, upon presentation of evidence of such amounts owed.

5. Use of Premises. The Premises shall be used for "Park and Recreation" use only, unless prior written approval is granted by KEYS. It is KEYS' intent that each listed property shall be used for the "betterment" of the community. KEYS has the sole right to deny any improvements that are not in accordance with the above.

6. Utilities. The City agrees to comply with all applicable federal, state and local codes and the proper use of electricity, gas, water, sewer and other



utilities to the subject property. The City agrees to pay all monthly fees for any and all water, sewer, electric, telephone, and similar utilities for each property.

7. Design Review. KEYS shall be given the opportunity to review and comment on the plans and design for the Premises. Final approval by KEYS will be required.

8. Improvement/Funding. All improvements shall be the responsibility of the City unless as stated herein. Signage is required to be installed at each site by the City and, at a minimum, shall make reference to KEYS involvement/ownership of the property. KEYS shall approve any signage placed at each site. In addition, KEYS agrees to provide three (3) trees per site (approximate height of 15 feet). The selections of the type of trees are to be made by the City. The City shall be responsible for the planting and their care. KEYS agrees to install fencing and to remove any existing barbed wire on fences. The City agrees to maintain said fencing.

9. Maintenance and Security.

a. Maintenance.

1. The City shall perform and be responsible for the cost of all repair and/or maintenance necessary to keep the Premises in good order, repair and conditions and in a clean, sanitary and safe condition in accordance with all directions, rules, and regulations of governmental agencies having jurisdiction. The City agrees to maintain the entire site.

2. KEYS and the City will both appoint a Liaison to handle maintenance and to create a process to address any concerns in a timely manner.

b. Security.

1. The City shall be responsible for providing security for the site as needed.

10. Manner of Payment and Giving Notice. The checks for rental occurring hereunder shall be forwarded to Keys Energy Services, 1001 James Street, Key West, Florida 33041-6100. All notices by the City, to KEYS hereunder shall be forwarded to KEYS, "Return Receipt Requested," until the City is notified otherwise in writing. Notice to the City by KEYS shall be forwarded to City Manager, City of Key West, PO Box 1409, Key West, FL 33040.

11. KEYS Covenant. Upon the payment by the City of the rents provided, and upon the observation and performance of all the covenants, terms and conditions on the City's part to be observed and performed, the City shall peacefully and quietly hold and enjoy the subject Premises for the term hereby demise without hindrance or interruption by KEYS or any other person

or persons lawfully or equitably claiming by, through or under KEYS subject nevertheless, to the terms of this lease agreement.

12. Indemnification/Insurance.

- a. The City shall hold harmless, indemnify and defend KEYS, its directors, officers, employees and agents against any claim, action, loss, damage, injury, liability, cost and expense of whatever kind or nature (including, but not by way of limitation, attorney's fees and court costs) arising out of or incidental to this agreement, excluding only the negligence of KEYS, its directors, officers, employees or agents, to the extent permitted by Florida law. It is expressly agreed and understood that City does not waive sovereign immunity as provided under Florida law.
- b. The City shall purchase and maintain, at a minimum, the following insurance coverages throughout the term of the lease. In addition, property insurance shall be maintained during construction.

Commercial General Liability

- i. The City's insurance shall cover those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office, with out the attachment of restrictive endorsements other than the elimination of Coverage C. Medical Payments.
- ii. The City shall maintain minimum limits of:

General Aggregate Limit (Other than Products/Completed Operations)	\$1,000,000
Products-Completed Operations Aggregate Limit	\$1,000,000
Personal & Advertising Injury Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Legal Liability Limit	\$ 50,000
- c. All policies shall provide (to the extent such provisions are obtainable) the City and KEYS with at least forty-five (45) days written notice of cancellations, non-renewal or restriction in coverage. A certificate or certificates of insurance shall be provided to the KEYS prior to the

effective date of the lease and at least thirty (30) days prior to each renewal.

- d. In the event the City refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required pursuant to this lease, KEYS may, at their option, procure, or renew such insurance and all amounts of money paid therefore, shall be payable for with by the party who has failed to procure such insurance with interest at the current highest legal rate allowed in the State of Florida on the date of such purchase.
- e. The City shall be responsible for the cost to repair or replace any of their contents or improvements and betterments in the event of damage or destruction.
- f. The City will add "The Utility Board of the City of Key West, Florida" as an Additional Insured on all insurance policies.

13. Observation of Laws and Ordinances. The City agrees to observe, comply with and execute promptly, at their expense, during the term hereof all laws, rules, requirements, orders, directives, ordinances and regulations and any and all governmental authorities or agencies and of all municipal departments, bureaus, boards and officials due to its use or occupancy of the subject premises, and to obtain and maintain during the term thereof any and all certificates, licenses, and other documents necessary for lawful occupation and operation.

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

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

16. Partial Invalidity. If any term, covenant or addition of this lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, insofar as is reasonable the remainder of this lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable,

shall not be affected thereby and each term, covenant or condition of this lease shall be valid and be enforced to the fullest extent permitted by law.

17. Termination of Lease. Either party has the right to terminate this lease agreement, with or without cause, upon ten- (10) month's prior written notice.

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

WITNESSES

Sign: Susan P. Harrison

Print: SUSAN P. HARRISON

Sign: Angela Buode

Print: ANGELA BUODE

WITNESSES

Sign: Edie Delph

Print: Edie Delph

Sign: Lynne Tejeda

Print: LYNNE TEJEDA

LESSEE

City of Key West, Florida

By: Craig Cates
Craig Cates, Mayor

Date: 1/8/13

LESSOR

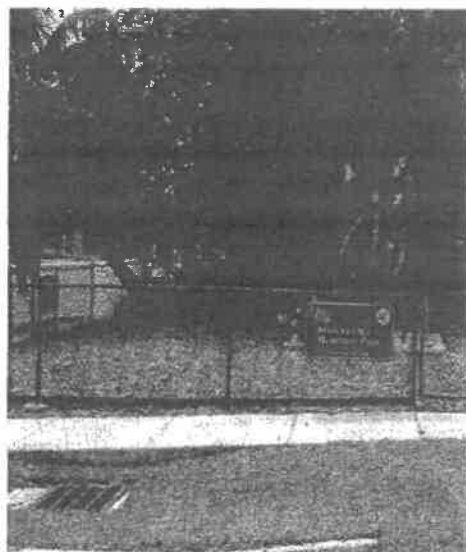
UTILITY BOARD OF THE CITY OF KEY WEST, FLORIDA

By: Lou Hernandez
Lou Hernandez
Chairman

Date: 10/10/2012



600 BLOCK LOUISA STREET – RE# 00028400-000000



FLAGLER AVENUE & 18TH STREET – RE# 00052460-000000



GRINNELL STREET & ANGELA STREET - RE# 00010990-000000



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/4/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER World Risk Management LLC Ballator Insurance Group 20 N Orange Ave Ste 500 Orlando FL 32801	CONTACT NAME: Diane Crispin PHONE (407) 445-2414 FAX (407) 445-2868 E-MAIL: diane_crispin@wrmlc.com ADDRESS: diane_crispin@wrmlc.com
INSURED City of Key West 3126 Flagler Avenue Key West, FL 33040	INSURER(S) AFFORDING COVERAGE INSURER A: Public Risk Management/Wesco NAIC # 25011 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES

CERTIFICATE NUMBER: CL1692000753

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL COVR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		PRM 016-003	10/01/2016	10/01/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> APD		PRM 016-003	10/01/2016	10/01/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ COMP/COLL \$25,000 DED \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	PRM 016-003	10/01/2016	10/01/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

With respects to the listed coverages held by the named insured, as evidence of insurance regarding the lease agreement between the certificate holder and the insured.

CERTIFICATE HOLDER

CANCELLATION

Keys Energy Services
1001 James Street
PO Box 6100
Key West, FL 33040-6100

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Andrew Cooper/DCRISP

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ACORD 25 (2014/01)

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INS025 (201401)



(305) 295-1000
1001 James Street
PO Box 6100
Key West, FL 33041-6100
www.KeysEnergy.com

UTILITY BOARD OF THE CITY OF KEY WEST

October 17, 2012

Mrs. Maria Ratcliff
City of Key West
3132 Flagler Ave
Key West, FL 33040

Dear Mrs. Ratcliff:

Per our conversation enclosed are three (3) Pocket Park Lease Agreements signed by the Utility Board (KEYS) on October 10, 2012.

Once you have received, please forward to the appropriate person(s) for review with a goal to have the Key West City Commission approve the updated agreement during an upcoming City Commission meeting.

Following the City Commission meeting, please send two (2) fully executed copies back to my attention for KEYS records.

If you have any questions or need additional information, please do not hesitate to call 305-295-1020.

Sincerely,

A handwritten signature in black ink that reads "Edee Delph". The signature is fluid and cursive, with the first name "Edee" and last name "Delph" clearly distinguishable.

Edee Delph
Executive Assistant to GM/CEO
Executive Assistant to the Utility Board
Edee.Delph@KeysEnergy.com



*City of
Key West*

City of Key West, Florida - 305.809.3772 | www.keywestcity.com

KES - Pocket Park Lease Agreements

1 message

Amanda Willett-Ramirez <awillett@keywestcity.com>

Fri, Oct 19, 2012 at 11:45 AM

To: Greg Veliz <gveliz@keywestcity.com>

Cc: Shawn Smith <sdsmith@keywestcity.com>, Claire Hurd <churd@keywestcity.com>

Greg,

Shawn asked that I forward the attached Pocket Park Lease Agreements from Keys Energy Service to your attention. He wanted to make sure that you are okay with them. If so, please let Claire know via email so she can prepare for it to be on the next agenda.

Thanks,

Amanda

||

Amanda Willett-Ramirez, Paralegal

City of Key West City Attorney's Office

3128 Flagler Avenue | Key West, FL 33040

Ph 305.809.3772 | Fax 305.809.3771

awillett@keywestcity.com | www.keywestcity.com

RESOLUTION NO. 13-001

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED LEASE AGREEMENT FOR THREE (3) POCKET PARKS LOCATED IN THE 600 BLOCK OF LOUISA STREET, 3541 FLAGLER AVENUE, AND 627 GRINNELL STREET BETWEEN THE UTILITY BOARD OF THE CITY OF KEY WEST AND THE CITY; PROVIDING FOR AN EFFECTIVE DATE

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

Section 1: That the attached Lease Agreement for three (3) pocket parks located in the 600 Block of Louisa Street, at 3541 Flagler Avenue and at 627 Grinnell Street, between the Utility Board of the City of Key West and the City is hereby approved.

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

Passed and adopted by the City Commission at a meeting held this 8th day of January, 2013.


Authenticated by the presiding officer and Clerk of the Commission on January 9, 2013.

Filed with the Clerk January 9, 2013.



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK