

April 10, 2018

Mr. Patrick Wright, Planning Director  
City of Key West  
1300 White Street  
Key West, FL 33040

TREPANIER



& ASSOCIATES INC

LAND USE PLANNING  
DEVELOPMENT CONSULTANTS

Dear Patrick:

I am excited to submit the attached land development regulation amendment application. The application seeks to amend Sec. 122-1473 to allow liveaboard vessels in duly permitted marinas/ docking facilities subject to the provisions of the City's workforce housing ordinance.

This amendment will accomplish several goals:

- Increase availability, diversity and supply of workforce housing opportunities;
- Bring City liveaboard regulations into consistency with the Comprehensive Plan; and
- Bring City liveaboard regulations into consistency with those of Monroe County and the Florida Department of Economic Opportunity.

A complete application is attached along with the appropriate discounted application fee for affordable housing applications.

Thank you for the opportunity to be part of the solution. I look forward to working together.

Sincerely,

Owen Trepanier



# Text Amendment to the Land Development Regulations

Pursuant to Chapter 90, Article VI, Division 2  
City of Key West Land Development Regulations.

## Project Proposal (Sec. 90-518):

Trepanier & Associates, Inc., seeks a text amendment to the Land Development Regulations to allow liveaboard vessels in duly permitted marinas/ docking facilities subject to the provisions of the City's workforce housing ordinance.

The intent of this application is to amend the language of the LDR's to allow adaptive reuse of duly permitted marinas/ docking facilities for affordable workforce live-aboards.



## Background:

Key West and Monroe County have suffered from a workforce housing shortage for decades; however, the situation has recently escalated to a crisis that is impacting our community and local businesses.

In anticipation of Hurricane Irma on September 5, 2017, Monroe County-declared a State of Local Emergency and a "threat of danger to the populace inhabiting Monroe County" where the County "may require expedient action in order to protect the health, safety and welfare of the community." At 9: 10 a.m. on September 10, 2017, Hurricane Irma made landfall near Cudjoe Key as a Category 4 Hurricane with maximum sustained winds of 130 mph. Significant damage has primarily occurred to the lower cost housing stock, which was previously available to the workforce.

Monroe County faces the quadruple impact of (1) high land values, (2) housing supply limited by land area, environmental factors and the linear geography of the Keys, (3) controlled growth restricted by the permit allocation systems, and (4) a tourism economy with a prevalence of lower wage service-sector employment.

The workforce housing crisis of Monroe County has widespread impacts, including a growing recognition of the important link between an adequate supply of workforce housing and a healthy, stable economy. Many of the business sectors in the Keys, including professional services, retail

trade, tourism and health care, find it increasingly difficult to attract and maintain workers. The service and retail industries in particular employ a large workforce that in turn creates an overwhelming demand for housing. Workforce housing has posed and continues to pose a major challenge for local governments, public agencies and the private sector in the Keys.

Furthermore, unlike other areas in the State, working families cannot find affordable housing that is a reasonable distance to the workplace. As a result, a severe imbalance exists between supply and demand, resulting in escalating housing prices. This imbalance is worsened by a number of other contributing factors, including:

- strong demand for second homes which reduces the supply of housing for permanent residents;
- conversion of permanent housing for transient use as vacation rentals which reduces the housing supply and increases affordable housing demand;
- high construction costs due to transportation costs of goods, limited labor market, and caprock conditions;
- higher costs due to regulations and insurance (building standards are among the most rigorous in the State);
- limited permit allocations due to hurricane evacuation standards, habitat protection and water quality objectives; and
- limited non-profit and private sector capacity for funding assistance and housing production.

The need to protect, preserve and create an adequate inventory of affordable workforce housing opportunities in many forms is a continual and growing challenge in Key West and Monroe County (particularly after the impacts of Hurricane Irma). Solving this problem requires great persistence and creativity.

These amendments recognize long-standing goals of the community to create unique housing opportunities for the working people of Key West while responding to the immediate need resulting from Hurricane Irma. Liveaboards provide an affordable, enjoyable and safe form of living in the Florida Keys. They are among the very first residents required to evacuate under the evacuation order<sup>1</sup> (i.e., all liveaboards are required to evacuate 48 hours in advance of tropical storm winds). While liveaboards are admittedly not for everyone, there is a significant portion of the population that embraces this lifestyle and will thrive in these floating communities. Further, since these vessels are manufactured in a factory and delivered to the Keys, they offer a unique opportunity to provide immediate workforce housing. Simply stated, these amendments will help to create workforce housing now – when and where it is most needed.

### **Request:**

This request is to allow liveaboards to occupy slips in duly approved marinas/ docking facilities subject to the City's affordable workforce housing regulations. Marinas utilizing this liveaboard ordinance must adhere to deed-restricted rent/sale pricing pursuant to the workforce housing levels, and the occupancy to be restricted to income-qualified working people, among other workforce housing requirements. As mentioned previously, these amendments will allow additional opportunities for affordable workforce living.

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<sup>1</sup> Hurricane Evacuation Clearance Time Memorandum of Understanding by and between the Florida Department of Economic Opportunity and the County of Monroe, City of Key West, Village of Islamorada, City of Layton, City of Key Colony Beach, City of Marathon, and the Florida Division of Emergency Management – Exhibit A

That Section Sec. 122-1473 of the Code of Ordinances is amended as follows:

**Sec. 122-1473. – Reserved Affordable Workforce Liveaboard Vessels.**

Notwithstanding the permitted and conditional uses of Chap. 122. Art. IV. Land Use Districts, liveaboard vessels within duly permitted marinas/ docking facilities subject to the provisions of the affordable workforce housing requirements of sections 122-1465, 122-1466, 122-1467, 122-1468, and 122-1469 shall be allowed as a permitted use. Applicants under this section shall comply with the minimum parking per unit of section 122-1470.

**Criteria for Approval (Section 90-521)**

- (1) Consistency with plan. Whether the proposal is consistent with the overall purpose of the comprehensive plan and relevant policies within the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program**  
**Consistency with Comprehensive Plan.**

GOAL 1-1: ENSURE THAT THE CHARACTER AND LOCATION OF LAND USES INCORPORATE BEST MANAGEMENT PRACTICES AND PRINCIPLES OF RESOURCE CONSERVATION; ENHANCE COMMUNITY APPEARANCES; PROMOTE ORDERLY LAND USE TRANSITION, AND; MINIMIZE THREATS TO HEALTH, SAFETY, AND WELFARE WHICH MAY BE CAUSED BY INCOMPATIBLE LAND USES, ENVIRONMENTAL DEGRADATION, HAZARDS AND NUISANCES.

- The proposed amendment appropriately locates affordable workforce liveaboards into duly approved marinas/ docking facilities where such uses belong. All existing marinas/ docking facilities exist adjacent to public transportation, bikeways, and established commercial uses. The liveaboards must abide by performance standards (best management practices) within a regulatory framework which enhances community appearance, orderly transition and promotion of public health and welfare.

**OBJECTIVE 1-1.1: FUTURE LAND USE MAP.**

- The proposed amendment respects the City's vision for development and redevelopment in accordance with the intention of amended future land use maps by only allowing the affordable workforce liveaboards into duly approved marinas/ docking facilities where such uses belong.

**Policy 1-1.1.4: Affordable Housing and Compact Development Incentives.**

- The proposed amendment furthers the goals of the regulatory framework that promotes performance standards to create and protect affordable housing and compact development

Policy 1-1.1.6: Historic Preservation Areas.

- This amendment is not inconsistent because it only allows workforce liveaboards in duly approved marinas/ docking facilities and does not allow the creation of new facilities.

Policy 1-1.1.12: Tidal Waters.

- The proposed amendment furthers the policy by exercising extraterritorial zoning powers within an area extending 600 feet into the tidal waters adjacent to the corporate limits of the City of Key West.

Policy 1-1.1.14: Prepare for Future Sea Level Rise.

- The proposed amendment furthers the policy by taking proactive steps and pilot programs to adapt for sea level rise.

Policy 1-1.1.15: Development Rights in Conservation Areas.

- The proposed amendment furthers the policy by allowing affordable workforce liveaboards only in duly approved marinas/ docking facilities, with the applicant bearing the responsibility of coordinating with jurisdictional agencies for purposes of rendering legal, equitable, and environmentally sensitive determinations of the development rights to be permitted on such waters and/or lands under the jurisdiction of the State or federal government.

OBJECTIVE 1-1.2.1: PLAN AND DESIGN FOR RESIDENTIAL QUALITY.

- The proposed amendment further the objective by providing space for residential uses to adequately meet the needs of the community.

OBJECTIVE 1-1.4: PUBLIC FACILITIES, INFRASTRUCTURE AND PUBLIC SERVICES.

- The proposed amendment furthers the objective by only allowing the proposed use in duly approved marinas/ docking facilities and maintaining all existing code requirements for public facilities, infrastructure and public services related to liveaboards.

OBJECTIVE 1-1.5: PROMOTE COMMUNITY APPEARANCE, NATURAL AMENITIES AND URBAN DESIGN PRINCIPLES.

- The proposed amendment furthers the objective by reflecting Key West's values, architectural history, and characteristic mix of uses.

Policy 1-1.5.1: Reinforce and Enhance the City's Community Appearance.

- The proposed amendment recognizes existing uses as urban design amenities that, if preserved through performance standards, will continue

to improve and enhance the character of the man-made environment, specifically the marinas/ docking facilities while furthering the community's goals for affordable workforce housing opportunities.

Policy 1-1.9.2: Comprehensive Plan Implementation and Land Development Regulations.

- The proposed amendment adopts and implements qualitative and quantitative performance criteria consistent with Comprehensive Plan policies governing requisite infrastructure.
- Furthermore, the proposed amendment ensures Land Development Regulations are revised in order to effectively regulate future land use activities, adequately protect property rights; and implement the goals, objectives, and policies in the Comprehensive Plan.

Policy 1.1.9.5: Land Use Consistency and Compatibility.

- The proposed amendment adopts regulations that protect private property rights while simultaneously ensuring land use compatibility through qualitative and quantitative performance standards which recognize and manage characteristics and impacts to ensure continued sustainability, compatibility and adaptation best management practices.

OBJECTIVE 1-1.11: PROTECTION OF NATURAL RESOURCES.

- The proposed amendment furthers the objective by only allowing the proposed use in duly approved marinas/ docking facilities and maintaining all existing code requirements for public facilities, infrastructure and public services related to liveaboards.

OBJECTIVE 1-1.16: MANAGING BUILDING PERMIT ALLOCATION

- The proposed amendment is not inconsistent with this objective and associated policies. Vessels are mobile and are not structures. According to existing approved policies of Monroe County and the Florida Department of Economic Opportunity, BPAS is inappropriate for vessels.

Policy 2-1.1.3: Dense Urban Land Area.

- The proposed amendment recognizes the development characteristics of Key West as a historically mixed-use area that relies on sustainable support mechanisms for permanent and seasonal residents. By recognizing existing vintage neighborhood-oriented cafes and restaurants that are supportive of residents and visitors alike in a dense, walkable, pedestrian-oriented, mixed use environment, this amendment addresses the primary strategic focus away from auto-centric development patterns.

## GOAL 3-1: HOUSING.

### OBJECTIVE 3-1.1: PROVIDE QUALITY AFFORDABLE HOUSING AND ADEQUATE SITES FOR LOW AND MODERATE INCOME HOUSING.

#### Policy 3-1.1.1: Housing Assistance, Information and Referral Services.

- Properties participating in the permitted use under the proposal will be eligible under this proposal

#### Policy 3-1.1.3: Ratio of Affordable Housing to Be Made Available City-Wide

- 100% of the liveaboards permitted under the proposal will be affordable housing

#### Policy 3-1.1.4: Building Permit Allocation System.

- Proposal will not be inconsistent with BPAS

#### Policy 3-1.1.7: Affordable Housing Dwelling Unit Eligibility Requirements.

- Proposal requires compliance with criteria for dwelling units to qualify as affordable housing

#### Policy 3-1.1.8: Affordable Housing Applicant Eligibility Requirements.

- Compliance with eligibility requirements

#### Policy 3-1.1.9: Relocation.

- Proposal will not displace any residents

#### Policy 3-1.1.10: Design Guidelines for Affordable Housing.

- Creates more affordable housing opportunities using design elements which are proven successful in affordable housing

#### Policy 3-1.1.11: Selecting Sites for Affordable Housing for Low and Moderate Income Households.

- Creates more affordable housing opportunities

#### Policy 5-1.2.2: Limit Impacts of Development and Redevelopment Upon Water Quality and Quantity, Wildlife Habitat and Living Marine Resources and Implement Policies for Shoreline Land Uses.

- Requiring pump out connections to city sewer eliminates potential point source pollution

Policy 8-1.1.3: Principles and Guidelines to be used in Coordination of Development and Growth

- Brings City regulation of liveaboards into consistency with Monroe County and the State
- Requires liveaboards be serviced by sanitation devices or connected to the city sewer system

**Consistency with adopted infrastructure minimum levels of service standards**

As demonstrated in Section 90-521(5) (below) adequate public facilities are available to provide service based on the request and is consistent with adopted infrastructure minimum levels of service standards.

**Concurrency management program.**

The request is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application.

**(2) Conformance with ordinances. Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.**

The proposal is in conformance with the procedures for amending the Land Development Regulations as demonstrated herein.

Code	Existing	Proposed	Conformance
Sec. 122-1465	Workforce housing - Create uniquely key west affordable housing opportunities designed to meet the needs of people employed by the local economy	No Change	Conforms
Sec. 122-1469	Workforce housing - Residents required to have 70% of income from gainful employment within Monroe County	No Change	Conforms
Sec. 122-1469	Workforce housing - Income must meet low, median, middle, or moderate-income level	No Change	Conforms
Sec. 122-1467(c)	Workforce housing - The rental and/or sales price may be mixed among low, median, middle and moderate in order that the total value of rental and/or sales does not exceed ten percent of the rental and/or sales of all the units at moderate income level.	No Change	Conforms
Sec. 122-1467(d)	Workforce housing - Deed restriction runs with the land, binds owners, successors in ownership, or assigns for a period of at least 50 years with a 50-year extension.	No Change	Conforms
Sec. 122-1467(e)	Workforce housing - Annual compliance reporting required.	No Change	Conforms
Sec. 14-181	Vessel Requirements - All legally required navigational lights, aides, and equipment as proscribed by the relevant governmental agency appropriate for the size and type of vessel.	No Change	Conforms
Sec. 14-181	Vessel Requirements - Floating home means any structure designed to be waterborne and which is used primarily as a dwelling, but not including vessels used primarily as mobile waterborne vessels for transportation.	No Change	Conforms
Sec. 82-33(b)	Vessel Requirements - Liveaboards must maintain sanitation devices or be connected to the city sewer	No Change	Conforms



**(3) Changed conditions. Whether, and the extent to which, land use and development conditions have changed since the comprehensive plan's effective date and whether such conditions support or work against the proposed change.**

The effective date of the Land Development Regulations is July 3, 1997. The recently adopted, 2030 Comprehensive Plan was adopted on March 5, 2013. Both the Comprehensive Plan and the LDRs are “Living Documents” that are, by their very nature, designed to evolve and change with the community’s goals. This amendment seeks to recognize long standing goals of the community to create unique housing opportunities for the working people of Key West. It also responds to the increase in need resulting from Irma,

**(4) Land use compatibility. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.**

The proposal is compatible with existing land uses within the future land use designation and no incompatible land uses are anticipated from the proposal. The request proposes compatibility performance criteria for specific, a duly permitted marinas/ docking facilities subject to the provisions of the City’s workforce housing ordinance.

Furthermore, compatibility is addressed via Sec. 122-1465, Sec. 122-1469, Sec. 122-1469, Sec. 122-1467(c), Sec. 122-1467(d), Sec. 122-1467(e), Sec. 14-181, Sec. 14-181, Sec. 82-33(b), Objective 1-1.3; Policy 1-1.1.4; Policy 1-1.16.1; Policy 1-1.16.2; Goal 3-1; Policy 3-1.1.3; Policy 3-1.1.7; Policy 3-1.1.8; Policy 3-1.1.10; Policy 3-1.1.11, Policy 5-1.2.2, Policy 8-1.1.3, and Policy 8-1.1.3.

**(5) Adequate public facilities. Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including**

**Comprehensive Plan Policy 2-1.1.1 - Transportation**

Policy 2-1.1.3 effectively eliminates the transportation concurrency requirement in favor of a prioritization of safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, and mixed-use development).

This amendment is will impact duly approved marinas/ docking facilities all of which have direct access to the city’s transit, bikeway, walkway, roadway, taxi, rideshare systems.

**Policy 2-1.1.3: Dense Urban Land Area.**

The City of Key West is a substantially developed dense urban land area and is thereby exempted from transportation concurrency requirements for roadways. The City recognizes that its development characteristics make substantive expansion of capacity of the roadway system prohibitive. The City will therefore prioritize improving the safety and function of existing roads and multi-modal transportation

improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development) as its primary strategies for addressing current and projected transportation needs.

The proposal is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No plans are proposed as part of this application. At this time, no system improvements are anticipated as a result of the proposed changes.

#### **Policy 4-1.1.2.C – Potable Water**

Based on the City of Key West adopted level of service plan pursuant to Policy 4-1.1.2.C, the potable water LOS for residential and nonresidential development is 100 gal/acre/day. The proposed change is not expected to alter demand for potable water and it is not expected that the proposal will result in excess capacity on this public facility.

The proposal is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application. At this time, no system improvements are anticipated as a result of the proposed changes.

Potable water to the City of Key West is provided by the Florida Keys Aqueduct Authority (FKAA). The FKAA has the capacity to provide 23 million gallons per day to Monroe County as a result of the South Florida Water Management District's issuance of Water Use Permit #13-0005, which allocates 17 million gallons per day in the dry season; 17.79 million gallons per day which can be withdrawn from the Biscayne Aquifer; and six million gallons per day provided by a reverse osmosis treatment plant in Florida City.

As documented above, the City is meeting its Level of Service Standard for Potable Water. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development during short and long range planning periods, so the current capacity should remain adequate. Ongoing capital improvements will be necessary to maintain and improve standards and service delivery.

#### **Policy 4-1.1.2. A- Sanitary Sewage**

Based on the City of Key West adopted level of service plan pursuant to Policy 4-1.1.2. A, the sanitary sewer LOS for nonresidential development is 660 gal/capita/day and the sanitary sewer LOS for residential development is 100 gal/capita/day. The proposed change is not expected to alter demand for sanitary sewer and it is not expected that the proposal will result in excess capacity on this public facility.

The City contracts out the operation of the Richard A. Heyman Environmental Pollution Control Facility, its wastewater treatment plant (Plant), and the associated

collection system to Operations Management International, Inc. (OMI). The Plant currently has the capacity to treat 10 million gallons per day, exceeding the capacity required to achieve the existing Level of Service Standard by approximately seven million gallons per day. Actual daily flow is 4.5 million gallons per day. This is a reduction from eight (8) million gallons per day due to a 67-million-dollar capital improvement to the City's wastewater treatment during the past short term planning period, including \$56 million for collection system rehabilitation.

As documented above, the City is exceeding its Level of Service Standard for Wastewater. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long range planning periods, so the current capacity should remain adequate. Ongoing capital improvements and continuing conservation efforts will continue to maintain and improve service delivery.<sup>2</sup>

The proposal is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application. At this time, no system improvements are anticipated as a result of the proposed changes.

#### **Policy 4-1.1.2. D - Solid Waste**

Based on the City of Key West adopted level of service plan pursuant to Policy 4-1.1.2.D, the solid waste LOS for nonresidential development is 6.37 lbs/capita/day and the solid waste LOS for residential development is 2.66 lbs/capita/day. The proposed change is not expected to alter demand for solid waste and it is not expected that the proposal will result in excess capacity on this public facility.

The City currently contracts with Waste Management of Florida, Inc. to collect, transfer and dispose of solid waste and residential recyclables. Commercial recyclables and other non-franchised collection services such as construction and demolition debris and yard waste are available on the open market to all licensed haulers. The City owns and operates a solid waste transfer station on Rockland Key that received 45,402.10 tons of solid waste for disposal and 3,607 tons of recyclables in 2009/10. Waste Management disposes of the solid waste collected in Monroe County, including the City of Key West, at its Central Sanitary Landfill in Broward County. In 2009 Waste Management Inc. reported a reserve capacity of 17 years at this facility. There is therefore an estimated reserve capacity of 15 years as of the date of this report.

As documented above, the City is meeting its Level of Service Standard for solid waste. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long range planning periods, and the current capacity should remain

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<sup>2</sup> City of Key West Comprehensive Plan Data and Analysis, Pg. A-16

adequate. Ongoing capital improvements will be necessary to improve standards and service delivery.<sup>3</sup>

The proposal is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application. At this time, no system improvements are anticipated as a result of the proposed changes.

#### **Policy 4-1.1.2. D - Recyclable Waste Generation Level of Service**

Based on the City of Key West adopted level of service pursuant to Policy 4-1.1.2.D, the recyclable waste LOS for nonresidential development is 0.25 lbs/capita/day) and the recyclable waste LOS for residential development is 0.50 lbs/capita/day. The proposed change is not expected to alter demand for recyclables and it is not expected that the proposal will result in excess capacity on this public facility.

The proposal is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application. At this time, no system improvements are anticipated as a result of the proposed changes.

#### **Comprehensive Plan Policy 4-1.1.2. E- Drainage**

Summary Response: Stormwater concurrency will be insured as part of any future development orders in accordance with Chapter 94.

Policy 4-1.1.2. E- Drainage Facilities Level of Service has not changed with the adoption of the new Comprehensive Plan.

The Drainage level of service standard below will be applicable to all types of development. Where two or more standards impact a specific development, the most restrictive standard shall apply:

1. Post development runoff shall not exceed the pre-development runoff rate for a 25-year storm event, up to and including an event with a 24-hour duration.
2. Storm water treatment and disposal facilities shall be designed to meet the design and performance standards established in Chapter 62-25 Section 25.025, Florida Administrative Code, with treatment of the runoff from the first one inch of rainfall on-site to meet the water quality standards required by Chapter 62-302, Florida Administrative Code. Storm water facilities which directly discharge into "Outstanding Florida Waters" (OFW) shall provide an additional treatment pursuant to Section 62-25.025 (9), Florida Administrative Code.

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<sup>3</sup> City of Key West Comprehensive Plan Data and Analysis, Pg. A-17

3. Storm water facilities must be designed so as to not degrade the receiving water body below the minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in Chapter 62-302 Florida Administrative Code.

## **Recreation**

Policy 7-1.1.9 - The proposed change will not have any adverse effect on availability of recreation services.

- (6) *Natural environment.* Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.**

The proposed change will not have an adverse impact on the natural environment. All marinas/ docking facilities must meet jurisdictional agency requirements for environmental standards.

- (7) *Economic effects.* Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.**

The proposal will have a positive and stabilizing economic effect, by providing working people with additional affordable housing opportunities.

- (8) *Orderly development.* Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.**

The current and proposed land use pattern is therefore substantially similar and spatially consistent in pattern and scope and is compatible with current (and historic) surrounding patterns of urban land use. For these reasons, no negative effects on the land use pattern have been identified.

- (9) *Public interest; enabling act.* Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of this subpart B and its enabling legislation.**

The proposal is not in conflict with the public interest and is in harmony with the purpose and intent of the Land Development Regulations and the Comprehensive Plan as demonstrated in the above findings of the criteria for approval. Moreover, the request will provide increased opportunity for affordable workforce housing.

- (10) *Other matters.* Other matters which the planning board and the city commission may deem appropriate.**

At the time of application submittal, no other matters are deemed appropriate.

08-02-12

**HURRICANE EVACUATION CLEARANCE TIME MEMORANDUM OF UNDERSTANDING****BY AND BETWEEN****THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY AND THE COUNTY OF  
MONROE, CITY OF KEY WEST, ISLAMORADA, VILLAGE OF ISLANDS, CITY OF LAYTON,  
CITY OF KEY COLONY BEACH, CITY OF MARATHON, AND FLORIDA DIVISION OF  
EMERGENCY MANAGEMENT**

This Memorandum of Understanding ("MOU") is entered into by and between the State of Florida's Department of Economic Opportunity (the "DEO"), the Florida Division of Emergency Management (the "Division"), and Monroe County, the City of Key West, Islamorada, Village of Islands, the City of Layton, the City of Key Colony Beach, and the City of Marathon (the "Local Governments") (all collectively known as the "Parties") for the purpose of complying with Rules 28-18, 28-19, and 28-20, Florida Administrative Code.

**RECITALS:**

**WHEREAS**, the Local Governments of the Florida Keys are within two areas that the Florida Legislature and the Administration Commission have designated as Areas of Critical State Concern (the Florida Keys ACSC and the City of Key West ACSC), pursuant to Sections 380.05 and 380.0552, Florida Statutes, and Florida Administrative Code Chapter 28-36, hereinafter referred to as the "Keys ACSCs"; and

**WHEREAS**, the Local Governments have adopted state-mandated Comprehensive Plans and Land Development Regulations, which have been approved by the State, as required by law; and

**WHEREAS**, the State's Legislative Intent in designating the Local Governments as Areas of Critical State Concern includes:

(a) Establish a land use management system that protects the natural environment of the Florida Keys;

(b) Establish a land use management system that conserves and promotes the community character of the Florida Keys;

(c) Establish a land use management system that promotes orderly and balanced growth in accordance with the capacity of available and planned public facilities and services;

(d) Provide affordable housing in close proximity to places of employment in the Florida Keys;

(e) Establish a land use management system that promotes and supports a diverse and sound economic base;

(f) Protect the constitutional rights of property owners to own, use, and dispose of their real property;

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(g) Promote coordination and efficiency among governmental agencies that have permitting jurisdiction over land use activities in the Florida Keys;

(h) Promote an appropriate land acquisition and protection strategy for environmentally sensitive lands within the Florida Keys;

(i) Protect and improve the nearshore water quality of the Florida Keys through the construction and operation of wastewater management facilities that meet the requirements of Sections 381.0065(4)(I) and 403.086(10), Florida Statutes, as applicable; and

(j) Ensure that the population of the Florida Keys can be safely evacuated (Section 380.0552(2) Florida Statutes); and

**WHEREAS**, the Florida Keys remain one of the most vulnerable areas in the United States to hurricanes; and

**WHEREAS**, the Florida Legislature and the Administration Commission have mandated that the Local Governments (except the City of Key West) include within the goals, objectives, and policies of their respective Comprehensive Plans measures to protect public safety and welfare in the event of a hurricane by maintaining an evacuation clearance time for permanent residents of no more than 24 hours (Section 380.0552(9)(a)2. Florida Statutes, Rule 28-18.400(5)(a)10., F.A.C., Rule 28-19.310(5)(a)5., F.A.C., and Rule 28-20.140(5)(a)14., F.A.C.); and

**WHEREAS**, Florida Administrative Code Rule 28-36.003(2)(a)7. requires that the City of Key West prepare and adopt an evacuation plan which is consistent with the regional and County plans; and

**WHEREAS**, the Florida Legislature further mandated that the hurricane evacuation clearance time for the Florida Keys ACSC shall be determined by a state-approved hurricane evacuation study, conducted in accordance with a professionally accepted methodology; and

**WHEREAS**, the Division of Emergency Management evacuation study, titled "Statewide Regional Evacuation Studies Program" dated November 2010, which includes Regional Behavioral Surveys Volumes 2-11, and was funded by the state Legislature and the Federal Emergency Management Agency ("FEMA"), provided the State's principal source of professionally acceptable data and analysis, augmented by other sources of data and analysis as referenced herein, for determining input variables and assumptions depicting evacuation clearance times for the population of the Florida Keys; and

**WHEREAS**, the Administration Commission has directed DEO, by July 1, 2012, to apply the derived clearance time to assess and determine the remaining allocations for the Florida Keys ACSC or identify alternative evacuation strategies that support the 24 hour evacuation clearance time; and

**WHEREAS**, the Administration Commission has directed DEO, the Division, and the Local Governments to enter into this MOU to stipulate to the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model or other models

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acceptable to DEO in order to accurately depict evacuation clearance times for the population of the Florida Keys ACSC; and

**WHEREAS**, DEO has determined that the Florida Division of Emergency Management's Transportation Interface for Modeling Evacuations ("TIME") Model is the model acceptable to DEO to accurately depict evacuation clearance times for the population of the Keys ACSCs; and

**WHEREAS**, the Local Governments of the Florida Keys, except the City of Key Colony Beach, have regulated the rate and distribution of growth by implementing permit allocation systems to address hurricane evacuation clearance times; and

**WHEREAS**, DEO and the Local Governments recognize that significant vacant lands remain in the Florida Keys: Monroe County with 8,758 vacant parcels (77% of total vacant lands), Marathon with 1,281 vacant parcels (11%), Islamorada with 1,109 vacant parcels (10%), Key Colony Beach with 92 vacant parcels (0.81%), Key West with 84 vacant parcels (0.74%), and Layton with 13 vacant parcels (0.11%); and

**WHEREAS**, DEO and the Local Governments recognize the need to balance limiting the maximum number of building permits for new construction of residential units to be issued annually in the Florida Keys with fairness and consideration of private property rights; and

**WHEREAS**, to address hurricane evacuation modeling for the Florida Keys ACSCs, DEO established a Hurricane Evacuation Clearance Time Work Group ("Work Group") consisting of elected officials from each Local Government and representatives from DEO and DEM; in addition DEO invited representatives of special interests in the Florida Keys to participate, including the Florida Keys Federation of Chambers of Commerce, the Florida Restaurant and Lodging Association, the Lodging Association of the Florida Keys and Key West, the Monroe County Sheriff's Office, Naval Air Station-Key West, the environmental community, and a citizen's advocacy group; and further DEO requested technical advisors from DEO, the Division, and the Local Governments as well as the Northeast Florida Regional Planning Council, the South Florida Regional Planning Council, Monroe County Emergency Management, the National Weather Service, the National Hurricane Center, and the Florida Department of Transportation to participate in meeting discussion; and

**WHEREAS**, four advertised public workshops were conducted in the Florida Keys where the Work Group reviewed studies and data from DEO and other agencies related to the occupancy, participation, human behavior, response curves, capacity of the evacuation route, and the number of automobiles that will likely be evacuated, and other factors; and

**WHEREAS**, the Work Group evaluated information, provided input, and ultimately recommended Scenario M5; and

**WHEREAS**, from among the scenarios provided by DEO at the June 8, 2012, Work Group meeting, Scenario M5 included the 2010 Census site-built units (43,760 units); the maximum number of residential building permits for new construction for all Local Governments per year for 10 years (annually, County 197, Marathon 30, Islamorada 28, Key West 90, Key Colony Beach 6 and Layton 3); 1,248 mobile home units projected to convert to site-built units; the exclusion of 870 dwelling units on



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the Naval Air Station; as well as two (2) functional evacuation lanes from MM 108-126. Further, the Work Group recommended Scenario M5 with the provision that the City of Key West would transfer annually (by July 13th) any remaining or unused (90 allocations) allocations to the other Local Governments based upon the Local Governments' ratio of vacant land; and

WHEREAS, following the June 8, 2012, Work Group meeting, technical corrections were made to the Census site built units revising that number to 43,718 and revising the Key West building permit allocation to 91, which corrections do not affect the hurricane evacuation clearance time for the population of the Florida Keys; and

WHEREAS, the Local Governments acknowledge that the safe and timely evacuation of the population of the Florida Keys in the event of a hurricane requires a consistent and cooperative approach and to that end, having participated as members of the Work Group, acknowledge that the input variables and assumptions identified in this MOU are those which DEO finds accurately depict evacuation clearance times for the population of the Florida Keys for a Category 3-5 hurricane event, as required by Administrative Rule; and

WHEREAS, Marathon, Key West, Layton, Monroe County, and Islamorada requested new participation rate studies be conducted, due principally to the low sample rates primarily for mobile homes relied upon by DEO; and,

WHEREAS, the Work Group accepted the participation rates recommended by DEO, including those for mobile homes, and DEO agreed to seek funding to provide education to mobile home occupants regarding the need to evacuate during Phase I due to the vulnerability of mobile homes; and

WHEREAS, the Local Governments recognize that the data, input variables, and assumptions DEO has incorporated into its hurricane evacuation model and this MOU are subject to change when the 2020 Census data becomes available.

NOW THEREFORE, the parties set forth the following understandings:

#### **PART ONE: RECITALS**

The above recitals are incorporated into this MOU and made a part hereof.

#### **PART TWO: DATA, INPUT VARIABLES AND ASSUMPTIONS**

The Human Behavioral Studies from the 2010 Statewide Regional Evacuation Study, the 2010 Census as supplemented by the 2006-2010 American Community Survey, Smith Travel Research, and data from the Department of Business and Professional Regulation, Division of Hotels and Restaurants, and Statewide Regional Evacuation Study Program for the South Florida Region are the best available and most relevant data and analysis. The following input variables and assumptions provide the basis, when used in the TIME model, to accurately calculate evacuation clearance times for the population of the Florida Keys, and DEO will recommend same to the Administration Commission to determine the remaining development allocations for the Florida Keys:

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**A. Number and Occupancy of Units by type of Unit:**

1. **Tourist Units:** 13,665 tourist units with 11,287 occupied units for the month of July (the month with highest average number of permanent and seasonal residents and tourists). The data source for the number and type of units and vehicular use is the Statewide Regional Evacuation Study Program for the South Florida Region and the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Licensee File Database, District 1 (March 29, 2010). The data source for occupancy of tourist units is the Smith Travel Research 2012: Historic Trend Report for 2011 for the month of July. A listing of the units is within the Statewide Regional Evacuation Study Table of Traffic Evacuation Zone Occupancy Data: Hotel, Motel and other Vacation Rental Units is attached and incorporated herein as **Exhibit 1**.
2. **Mobile Home Units:** 8,134 Mobile Home units with 4,576 occupied units. The data source for the number and type of units, the vehicular use and occupancy of the units is the 2010 Census supplemented by the 2006-2010 American Community Survey for Monroe County and the Statewide Regional Evacuation Study Program for the South Florida Region. A listing of the units is within the Statewide Regional Evacuation Study Table of Traffic Evacuation Zone Occupancy Data for Site-Built and Mobile Homes, is attached and incorporated herein as **Exhibit 2**.
3. **Site-Built Units:** 43,718 Site-built units with 27,320 occupied units. The data source for the number, type, occupancy, and vehicular use is the 2010 Census supplemented by the 2006-2010 American Community Survey and the Statewide Regional Evacuation Study Program for the South Florida Region. See **Exhibit 2**.

**B. Response Curve:** The assumed Response Curve for model runs is 12 hours for all unit types as utilized in the 2010 Statewide Regional Evacuation Study Program for the South Florida Region.

**C. Participation Rates:** The assumed Participation Rates are:

- |                       |                            |
|-----------------------|----------------------------|
| 1. Tourist units:     | 100%                       |
| 2. Mobile home units: | 100%                       |
| 3. Site-built units:  | 90% for a Category 5 event |

The participation rates are based upon the 2010 Statewide Regional Evacuation Study, Regional Behavioral Analysis Volumes 2-11, prepared for the South Florida Region, which DEO has determined reflect the best available data at this time.

**D. Vehicle Usage by Units by type of Unit:** A listing of the vehicle count and usage by Traffic Evacuation Zone quantifies the number of vehicles owned (**Exhibit 3**) and the percent of vehicles owned that will be evacuated (**Exhibit 4**). Exhibits 3 and 4 are based upon the 2010 Statewide Regional Evacuation Study and are attached and incorporated herein.

**E. Vehicle Usage by the Special Population:** **Exhibit 5** represents the number of vehicles that will be contributed by Naval Air Station – Key West and the Florida Keys Community College and is

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based upon correspondence from Naval Air Station – Key West and the assumption that each of the 100 dorm beds from the Florida Keys Community College will contribute one evacuating vehicle per bed.

**F. Evacuation Stream.** The evacuation stream from Monroe County is the only assumed traffic demand considered.

**G. Roadway Capacity.** The Roadway Capacity, dated July 18, 2010, established by the Florida Department of Transportation is attached and incorporated herein as **Exhibit 6**.

**H. Evacuation Procedures.** The following evacuation procedures have been adopted or substantially adopted by the Local Governments (except the City of Key West) into their comprehensive plans, and by the City of Key West in Resolution No. 06-244:

1. Approximately 48 hours in advance of tropical storm winds, a mandatory evacuation of non-residents, visitors, recreational vehicles (RV's), travel trailers, live-aboards (transient and non-transient), and military personnel from the Keys shall be initiated. State parks and campgrounds should be closed at this time or sooner and entry into the Florida Keys by non-residents should be strictly limited.
2. Approximately 36 hours in advance of tropical storm winds, a mandatory evacuation of mobile home residents, special needs residents, and hospital and nursing home patients from the Keys shall be initiated.
3. Approximately 30 hours in advance of tropical storm winds, a mandatory phased evacuation of permanent residents by evacuation zone (described below) shall be initiated. Existing evacuation zones are as follows:
  - a) Zone 1 –Key West, Stock Island and Key Haven to Boca Chica Bridge (MM 1-6)
  - b) Zone 2 –Boca Chica Bridge to West end of 7-mile Bridge (MM 6-40)
  - c) Zone 3 –West end of 7-Mile Bridge to West end of Long Key Bridge (MM 40-63)
  - d) Zone 4 –West end of Long Boat Key Bridge to CR 905 and CR 905A intersection (MM 63-106.5)
  - e) Zone 5 –905A to, and including Ocean Reef (MM 106.5–126.5)

The actual sequence of the evacuation by zones will vary depending on the individual storm. The concepts embodied in this staged evacuation procedures should be embodied in the appropriate operational Emergency Management Plans. The evacuation plan shall be monitored and updated on an annual basis to reflect increases, decreases and or shifts in population; particularly the resident and non-resident populations.

### **PART THREE: MISCELLANEOUS**

**A. Liability.** As this MOU represents only the Parties' acknowledgement of the data, input variables, and assumptions DEO has utilized in its hurricane evacuation model, nothing in this MOU shall be construed to impose any liability on the State of Florida, DEO, the Division, or the Local Governments. Nothing in this MOU may be interpreted as a waiver of sovereign immunity by any

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Party. Any provision of this MOU that is inconsistent with the State's sovereign immunity statute shall be considered null and void.

B. **Modification.** Modifications to the Memorandum of Understanding shall be valid only when reduced to writing and duly signed by all parties.

C. **Severability.** If any term or provision of this Memorandum of Understanding shall be invalid or unenforceable to any extent, the Parties agree to comply with remaining terms and provisions, unless compliance with the remaining terms and provisions would prevent the accomplishment of the original intent of the agreement between the Parties.

D. **Termination.** Any Party may terminate this Memorandum of Understanding at any time, with or without cause. Termination shall take effect upon receipt of written notification by a Party to all other Parties.

E. **Notification.** Notifications under this MOU shall be made by hand delivery, U. S. certified mail, return receipt requested, or an express mail service that provides proof of delivery. Notification by a Party to the DEO shall be directed to the Areas of Critical State Concern Administrator, Department of Economic Opportunity, 107 East Madison Street, Tallahassee, FL 32399-4128. Notification to the other parties to this Memorandum of Understanding shall be directed as follows:

1. **Monroe County.** Mayor, Monroe County, 2798 Overseas Hwy. Marathon, FL 33050 with a copy to the Growth Management Division Director, 2798 Overseas Hwy. Marathon, FL 33050.
2. **City of Key West.** Mayor, City of Key West, 3126 Flagler Avenue Key West, FL 33040, with a copy to the Planning Director, 3126 Flagler Avenue Key West, FL 33040.
3. **City of Marathon.** Mayor, City of Marathon, 9805 Overseas Highway Marathon, FL 33050, with a copy to the Planning Director, 9805 Overseas Highway Marathon, FL 33050.
4. **City of Layton.** Mayor, City of Layton, 68260 Overseas Highway, P.O. Box 778 Long Key, FL 33001.
5. **City of Key Colony Beach.** Mayor, City of Key Colony Beach, P.O. Box 510141, Key Colony Beach, FL 33051-0141 with a copy to the City Clerk at P.O. Box 510141, Key Colony Beach, FL 33051-0141.
6. **Islamorada, Village of Islands.** Mayor, Islamorada, Village of Islands, 86800 Overseas Highway Islamorada, FL 33036, with a copy to the Director of Planning and Development Services, 86800 Overseas Highway Islamorada, FL 33036.
7. **Division of Emergency Management.** Director, Florida Division of Emergency Management, 2555 Shumard Oaks Boulevard, Tallahassee, FL 32399-2100, with a copy to the Division's Hurricane Program Manager at the same address.

F. **Effective Date.** This Memorandum of Understanding is effective upon execution by all parties and approval by the Florida Administration Commission and ends upon the termination of the Florida

08-02-12

Keys Area of Critical State Concern designations, unless terminated earlier according to Part 4(D) above.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding on the dates below written.

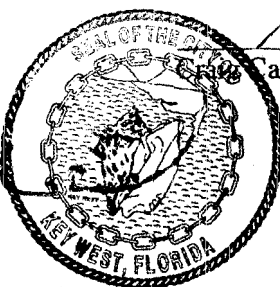
CITY OF KEY WEST, FLORIDA

August 24, 2012  
Date

Cy Cates  
Cates, Mayor

ATTEST

Cheryl Smith  
Cheryl Smith, City Clerk



Approved as to form and legal sufficiency.

Shawn Smith  
Shawn Smith, City Attorney

08-02-12

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

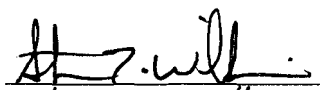
September 21, 2012  
Date

  
David Rice, Mayor

ATTEST: DANNY L. HOLMAGI, Clerk

  
Clerk

Approved as to form and legal sufficiency:

  
Steven T. Williams, County Attorney

08-02-12

CITY OF MARATHON, FLORIDA

10/4/2012, 2012  
Date

Peter Worthington  
Peter Worthington, Mayor

ATTEST:

Diane Clavier  
Diane Clavier, City Clerk

Approved as to form and legal sufficiency:

John R. Herin, City Attorney

08-02-12

CITY OF LAYTON, FLORIDA

| Sept. 18, 2012  
Date

Norman S. Anderson  
Norman S. Anderson, Mayor

ATTEST:

| Mimi Young  
Mimi Young, City Clerk

Approved as to form and legal sufficiency:

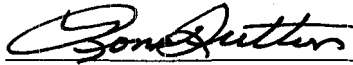
| [Signature]  
City Attorney



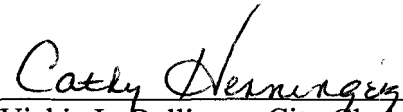
08-02-12

CITY OF KEY COLONY BEACH, FLORIDA

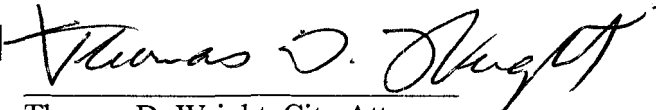
8/27, 2012  
Date

  
Ron Sutton, Mayor

ATTEST:

  
~~Vickie L. Bollinger, City Clerk~~  
Cathy Henninger

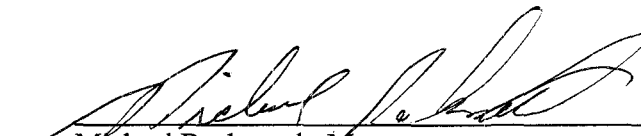
Approved as to form and legal sufficiency:

  
Thomas D. Wright, City Attorney

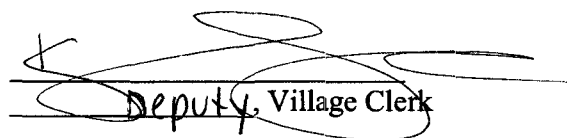
08-02-12

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

September 27<sup>th</sup>, 2012  
Date

  
Michael Reckwerdt, Mayor

ATTEST:

  
Deputy, Village Clerk


Approved as to form and legal sufficiency:

  
Nina Boniske, Village Attorney

September 27, 2012  
Date

  
Bryan W. Koon, Director

Approved as to form and legal sufficiency:

  
Assistant General Counsel

08-02-12

STATE OF FLORIDA DEPARTMENT  
OF ECONOMIC OPPORTUNITY

November 5, 2012

J. Thomas Beck  
J. Thomas Beck, AICP  
Director, Division of Community  
Development

Approved as to form and legal  
sufficiency, subject only to full and  
proper execution by the parties

Office of the General Counsel  
Department of Economic Opportunity

By: Sherry A. Speers  
Assistant General Counsel  
Approved Date: 11-5-12

City of Key West  
Planning Department



**Verification Form**  
(Where Owner is the Applicant)

I, Trepanier & Associates, Inc, being duly sworn, depose and say that I am the Owner (as appears on the deed), for the following property identified as the subject matter of this application:

**LDR Text Amendment**

\_\_\_\_\_  
*Street address of subject property*

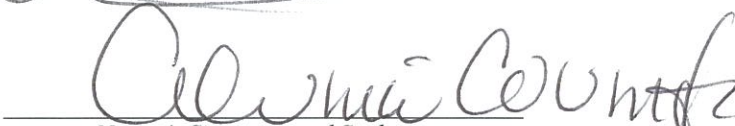
All of the answers to the above questions, drawings, plans and any other attached data which make up the application, are true and correct to the best of my knowledge and belief. In the event the City or the Planning Department relies on any representation herein which proves to be untrue or incorrect, any action or approval based on said representation shall be subject to revocation.

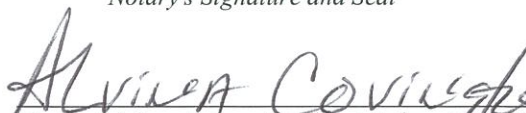
  
\_\_\_\_\_  
*Signature of Owner*

Subscribed and sworn to (or affirmed) before me on this 04/10/18 by \_\_\_\_\_  
date

Owen Trepanier, President - Trepanier & Associates, Inc.  
\_\_\_\_\_  
*Name of Owner*

He/She is personally known to me or has presented \_\_\_\_\_ as identification.

  
\_\_\_\_\_  
*Notary's Signature and Seal*

  
\_\_\_\_\_  
*Name of Acknowledger typed, printed or stamped*



Alvin Covington  
COMMISSION #FF913801  
EXPIRES: August 27, 2019  
WWW.AARONNOTARY.COM

\_\_\_\_\_  
*Commission Number, if any*

## Detail by Entity Name

Florida Profit Corporation

OWEN TREPANIER & ASSOCIATES, INC.

### Filing Information

**Document Number** P04000126065  
**FEI/EIN Number** 43-2060722  
**Date Filed** 08/30/2004  
**State** FL  
**Status** ACTIVE

### Principal Address

1421 1st Street  
Suite 101  
KEY WEST, FL 33040

Changed: 04/09/2018

### Mailing Address

P.O. BOX 2155  
KEY WEST, FL 33045

Changed: 04/27/2005

### Registered Agent Name & Address

PUENTE, RICHARD MR.  
1024 THOMAS STREET  
KEY WEST, FL 33040

Name Changed: 04/23/2012

Address Changed: 04/29/2010

### Officer/Director Detail

#### **Name & Address**

Title PRES

TREPANIER, OWEN JMR.  
1024 THOMAS STREET  
KEY WEST, FL 33040

Title VP

PUENTE, RICHARD MR.  
1024 THOMAS STREET  
KEY WEST, FL 33040

### Annual Reports

<b>Report Year</b>	<b>Filed Date</b>
2016	04/18/2016
2017	04/25/2017
2018	04/09/2018

PREPARED 4/17/18, 10:01:29  
City of Key West

PAYMENTS DUE INVOICE  
PROGRAM PZ821L

PROJECT NUMBER: 18-0200001 LDR TEXT AMENDMENT - LIVEABOARD VESSELS

FEE DESCRIPTION	AMOUNT DUE
ADVERTISING AND NOTICE FEE	100.00
FIRE DEPARTMENT REVIEW FEE	50.00
LAND DEV REG AMENDMENT REQUEST	2500.00
TOTAL DUE	2650.00

Please present this invoice to the cashier with full payment.

Oper: KEYWMDM Type: OC Drawer: 1  
Date: 4/17/18 85 Receipt no: 12295

PZ 2018 2000001 PLANNING & ZONING

1.00

Trans number: \$2650.00  
MULTIPLE TENDER 3125604

Trans date: 4/17/18 Time: 10:24:48