

RESOLUTION NO. 07-115

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED DEED OF CONSERVATION EASEMENT BETWEEN THE CITY OF KEY WEST AND THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT AT THE HAWK MISSILE SITE; PROVIDING FOR AN EFFECTIVE DATE

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

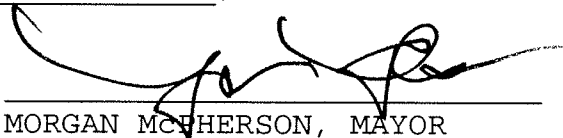
Section 1: That the attached Deed of Conservation Easement is hereby approved.

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 3 day of April, 2007.

Authenticated by the presiding officer and Clerk of the Commission on April 4, 2007.

Filed with the Clerk April 4, 2007.

  
MORGAN MCPHERSON, MAYOR

ATTEST:

  
CHERYL SMITH, CITY CLERK

# EXECUTIVE SUMMARY



**TO:** Julio Avel, City Manager  
**FROM:** E. David Fernandez, General Services Director  
**DATE:** March 20, 2007

**SUBJECT:** Approval of a Conservation Easement with the South Florida Water Management District at the Hawk Missile Site

## **Action statement:**

Approving a conservation easement at the Hawk Missile Site with the South Florida Water Management District (SFWMD) consistent with the terms of the Impact Assessment and Mitigation Plan agreement between the City and SFWMD associated with the maintenance of our stormwater system.

## **Strategic Plan/Business Plan:**

Stormwater improvements and environmental preservation play a critical role in both the City's Strategic Plan and Business Plan under the Environmental Management category.

## **Background:**

The South Florida Water Management District and the US Army Corps of Engineers have informed the City that its emergency work last year in clearing and trimming mangroves and salt marsh to maintain the function of our stormwater system required permits under their State and federal regulatory jurisdiction. To address the enforcement action taken by these agencies, the City has prepared an impact assessment and mitigation plan agreement with the SFWMD. This conservation easement is required as per this agreement.

## **Purpose & Justification:**

As part of this easement, the City agrees to protect existing natural habitat in the Salt Ponds surrounding the Hawk Missile Site. In addition, the City will plant red mangroves in designated areas of this property, and provide conditions favorable to future native plant growth.

The City will also perform work to greatly improve the flow of water between the ponds. This will facilitate tidal flow, improve water quality, and assist the surrounding neighborhood in flood recovery.

**Options:**

1. Approving the conservation easement with the South Florida Water Management District. This option is consistent with preservation requirements in the original land conveyance.
2. The City could choose not to approve the easement. However, not approving the easement would result in legal proceedings that will result in significant monetary or additional mitigation penalties for the City.

**Financial Impact:**

This easement is part of an agreement that will augment the City's short and long-term capital improvement plan for our Stormwater Utility. Projects within the mitigation plan will be financed and planned within the Utility's existing and future annual budgets.

**Recommendation:**

The staff recommends option #1, the approval of the conservation easement agreement with the South Florida Water Management District.

Return recorded document to:  
South Florida Water Management District  
3301 Gun Club Road, MSC \_\_\_\_\_  
West Palm Beach, FL 33406

### **DEED OF CONSERVATION EASEMENT**

THIS DEED OF CONSERVATION EASEMENT is given this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the City of Key West ("Grantor") whose mailing address is \_\_\_\_\_

\_\_\_\_\_ to the South Florida Water Management District ("Grantee"). As used herein, the term "Grantor" shall include any and all heirs, successors or assigns of the Grantor, and all subsequent owners of the "Property" (as hereinafter defined) and the term "Grantee" shall include any successor or assignee of Grantee.

### **WITNESSETH**

WHEREAS, the Grantor is the owner of certain lands situated in Monroe County, Florida, and more specifically described in Exhibit "I" attached hereto and incorporated herein ("Property"); and

WHEREAS, the Grantor desires to provide mitigation to address certain unauthorized activities at sites in Monroe County, which are subject to the regulatory jurisdiction of South Florida Water Management District ("District"); and

WHEREAS, District Consent Order No. \_\_\_\_\_ ("Consent Order") authorizes this mitigation; and

WHEREAS, this Consent Order requires that the Grantor preserve, enhance, restore and mitigate wetlands and uplands under the District's jurisdiction; and

WHEREAS, the Grantor, in consideration of resolution of the enforcement case against Grantor as addressed in the Consent Order, is agreeable to granting and securing to the Grantee a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes, over the area described on Exhibit "II" ("Conservation Easement").

NOW, THEREFORE, Grantor hereby grants, creates, and establishes a perpetual Conservation Easement for and in favor of the Grantee upon the property described on Exhibit "II" which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

The scope, nature, and character of this Conservation Easement shall be as follows:

1. Recitals. The recitals hereinabove set forth are true and correct and are hereby incorporated into and made a part of this Conservation Easement.

2. Purpose. It is the purpose of this Conservation Easement to retain land or water areas in their natural, vegetative, hydrologic, scenic, open, agricultural or wooded condition and to retain such areas as suitable habitat for fish, plants or wildlife and to be consistent with the provisions of the Quitclaim Deed conveyed from United States Department of Interior and the Department of Defense (Exhibit III) to the City of Key West for a public park and recreational area. Those wetland and/or upland areas included in this Conservation Easement which are to be enhanced or created pursuant to the Consent Agreement shall be retained and maintained in the enhanced or created conditions required by the Consent Agreement.

To carry out this purpose, the following rights are conveyed to Grantee by this easement:

a. To enter upon the Property at reasonable times with any necessary equipment or vehicles to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor at the time of such entry; and

b. To enjoin any activity on or use of the Property that is inconsistent with this Conservation Easement and to enforce the restoration of such areas or features of the Conservation Easement that may be damaged by any inconsistent activity or use.

3. Prohibited Uses. Except for restoration, creation, enhancement, maintenance and monitoring activities, or surface water management improvements, or other activities described herein that are permitted or required by the Consent Agreement, the following activities are prohibited in or on the Conservation Easement:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic or nuisance vegetation in accordance with a District approved maintenance plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain in its natural or enhanced condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking and fencing;

g. Acts or uses detrimental to such aforementioned retention of land or water areas;

h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance.

4. Passive Recreational Facilities. Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and that are not inconsistent with any District rule, criteria, the Consent Agreement, provisions of the Quitclaim Deed conveyed from United States Department of Interior and the Department of Defense (Exhibit III.), and the intent and purposes of this Conservation Easement. Passive recreational uses that are not contrary to the purpose of this Conservation Easement and the Quitclaim Deed conveyed from United States Department of Interior and the Department of Defense (Exhibit III) may be permitted upon written approval by the District.

a. The Grantor may conduct limited land clearing for the purpose of constructing such pervious facilities as docks, boardwalks or mulched walking trails.

b. The construction and use of the approved passive recreational facilities shall be subject to the following conditions:

i. Grantor shall minimize and avoid, to the fullest extent possible, impact to any wetland or upland buffer areas within the Conservation Easement Area and shall avoid materially diverting the direction of the natural surface water flow in such area;

ii. Such facilities and improvements shall be constructed and maintained utilizing Best Management Practices;

iii. Adequate containers for litter disposal shall be situated adjacent to such facilities and improvements and periodic inspections shall be instituted by the maintenance entity, to clean any litter from the area surrounding the facilities and improvements;

iv. This Conservation Easement shall not constitute permit authorization for the construction and operation of the passive recreational facilities. Any such work shall be subject to all applicable federal, state, District or local permitting requirements

5. Grantor's Reserved Rights. Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and which are not inconsistent with any District rule, criteria, permit and the intent and purposes of this Conservation Easement and the provisions of the Quitclaim Deed conveyed from United States Department of Interior and the Department of Defense (Exhibit III).

6. No Dedication. No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement.

7. Grantee's Liability. Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the Property.

8. Property Taxes. Grantor shall keep the payment of taxes and assessments on the Easement Parcel current and shall not allow any lien on the Easement Parcel superior to this Easement. In the event Grantor fails to extinguish or obtain a subordination of such lien, in addition to any other remedy, the Grantee may, but shall not be obligated to, elect to pay the lien on behalf of the Grantor and Grantor shall reimburse Grantee for the amount paid by the Grantee, together with Grantee's reasonable attorney's fees and costs, with interest at the maximum rate allowed by law, no later than thirty days after such payment. In the event the Grantor does not so reimburse the Grantee, the debt owed to Grantee shall constitute a lien against the Easement Parcel which shall automatically relate back to the recording date of this Easement. Grantee may foreclose this lien on the Easement Parcel in the manner provided for mortgages on real property.

9. Enforcement. Enforcement of the terms, provisions and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder.

10. Assignment. Grantee will hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

11. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

12. Terms and Restrictions. Grantor shall insert the terms and restrictions of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Conservation Easement. The Grantor shall comply with all the provisions of the Quitclaim Deed conveyed from United States Department of Interior and the Department of Defense (Exhibit III) and be subject to all applicable provisions of the Clean Water Act of 1977,

Executive Order 11990 for Protection of Wetlands, Executive Order 11988 for Floodplain Management and Title 14, Code of Federal Regulations (CFR) Part 77, entitled "Objects Affecting Navigable Airspace".

13. Written Notice. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

14. Modifications. This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Monroe County.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Property.

Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said Property in fee simple; that the Conservation Easement is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; and all mortgages and liens on the Conservation Easement area, if any, have been subordinated to this Conservation Easement; and that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends the title to the Conservation Easement hereby conveyed against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, \_\_\_\_\_ (Grantor) has hereunto set  
its authorized hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
a Florida corporation

By: *John Jones*

Print Name: JOHN JONES

Title: ACTING CITY MANAGER

Signed, sealed and delivered  
in our presence as witnesses:

By: *Cheryl Smith*

Print Name: Cheryl Smith

By: *Susan P. Harrison*

Print Name: SUSAN P. HARRISON

STATE OF FLORIDA

) ss:

COUNTY OF Monroe

On this 5 day of April, 2007 before me, the undersigned notary public,  
personally appeared John Jones, the person who subscribed to the foregoing  
instrument, as the Acting City Manager (title), of City of Key West (Corporation), a  
Florida corporation, and acknowledged that he/she executed the same on behalf of said corporation  
and that he/she was duly authorized to do so. He/She is personally know to me ~~or has produced a~~  
~~(state) driver's license as identification.~~

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

*Pamela S. DeMala*  
Print Name: PAMELA S. DEMALA

My Commission Expires: September 7, 2010



**Pamela S. DeMala**  
Commission # DD592976  
Expires September 7 2010  
Bonded Troy Fair Insurance, Inc. 800-385-7019

**COPY**

**QUITCLAIM DEED**

The UNITED STATES OF AMERICA, acting by and through the Secretary of the Interior, acting by and through the Regional Director, Southeast Region, National Park Service, (hereinafter designated "GRANTOR") under and pursuant to the power and authority contained in the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and particularly as amended by Public Law 485, 91st Congress, and regulations and orders promulgated thereunder, and a delegation of that authority to the Secretary of Defense (SECDEF) in accordance with the Defense Base Closure and Realignment Act of 1990, Public Law 101-510, 10 U.S.C. 2687 note, as amended, and a subsequent delegation of the authority by SECDEF to the Secretary of the Navy, for and in consideration of the perpetual use of the hereinafter described premises for public park and public recreation area purposes by the City of Key West, Florida, (hereinafter designated "GRANTEE"), does hereby release and quitclaim to GRANTEE, and to its successors and assigns, subject to the reservations, exceptions, restrictions, conditions and covenants hereinafter expressed and set forth, all GRANTOR'S right, title and interest in and to the following described property, consisting of 43.77 acres in fee, known as the Hawk Missile Site, at the former Naval Air Station, Key West, Monroe County, Florida, and being more particularly described in EXHIBIT "A", attached hereto and incorporated herein by reference.

THIS CONVEYANCE is made subject to any and all existing rights-of-way, easements, covenants and agreements affecting the above-described premises, whether or not the same now appear of record.

TO HAVE and to Hold the hereinbefore described property, subject to the reservations, exceptions, restrictions, conditions and covenants herein expressed and set forth unto the GRANTEE, its successors and assigns, forever;

The GRANTEE acknowledges that it has inspected, is aware of, and accepts the condition and state of repair of the PROPERTY, that the PROPERTY is conveyed "as is" and "where is" without any representation, promise, agreement, or warranty on the part of the GRANTOR regarding such condition and state of repair, or regarding the making of any alterations, improvements, repair or additions, or as to its usability generally or as to its fitness for any particular purpose, and that the GRANTOR shall not be liable for any latent or patent defect in the PROPERTY, except to the extent required by applicable law and except for the covenant, representation and indemnities of GRANTOR contained herein.

**EXHIBIT III**

PURSUANT to authority contained in the Federal Property and Administrative Services Act of 1949, as amended, and applicable rules, regulations and orders promulgated thereunder, and a delegation of that authority to the Secretary of Defense (SECDEF) in accordance with the Defense Base Closure and Realignment Act of 1990, Public Law 101-510, 10 U.S.C. 2687 note, as amended, and a subsequent delegation of the authority by SECDEF to the Secretary of the Navy, the Department of the Navy determined the subject property to be surplus to the needs of the United States of America and assigned the property to the Department of the Interior for further conveyance to the City of Key West, Florida.

IT IS AGREED and understood by and between the GRANTOR and GRANTEE, and the GRANTEE, by its acceptance of this deed, does acknowledge its understanding of the agreement, and does covenant and agree to itself, and its successors and assigns, forever, as follows:

1. This property shall be used and maintained for the public park and recreation purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application, submitted by the GRANTEE in April 1999, which program and plan may be amended from time to time at the request of either the GRANTOR or GRANTEE, with the written concurrence of the other party, and such amendments shall be added to and become a part of the original application.

2. The GRANTEE shall, within 6 months of the date of the deed of conveyance, erect and maintain a permanent sign or marker near the point of principal access to the conveyed area which says:

This park land was acquired through the FEDERAL LANDS TO PARKS PROGRAM of the United States Department of the Interior, National Park Service, for use by the general public.

3. This property shall not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for public park or public recreational purposes subject to the same terms and conditions in the original instrument of conveyance. However, nothing in this provision shall preclude the GRANTEE from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior.

4. From the date of this conveyance, the GRANTEE, its successors and assigns, shall submit biennial reports to the Secretary of the Interior, setting forth

the use made of the property during the preceding 2-year period, and other pertinent data establishing its continuous use for the purposes set forth above, for ten consecutive reports and as further determined by the Secretary of the Interior.

5. Funds generated on this property may not be expended for non-recreation purposes. Until this property has been fully developed in accordance with the Program of Utilization, all revenues generated on this property must be used for the development, operation and maintenance of this property. After this property has been fully developed in accordance with the Program of Utilization, revenue generated on this property may be expended on other recreation properties operated by the GRANTEE.

6. As part of the consideration for the Deed, the GRANTEE covenants and agrees for itself, its successors and assigns, that (1) the program for or in connection with which this Deed is made will be conducted in compliance with, and the GRANTEE, its successors and assigns, will comply with all requirements imposed by or pursuant to the regulations of the Department of the Interior in effect on the date of this Deed (43 C.F.R. Part 17) issued under the provisions of Title VI of the Civil Rights Act of 1964; (2) this covenant shall be subject in all respects to the provisions of said regulations; (3) the GRANTEE, its successors and assigns, will promptly take and continue to take such action as may be necessary to effectuate this covenant; (4) the United States shall have the right to seek judicial enforcement of this covenant, and (5) the GRANTEE, its successors and assigns, will (a) obtain from each other person (any legal entity) who, through contractual or other arrangements with the GRANTEE, its successors and assigns, is authorized to provide services or benefits under said program, a written agreement pursuant to which such other person shall, with respect to the services or benefits which he is authorized to provide, undertake for himself the same obligations as those imposed upon the GRANTEE, its successors and assigns, by this covenant, and (b) furnish a copy of such agreement to the Secretary of the Interior, or his successor; and that this covenant shall run with the land hereby conveyed, and shall in any event, without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit of, and in favor of the GRANTOR and enforceable by the GRANTOR against the GRANTEE, its successors and assigns.

7. The GRANTEE agrees to comply with the requirements of Public Law 90-480 (82 Stat. 718), the Architectural Barriers Act of 1968, as amended by Public Law 91-205 of 1970 (84 Stat. 49), to assure that development of facilities on conveyed surplus properties for public park and recreation purposes are accessible to the physically handicapped; and, further assure in accordance with Public Law 93-112, the Rehabilitation Act of 1973 (87 Stat. 394), that no otherwise qualified handicapped individual shall solely by reasons of his

handicap be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

8. The GRANTEE further covenants and agrees to comply with the National Environmental Policy Act of 1969, as amended, the 1977 Amendments to the Federal Water Pollution Control Act (Clean Water Act of 1977), and Executive Order 11990 (May 24, 1977), for Protection of Wetlands and Executive Order 11988 (May 24, 1977) for Floodplain Management, where and to the extent said amendments and Orders are applicable to the property herein conveyed, and GRANTEE shall be subject to any use restrictions issued under said Amendments and Orders.

9. GRANTEE covenants for itself, its successors and assigns to the Premises, or any part thereof, that any construction or alteration is prohibited unless a determination of no hazard to air navigation is issued by the Federal Aviation Administration in accordance with Title 14, Code of Federal Regulations (CFR), Part 77, entitled "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958, as amended.

10. A document entitled "A Finding of Suitability to Transfer" (FOST) and a second document entitled "Addendum for Transfer" are attached as EXHIBIT "B" and EXHIBIT "C", respectively, to this Deed; an Environmental Baseline Survey (EBS) report is referenced in the FOST; the FOST, the Addendum and EBS reference environmental conditions on the Property. Such notice of environmental conditions included in those documents are incorporated herein by reference. The FOST and Addendum sets forth the basis for the GRANTOR'S determination that the Property is suitable for transfer. The GRANTEE is hereby made aware of the notification contained in the EBS, the FOST and the Addendum.

11. Lead-Based Paint ("LBP").

a. A 1996 inspection team identified cans marked "lead-paint" stored in an adjacent bunker used by the veteran's group which occupied the property for a period of time. Therefore, it is presumed that lead-based paint was applied to the exteriors and interiors of the buildings. However, the subject structures are not considered target housing. The GRANTEE hereby acknowledges receipt of a Lead-Based Paint Hazard Disclosure and Acknowledgement Form for Non-Residential Structures.

b. The GRANTEE covenants and agrees that in its use and occupancy of the Property, it will comply with all applicable

Federal, State, and local laws relating to LBP in non-residential structures. The GRANTEE acknowledges that the GRANTOR assumes no liability for damages for personal injury, illness, disability, or death to the GRANTEE, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with LBP on the Property, whether the GRANTEE has properly warned, or failed to properly warn, the persons injured.

12. NOTICE OF HAZARDOUS SUBSTANCE OR PETROLEUM PRODUCT STORED FOR ONE YEAR OR MORE, KNOWN TO HAVE BEEN RELEASED OR DISPOSED OF.

a. In accordance with Section 120(h)(3)(A)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, (42 U.S.C. 9620(h)(3)(A)(i), GRANTOR advises GRANTEE that EXHIBIT "D" summarizes pertinent information from the EBST prepared to assess the overall environmental conditions of the PROPERTY which provides all available information based upon a complete search of agency files by GRANTOR of those hazardous substances known to have been stored for one year or more, released or disposed of on the PROPERTY, to include if known, the type and quantity of such hazardous substances, the date such storage, release or disposal took place and a description of all remedial action(s) taken.

b. One 2,000-gallon aboveground storage tank (AST) was removed from the Subject Property in 1996. Sampling conducted during the site indicated the presence of diesel fuel in the soil. Soil was excavated and disposed of during the interim removal action conducted in 1999.

13. Pursuant to Section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA), 42 U.S.C. § 9620(h)(3), GRANTOR covenants and warrants that all remedial action necessary to protect human health and the environment with respect to any known hazardous substance or petroleum product remaining on the Property has been taken before the date of this deed, and any additional remedial action found to be necessary after the date of this Deed shall be conducted by GRANTOR; provided, however, that the foregoing covenant shall not apply in any case in which GRANTEE of any or all of the Property is a potentially responsible party with respect to the Property.

14. GRANTEE covenants that in accordance with CERCLA Section 120(h)(3)(A)(iii), that the GRANTOR, its officers, agents, employees, contractors and subcontractors, shall have access to the Property in any case in which remedial action or corrective action is found to be necessary after the date hereof. The right to enter shall include the right to conduct activities related to environmental investigation, and to carry out remedial or removal actions as required or necessary under applicable authorities, including, but not limited to monitoring wells, pumping wells and treatment facilities. The right of access includes the right of access to, and use of, to the extent permitted by law, available utilities at reasonable cost to GRANTOR. These access rights are in addition to those granted to federal, state and local authorities under appropriate and applicable environmental laws and regulations. GRANTEE agrees to cooperate with activities of the GRANTOR in furtherance of this covenant and will take no action to interfere with future necessary remedial and investigative actions of the GRANTOR. The GRANTOR and GRANTEE agree to cooperate in good faith to minimize any conflict between necessary environmental investigation and remediation activities and operations of GRANTEE, its successors and assigns, and of any lessee or any sublessee of the Property. Any inspection, survey, investigation or other response or remedial action will to the extent practicable, be coordinated with representatives designated by GRANTEE or its successors and assigns.

15. GRANTEE covenants and agrees for itself and its successors, assigns, lessees and/or licensees that it shall provide written notice to the GRANTOR of any subsequent sale, assignment or lease of the PROPERTY, or any portion thereof, and provide contact information concerning the new owner or occupant.

16. GRANTEE covenants and agrees for itself and its successor, assigns, lessees and/or licensees that in the event that GRANTEE conveys any of the PROPERTY by deed, lease, license or other such interest, GRANTEE shall impose upon the party to whom such property is transferred the requirements, duties and obligations contained herein.

17. The Federal government shall hold harmless, defend and indemnify the City of Key West and any future successor, assignee, transferee, lender, or lessee of the Subject Property from any suit, demand, cost, or liability arising out of any claim for personal injury or property damage that may result from, or be predicated upon, the release or threatened release of any hazardous substance, pollutant, or contaminant resulting from Department of Defense activities on the property subject to the conditions specified in, and to the extent authorized, by Section 330 of Public Law 102-484.

18. The GRANTOR, and any representative it may so delegate, shall have the right of entry upon said premises at any time to conduct inspections of the

property for the purpose of evaluating the GRANTEE'S compliance with the terms and conditions of this deed.

19. In the event there is a breach of any of the conditions and covenants herein contained by the GRANTEE, its successors and assigns, whether caused by the legal or other inability of the GRANTEE, its successors and assigns, to perform said conditions and covenants, or otherwise, all right, title and interest in and to said premises shall revert to and become the property of the GRANTOR at its option, which in addition to all other remedies for such breach shall have the right of entry upon said premises, and the GRANTEE, its successors and assigns, shall forfeit all right, title and interest in said premises and in any and all of the tenements, hereditaments and appurtenances thereunto belonging; provided, however, that the failure of the Secretary of the Department of the Interior to require in any one or more instances complete performance of any of the conditions or covenants shall not be construed as a waiver or relinquishment of such future performance, but the obligation of the GRANTEE, its successors and assigns, with respect to such future performance shall continue in full force and effect. In the event of a reversion, the GRANTEE agrees to provide an acceptable level of protection and maintenance of the property until title has actually reverted.

GRANTEE, by acceptance of this deed, covenants and agrees for itself and its successors and assigns that in the event GRANTOR exercises its option to revert all right, title, and interest in and to the Premises to GRANTOR, or GRANTEE voluntarily returns title to the Premises in lieu of a reverter, then GRANTEE shall provide protection to, and maintenance of the Premises at all times until such time as the title is actually reverted or returned to and accepted by GRANTOR. Such protection and maintenance shall, at a minimum, conform to the standards prescribed by the General Services Administration in Federal Property Management Regulations (FPMR) 101-47.4913 (41 CFR Part 101) now in effect.

LIST OF EXHIBITS: The following exhibits are attached hereto and made a part of this Deed:

- EXHIBIT "A" - Description of PROPERTY
- EXHIBIT "B" - Finding of Suitability to Transfer
- EXHIBIT "C" - Addendum for Transfer
- EXHIBIT "D" - Hazardous Substance List

IN WITNESS WHEREOF, the GRANTOR has caused these presents to be executed in its name and on its behalf this the 18<sup>TH</sup> day of MARCH, 2002.

UNITED STATES OF AMERICA  
Acting by and through the Secretary  
of the Interior  
Through:  
Regional Director; Southeast Region  
National Park Service

By: Wallace C. Brittain  
Wallace C. Brittain  
Chief  
Recreation and Conservation  
Division  
National Park Service  
Southeast Region

WITNESSES:

William L. Harris

Charles E. Schuler

STATE OF GEORGIA  
COUNTY OF FULTON

On this 18th of March, 2002, before me, the subscriber, personally appeared Wallace C. Brittain, Chief, Recreation and Conservation Division, Southeast Region, National Park Service, of the United States Department of the Interior, a governmental agency of the United States of America, and known to me to be the same person described in and who executed the foregoing instrument, as the act and deed of the United States of America, for and on behalf of the Secretary of the Interior, duly designated, empowered and authorized so to do by said Secretary and he acknowledges that he executed the foregoing instrument for and on behalf of the United States of America for the purposes and uses therein described.

Charles E. Schuler  
NOTARY PUBLIC

My commission expires:

Notary Public, Rockdale County, Georgia  
My Commission Expires July 25, 2003

The foregoing conveyance is hereby accepted and the undersigned agrees, by this acceptance, to assume and be bound by all the obligations, conditions, covenants and agreements therein contained.

City of Key West, Florida

By: 

Julio Avael  
City Manager

STATE OF FLORIDA  
COUNTY OF MONROE

On this 28 day of March, 2002, before me, the undersigned officer, personally appeared Julio Avael, to me known and known to me to be the same person whose name is subscribed to the foregoing acceptance, who being by me duly sworn, did depose and say that he is the City Manager of the City of Key West, Florida, that he is duly designated, empowered and authorized by Resolution No. 99-169 dated May 20, 1999, to execute the foregoing acceptance and sign his name thereto; and that he signed his name, thereto and acknowledges that he executed the foregoing for and on behalf of the City of Key West, Florida, for the purposes and uses therein described.

  
NOTARY PUBLIC

My commission expires:  
March 22, 2003



Maria G. Ratcliff  
MY COMMISSION # CC820020 EXPIRES  
March 22, 2003  
BONDED THRU TROY FAIN INSURANCE, INC.

# INTERNATIONAL

# AIRPORT

## LEGAL DESCRIPTION: (Easterly Parcel, Hawk Sie):

A parcel of land located in Sections 33 and 34, Township 67 South, Range 25 East, and Sections 3 and 4, Township 68 South, Range 25 East, on the Island of Key West, Monroe County, Florida and being more particularly described as follows: Begin at the Northeast corner of Parcel 41, "PLAT OF SURVEY, PART OF LANDS FORMERLY OWNED BY THE KEY WEST IMPROVEMENT, INC.", according to the Plat thereof, as recorded in Plat Book 2, Page 69, of the Public Records of Monroe County, Florida; thence S.19°03'22"E., along the Easterly Line of said Parcel 41 a distance of 1692.60 feet to the Southeast corner of Parcel 41; thence N.86°30'52"W., a distance of 974.45 feet to the Southwest corner of Parcel 41 (Southeast corner of Parcel 42); thence N.86°30'52"W., a distance of 487.22 feet to the West line of the East one-half of Parcel 42; thence N.19°03'22"W., along the said West line of the East one-half of Parcel 42 a distance of 1132.26 feet to the North Line of Parcel 42; thence N.70°56'38"E., a distance of 450.00 feet to the Northeast corner of said Parcel 42 (Northwest corner of Parcel 41); thence N.70°56'38"E., a distance of 900.00 feet to the Point of Beginning.

Parcel contains 1906780.50 square feet, or 43.77 Acres more, or less.

## LESS: (F.A.A. Site)

A parcel of land located on the Island of Key West, Monroe County, Florida, and known as a portion of Tracts 41 and 42, "PLAT OF SURVEY, PART OF LANDS FORMERLY OWNED BY KEY WEST IMPROVEMENT, INC.", according to the Plat thereof, as recorded in Plat Book 4, at page 69 of the Public Records of Monroe County, Florida, and being more particularly described as follows: Commence at the Northwest corner of said Tract 41; thence S 19°03'22" E along the Southwesterly Line of Tract 41, (Northeasterly Line of Tract 42) for 229.27 feet to a chain link fence and the Point of Beginning; thence N.73°42'52"E., and along the said chain link fence a distance of 234.38 feet; thence S.02°37'43"W., a distance of 158.45 feet; thence N.81°23'00"W., a distance of 71.28 feet; thence S.83°46'34"W., a distance of 236.64 feet; thence S.70°21'29"W., a distance of 32.35 feet to a chain link fence; thence N.20°37'44"W., and along the chain link fence a distance of 22.51 feet; thence N.40°18'01"E., a distance of 105.31 feet, along the chain link fence; thence N 73°42'52" E and continuing along the chain link fence for 60.73 feet to the Point of beginning.

Parcel contains 35823.12 square feet or 0.82238 acres, more or less.

Description: 50' wide ingress & egress easement:

A fifty (50) foot wide ingress and egress easement located on the island of Key West, Monroe County, Florida, and being more particularly described as follows: Commence at the Northeast corner of Lot 1, "CORAL ESTATES", according to the plat thereof, as recorded in Plat Book 3, at Page 97 of the Public Records of Monroe County, Florida, said point also lies on the Southeasterly Right-of-Way Line of Flagler Avenue and having State Plane Coordinates (based on Florida East Zone, 1983/1990) of N 82648.26, E 399309.86; thence S.70°58'16"W., along the said Southeasterly Right-of-Way Line of Flagler Avenue a distance of 326.94 feet to the centerline of Government Road and the Point of Beginning of the Centerline of the said 50 foot wide easement (said easement lying 25 feet on each side of the following metes and bounds description; thence S.23°06'58"E., along the said centerline of Government Road a distance of 417.01 feet to the end of Government Road; thence S.60°00'17"E., a distance of 280.58 feet to the point of curvature of a curve to the left, having: a radius of 400.00 feet, a central angle of 20°39'05", a chord bearing of S.70°19'49"E. and a chord length of 143.39 feet; thence along the arc of said curve, an arc length of 144.17 feet to the point of tangency of said curve; thence S.80°39'21"E., a distance of 56.37 feet to the point of curvature of a curve to the left, having: a radius of 1000.00 feet, a central angle of 17°26'59", a chord bearing of S.89°22'51"E. and a chord length of 303.38 feet; thence along the arc of said curve, an arc length of 304.55 feet to the point of tangency of said curve; thence N.81°53'40"E., a distance of 236.54 feet; thence N.84°05'45"E., a distance of 123.40 feet to the point of curvature of a curve to the left, having: a radius of 200.00 feet, a central angle of 10°37'07", a chord bearing of N.78°47'12"E. and a chord length of 37.01 feet; thence along the arc of said curve, an arc length of 37.07 feet to the point of tangency of said curve; thence N.73°28'38"E., a distance of 124.00 feet to the point of curvature of a curve to the right, having: a radius of 500.00 feet, a central angle of 17°32'43", a chord bearing of N.82°15'00"E. and a chord length of 152.51 feet; thence along the arc of said curve, an arc length of 153.11 feet to the point of tangency of said curve; thence S.88°58'38"E., a distance of 203.98 feet; thence N.89°33'33"E., a distance of 223.67 feet; thence N.89°23'23"E., a distance of 1774.37 feet to the point of curvature of a curve to the left, having: a radius of 60.00 feet, a central angle of 108°27'50", a chord bearing of N.35°09'28"E. and a chord length of 97.37 feet; thence along the arc of said curve, an arc length of 113.58 feet to the point of tangency of said curve; thence N.19°04'27"W., a distance of 615.55 feet to the point of curvature of a curve to the right, having: a radius of 115.00 feet, a central angle of 49°09'33", a chord bearing of N.05°30'19"E. and a chord length of 95.87 feet; thence along the arc of said curve, an arc length of 98.67 feet to the point of tangency of said curve; thence N.30°05'05"E., a distance of 146.54 feet to the point of curvature of a curve to the right, having: a radius of 200.00 feet, a central angle of 36°12'19", a chord bearing of N.48°11'15"E. and a chord length of 124.29 feet; thence along the arc of said curve, an arc length of 126.38 feet to a chain link fence and the end of the centerline of a 50 foot wide ingress and egress easement and whose coordinates are N 83049.47 and E 402796.81; thence along a baseline of a 35 foot wide Easement being 10 feet Northerly of and 25 feet Southerly of and parallel with the said baseline for the following three (3) metes and bounds; (1) thence N 70°21'28" E for 32.13 feet; (2) thence N 83°46'34" E for 233.18 feet; thence (3) S 81°23'00" E for 71.03 feet to the end of the said 35 foot wide easement and whose coordinates are N 83074.85 and E 403128.93.

FILE # 1291287  
BK # 1772 PG # 1224

**FINDING OF SUITABILITY TO TRANSFER  
HAWK MISSILE SITE (KW-65)  
KEY WEST, FLORIDA**

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**1.0 Purpose**

This Finding of Suitability to Transfer (FOST) documents my determination, as the responsible Department of Defense (DoD) component official, that the real property and associated improvements known as Hawk Missile Site KW-65 (Subject Property), Naval Air Station Key West, Florida, are environmentally suitable for deed transfer to the City of Key West Navy Properties Local Redevelopment Authority (NPLRA) for use in accordance with the NPLRA's Redevelopment Plan and the Public Benefit Conveyance for conservation and recreational use approved by the Department of the Interior (DOI). This decision is based on my review of information contained in the attached Addendum to the Environmental Baseline Survey (EBS), and the Reuse Plan developed by the NPLRA. Factors leading to this decision and other pertinent information related to property transfer requirements are stated below.

**2.0 Property Description**

The Subject Property comprises  $\pm$  43 acres of land acquired by the United States in 1964 for the establishment of an Army Shore Defense Unit, Hawk Missile Command as further described in the attached EBS.

**3.0 Past and Proposed Reuse**

The land was undeveloped with an extensive system of salt ponds at the time of acquisition. The Army filled some of the ponds to allow construction of the mobile launch equipment pads and berms. The property was transferred to the Navy in the early 1980s. The Navy had no operations on the Subject Property. A Vietnam Veterans group obtained a license from the Navy in 1994 for use as a "stand down" location. Proposed use would include medical checkups, meals, and clothing dispersement. Ultimately, the group set up residence in tents and occupied the property full time. The Navy nullified the license in 1995. At no time during the documented Government ownership of the Subject Property has it been used as an industrial site. The Subject Property is currently vacant. Proposed land use is for conservation and recreation.

**4.0 Environmental Findings**

All available information concerning the past storage, release or disposal of any hazardous substances and/or petroleum products on the Subject Property as collected through record searches, available aerial photographs, personnel interviews and on-site visual inspections conducted is contained in the attached EBS. The Subject Property has been inspected annually since 1994. The following paragraphs summarize those findings and corresponding DoD condition of property classifications assigned to the Subject Property:

**A. Hazardous Substances Contamination**

An Addendum for Transfer (AFT) has been prepared documenting additional information acquired since development of the EBS. A Site Inspection, conducted in

**FINDING OF SUITABILITY TO TRANSFER  
HAWK MISSILE SITE (KW-65)  
KEY WEST, FLORIDA**

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1998 determined there had been hazardous substances releases resulting in levels above residential action levels in the following locations:

Subzone 1 (Drainage Area): Dibenzo(a,h)anthracene was detected at 122.3  $\mu\text{g/kg}$  in excess of its 100  $\mu\text{g/kg}$  action level in one soil sample. Arsenic was detected at the FDEP residential action level of 2.7 mg/kg. Telephone poles treated with creosote had been stored in this area and are considered to be the cause of the release. The conclusion was that no further action was necessary for subzone 1. (TTNus, 1998)

Subzone 9 (Ponds-Sediment): Several inorganics were detected in excess of their FDEP action levels at various locations. Lead was present above its action level of 34.19 mg/kg in all locations. Two semi-volatile organic compounds (SVOCs) were detected in excess of their action levels at SD-05. One pesticide, 4,4'-DDE, was found in excess of its action level at SD-05 and SD-08. No VOCs were detected. The investigation included a calculation of noncarcinogenic risks for aluminum, barium, copper, vanadium, and zinc. The calculations indicated none of these organics presented significant human health risks. Ecological risks were also calculated. All chemicals detected in excess of their action levels exceeded ecological guidelines. Most; however, only slightly exceeded their threshold effects level (TEL) or were infrequently detected. (TTNus, 1998) Lead found in sample SD-05 was the only inorganic that was considered to pose potential ecological risks. Four other chemicals found in sample SD-05 were found to exceed the most conservative ecological guidelines (cadmium, bis(2-ethylhexyl)Phthalate, 4,4-DDE and butyl benzyl phthalate). It was decided that an interim removal action (IRA) should be conducted at subzone 9. A drawing showing the location of the sub-zones is attached to the Addendum for Transfer as Attachment 1. The IRA resulted in the removal of soil and sediment from two locations as shown in Attachment 2 to the Addendum for Transfer. The excavation at SD-08 was filled with clean fill to return the area to grade. A proposal of no further remedial action required was entered in the Decision Document for Ten Base Realignment and Closure (BRAC) Sites, Naval Air Station Key West, Florida (DD). Public comments were received on this proposal and incorporated into the DD.

**B. Petroleum Contamination**

One 2,000-gallon aboveground storage tank (AST) was removed from the Subject Property in 1996. Sampling conducted during the site closure indicated the presence of diesel fuel in the soil. Soil was excavated and disposed of during the interim removal action conducted in 1999.

**FINDING OF SUITABILITY TO TRANSFER  
HAWK MISSILE SITE (KW-65)  
KEY WEST, FLORIDA**

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**C. Other Environmental Aspects**

**1. Asbestos-Containing Material (ACM)**

Non-friable asbestos-containing material (ACM) was observed only in the main administration building in the form of vinyl floor tiles and transite paneling during the 1994 site visit. During the licensed use in 1995-1996 by the Disabled Vietnam Veterans, the building was gutted and rebuilt. This building was transferred to the FAA in 1999. The remaining buildings, which are included in this transfer, did not contain ACM.

**2. Lead-Based Paint (LBP)**

During an annual site visit in 1996, the inspection team noted cans marked "lead-paint" were stored in an adjacent bunker by the veterans group. Therefore, it is presumed that the veterans group did apply lead-based paint to the exteriors and possibly the interior of the buildings. These structures are not considered target housing. A Lead-Based Paint Hazard Notice is provided as Attachment 1 to this FOST.

**3.0 Polychlorinated Biphenyls (PCBs)**

Three pad-mounted transformers were located inside a fenced enclosure on the Subject Property. At some point in time after the Army vacated the property, the cores were stripped by trespassers and dielectric fluid was released. Initial sampling of the area indicated very low levels of PCB concentrations were present in the soil. Subsequent sampling by NAS Key West did not indicate any PCB contamination. Three soil samples were taken outside the enclosure and one inside during the 1998 SI. Aluminum, barium, cadmium, chromium, copper, iron, lead, manganese, nickel, thallium, tin, vanadium, and zinc were detected at concentrations below their action level. One PCB (arochlor-1260) and one SVOC (bis(2-ethylhexyl)phthalate) were detected below their action levels. No further remedial action was necessary.

**4.0 Radon**

No radon survey was conducted at the Subject Property. Due to the results from radon sampling conducted at Sigsbee Park, there is no expectation that radon is present at the Subject Property in quantities that exceed the EPA action level of 4 picoCuries per liter.

**5.0 Requirements Applicable to Transfer**

**A. National Environmental Policy Act (NEPA)**

An Environmental Assessment was prepared in accordance with the National Environmental Policy Act requirements to assess the potential environmental impacts associated with the proposed transfer and reuse of the excess property. The Finding of No Significant Impact was signed in February 2000.

**FINDING OF SUITABILITY TO TRANSFER  
HAWK MISSILE SITE (KW-65)  
KEY WEST, FLORIDA**

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**B. Hazard Substance Notice**

In accordance with Section 120(h)(3)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the deed transferring the Subject Property must provide notice as to those hazardous substances which it is known, based upon a complete search of agency files, were stored for one year or more, released, or disposed of on the Subject Property and all response actions taken to date. A list of hazardous substances detected on the Subject Property and the appropriate response taken is attached to this FOST as Exhibit 1.

**C. CERCLA Covenants**

In accordance with CERCLA Section 120(h)(3)(A)(ii)(I), the deed transferring the Subject Property shall contain a covenant warranting that all remedial action necessary to protect human health and the environment with respect to any hazardous substance remaining on the property has been taken before the date of transfer.

In accordance with CERCLA Section 120(h)(3)(A)(ii)(II), the deed transferring the Subject Property shall contain a covenant warranting that any additional remedial action found to be necessary after the date of transfer shall be conducted by the United States.

**D. CERCLA Access Clause**

In accordance with CERCLA 120(h)(3)(A)(iii), the deed transferring the Subject Property shall contain a clause granting the United States access to the property in any case in which a response action or corrective action is found to be necessary after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining property.

The right to enter to be set forth shall include the right to conduct tests, investigations, five-year reviews, surveys, and, where necessary, drilling, test pitting, boring, and other similar activities. Such right shall also include the right to construct, operate, maintain, or undertake any other response action or corrective action as required or necessary, including but not limited to, monitoring wells, pumping wells, and treatment facilities. These access rights are in addition to those granted to federal, state, and local authorities under appropriate and applicable environmental regulations.

**E. Land and/or Groundwater Restrictions**

There are no groundwater or land restrictions associated with the transfer or reuse of the Subject Property. The Subject Property contains several salt ponds and any development of the property will require compliance with applicable federal, state, and local wetlands and environmental laws and regulations.

**FINDING OF SUITABILITY TO TRANSFER  
HAWK MISSILE SITE (KW-65)  
KEY WEST, FLORIDA**

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**F. Indemnification**

The federal government shall hold harmless, defend, and indemnify the NPLRA and any future successor, assignee, transferee, lender, or lessee of the Subject Property from any suit, demand, cost or liability arising out of any claim for personal injury or property damage that may result from, or be predicated upon, the release or threatened release of any hazardous substance, pollutant, contaminant, petroleum product, or petroleum derivative resulting from Department of Defense activities on the property subject to the conditions specified in and to the extent authorized by Section 330 of Public Law 102-484, as amended by Section 1002 of Public Law 103-160.

**G. Environmental Compliance Agreements/Permits/Orders**

The Navy acquired a wetlands permit to remove the contaminated sediment from the pond. This permit remains in effect. The State of Florida must be notified of the transfer within thirty days of execution of the transfer/conveyance documents.

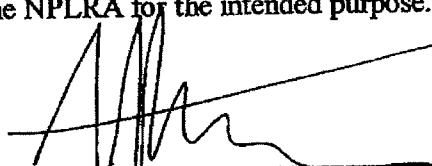
**H. Notification to Regulatory Agencies/Public**

In accordance with DoD guidance, the U.S. EPA and FDEP have been advised of the proposed transfer of the Subject Property and draft copies of the EBS and FOST have been provided to those agencies for review. The EBS, and Draft FOST were also made available for public review during a fifteen-day public comment period. All regulatory agency and public comments received were considered and incorporated as deemed appropriate. Any unresolved comments and the Navy's responses thereto are included as Attachment 2 to the FOST. Copies of all transfer documentation provided to the NPLRA will be made available to the U.S. EPA and FDEP representatives upon request after execution of the same.

**6.0 Suitability Determination**

NOW THEREFORE, based upon my review of the information contained in the attached EBS as well as the NPLRA's Reuse Plan, I have determined that the Subject Property is presently suitable for transfer to the NPLRA for the intended purpose.

6/27/00  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
T.F. BERSSON, CDR, CEC, USN  
Acting Commander  
Southern Division  
Naval Facilities Engineering Command  
North Charleston, S.C.

**ADDENDUM FOR TRANSFER  
HAWK MISSILE SITE (KW-65)  
NAVAL AIR STATION KEY WEST, FLORIDA**

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The Base Closure and Realignment Act (BRAC) of 1990, ordered the realignment of Naval Air Station Key West, Florida. Under the realignment, Hawk Missile Site (KW-65) was determined to be excess to the Department of Defense (DoD) mission. An Environmental Baseline Survey Realignment Parcels (EBS), which included KW-65, was prepared in August 1998. This Addendum updates the environmental condition of  $\pm$  43 acres of land and improvements (subject property) at Hawk Missile Site (KW-65) since August 1998 and supports the determination that the subject property is suitable for transfer to the City of Key West under the Public Benefit Conveyance through the Department of Interior for conservation and recreational use. The subject property is bordered on the south by the Key West International Airport, on the north by Flagler Canal, and on the east and west by woodlands and wetlands.

Surface soils at Hawk Missile Site (KW-65) were investigated as part of the Phase I Site Inspection (SI) under the Navy's BRAC Installation Restoration Program. Sections of the SI specific to the subject property are attached to this Addendum as Attachment 1. A copy of the SI is located in the information repository at the Key West Public Library.

Subject property was divided into 13 subzones to be investigated. Based on known information, subzones 2, 3, 8, 12, and 13 were eliminated from further consideration. Subzone 1 (Drainage Area), subzone 4 (Sewage Lift Station), subzone 5 (Generator Building I-1636), subzone 6 (Burnt Building I-6530-Former Transformer Missile Maintenance Bay), and subzone 7 (Former Transformer Storage Area) were investigated for soil contamination. Subzones 9 and 10 (Ponds) were investigated for sediment (eight sample locations) and surface water (seven sample locations) contamination, respectively. Three permanent monitoring wells were placed in subzone 11 (groundwater). Analytical results from the soil, sediment, surface water, and groundwater were compared to a residential set of action levels. Note: one of the three monitoring wells (MW04) and subzone 4 are within the boundaries of the FAA transfer and are not discussed in this Addendum. The following paragraphs summarize the findings of the SI.

Subzone 1: Inorganics such as aluminum, arsenic, barium, beryllium, chromium, copper, iron, lead, manganese, mercury, nickel, thallium, and vanadium were present in the surface soils but levels did not exceed U.S. EPA or Florida Environmental Protection Department (FDEP) action levels. Arsenic was detected in one sample at its FDEP residential goal action level of 2.7 micrograms per kilogram (mg/kg). Of the semivolatile organic compounds (SVOCs) analyzed, only one compound, dibenzo(a,h)anthracene, slightly exceeded its FDEP action level. Dibenzo(a,h)anthracene is a polynuclear aromatic hydrocarbon (PAH), which is usually associated with creosote or asphalt. The City of Key West had stored creosote-treated utility poles in this area in the early 1990s. Volatile organic compounds (VOCs) found analytes of acetone and methylene chloride but below action levels.

Subzone 5: No analytes detected exceeded U.S. EPA or Florida Environmental Protection Department (FDEP) action levels. Inorganics such as aluminum, barium, chromium, iron, lead, manganese, nickel, selenium, thallium, and vanadium were present in the surface soils. One SVOC (Bis(2-ethylhexyl)phthalate) was detected. VOCs detected include acetone, methylene chloride, tetrachloroethene, and toluene.

**ADDENDUM FOR TRANSFER  
HAWK MISSILE SITE (KW-65)  
NAVAL AIR STATION KEY WEST, FLORIDA**

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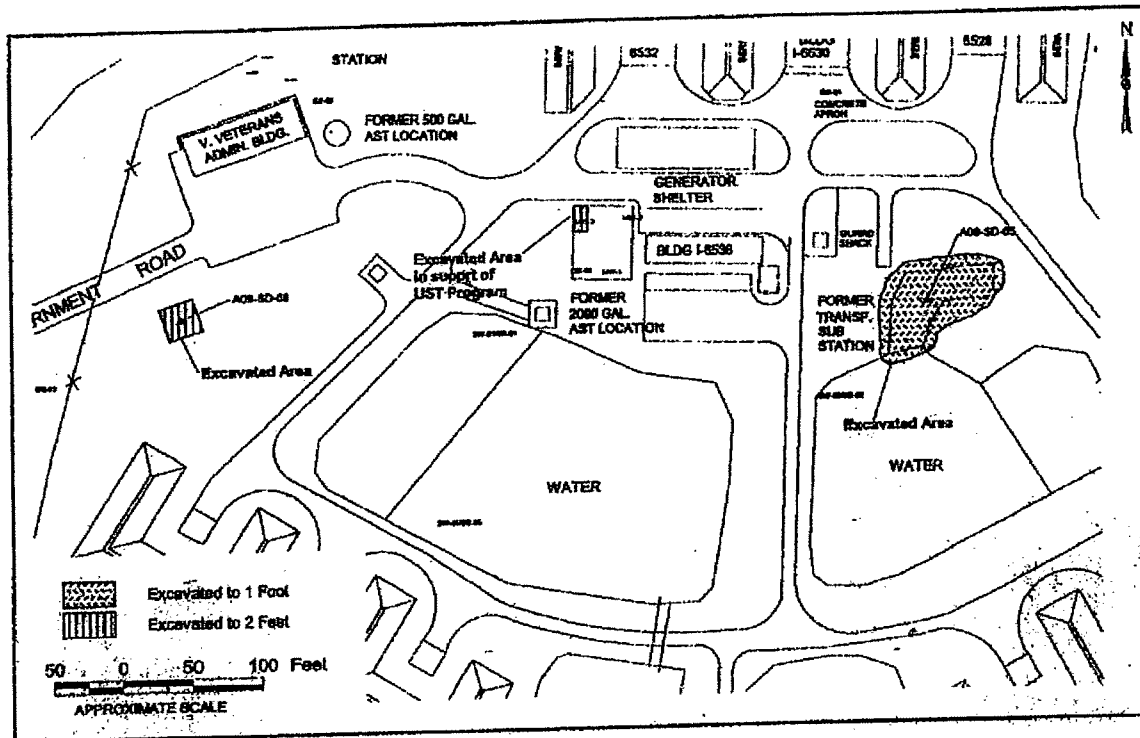
Subzone 6: Inorganics detected below their respective action levels were aluminum, barium, chromium, iron, lead, manganese, nickel, thallium, and vanadium were present in the surface soils. One SVOC (1,2,4-trichlorobenzene) and two VOCs (acetone and toluene) were detected below their action levels.

Subzone 7: Inorganics such as aluminum, barium, cadmium, chromium, copper, iron, lead, manganese, nickel, tin, vanadium, and zinc were present in the surface soils but levels did not exceed U.S. EPA or Florida Environmental Protection Department (FDEP) action levels. Thallium was detected in one sample above its screening level. As determined during the data quality objective process, the frequency of detection of thallium indicated a systematic equipment error from the lab and, therefore, the detections would not be used to drive a response action. No VOCs were detected above their action levels. One polychlorinated biphenyl (PCB)(arochlor-1260) and one SVOC (bis(2-ethylhexyl)phthalate) were detected but below action level.

Based on the information generated by the SI and the projected reuse of the property for conservation and recreation, the FDEP, EPA, and Navy reviewed the data and determined that no further remedial action was needed for subzones 1, 5, 6, and 7 soils.

Subzone 9: Figure 2-7 of Attachment 1 to this Addendum shows the locations of analytes that exceeded action levels. Eight sediment samples were taken of sediments in ponds and one stormwater collection area. Aluminum and vanadium were detected in excess of their action levels at two locations. Barium and zinc found in sample SD04 exceeded their action levels. Copper exceeded its action level only in sample SD01. Lead was detected above its action level of 34.18 mg/kg in all sampling locations. Chromium, iron, manganese, and nickel were detected but not above their actions levels. Sampling location SD05 results indicated that lead, bis(2-ethylhexyl)phthalate, butyl benzyl phthalate and 4,4'-DDE, a pesticide, were present above their action levels. 4,4'-DDE was also detected above its action levels in sample SD08. The SI estimated noncarcinogenic risks for each chemical detected in excess of its action levels. The estimates indicated that none of the exceedances of aluminum, barium, copper, vanadium, or zinc presented significant human health risks. The chemicals which exceeded their action levels in sediment did exceed ecological guidelines, but most of these were only slightly above their threshold exposure level, or were infrequently detected. Lead found at SD05 was the only exceedance to present a potential ecological risk. The location of SD05 contained more chemical analytes that exceeded the most conservative ecological guidelines than any other sample location. Based on the findings of the SI, the FDEP, EPA, and Navy decided to perform an interim removal action (IRA) in subzone 9. A Supplemental Site Inspection performed for the sites requiring further action is located in the information repository. The planned IRA at SD05 required the acquisition of a wetlands permit from FDEP and the Army Corps of Engineers. This permit is in effect and will be transferred to the City of Key West upon transfer of the subject property. The IRA performed at subzone 9, SD05, removed 1 foot of sediment from the pond and two feet of soil from around SD08 as shown below.

**ADDENDUM FOR TRANSFER  
HAWK MISSILE SITE (KW-65)  
NAVAL AIR STATION KEY WEST, FLORIDA**



After removing 93 cubic yards of soil and sediment, the excavations were resampled to confirm that the chemicals of concern were removed. The confirmatory sampling indicated that the concentrations of aluminum, lead, and vanadium were reduced below their action levels. The pesticide, 4,4'-DDE was not detected at either location after the soil/sediment removal. Clean fill was placed in the excavation at SD08 and the area was returned to grade. Based on the confirmatory sampling it was decided that the IRA had remediated the site adequately and no further remedial action was necessary.

The Navy also removed a small amount of petroleum-contaminated soil from around monitoring well MW-03 during the IRA. A 2,000 gallon diesel fuel tank inside a concrete secondary containment structure had been located near the well. The petroleum contamination was probably from tank filling operations. Confirmatory sampling indicated that all of the petroleum-contaminated soil had been removed.

Subzone 10: Samples taken from the surface waters at KW-65 indicated that iron was the only substance found exceeding its action levels in one location (SW04). Lead and iron were detected but below their screening levels. No SVOCs were detected in the surface waters. Iron did not present a significant noncarcinogenic human health risk. Iron was the only chemical that exceeded ecological guidelines. However, it did not exceed ecological guidelines for soil. It

**ADDENDUM FOR TRANSFER  
HAWK MISSILE SITE (KW-65)  
NAVAL AIR STATION KEY WEST, FLORIDA**

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appears the iron is not collecting in the sediment and no other chemical exceeded the ecological guidelines. The conclusion for subzone 10 is that no further action is necessary.

Subzone 11: Two groundwater wells (MW-05 and MW-06) were installed in the portion of KW-65 addressed by this Addendum. Barium, iron, lead, and zinc were detected in the groundwater samples taken from the two wells but neither chemical exceeded its screening values. A single VOC, vinyl chloride, was detected in excess of its screening value at MW-05 but no where else. Other VOCs (1,1-dichloroethane and 1,1-dichloroethene) were detected but below their screening values. No SVOCs were detected. Groundwater concentrations of the analytes that exceeded their screening values were compared to surface water screening values as ecological receptors are not directly exposed to groundwater and no groundwater thresholds have been developed for ecological concerns. Under this more conservative scenario, arsenic was detected in four of nine groundwater samples. The highest concentration was located at the FAA site. The highest concentration for the KW-65 parcel was 7.51  $\mu\text{g/L}$  which is below the FDEP marine surface water action level of 50  $\mu\text{g/L}$ . Vinyl chloride, detected at 8.6  $\mu\text{g/L}$ , has no EPA Region 4 or FDEP ecological screening level but the detected concentration is well below the EPA Region 3 screening level of 224,000  $\mu\text{g/L}$ . Also, vinyl chloride was not detected in any surface water or sediment sample. Therefore, the recommended action for groundwater at KW-65 is no further action.

The Navy prepared the Decision Document for Ten Base Realignment and Closure (BRAC) Sites, Naval Air Station Key West, Florida (DD), to document the decisions concerning actions taken at and further action proposed for the BRAC sites. The DD included KW-65. This document was presented to the public, FDEP, and EPA for review and comment in September 1999. Comments were received and incorporated into the document. The remedy selections noted in the Decision Document will be implemented, as necessary, through the Findings of Suitability, Land Use Controls, and deed restrictions.

As noted in the EBS, lead-based paint (LBP) may be present on any of the painted structures remaining at KW-65. The structures are not "target housing" as defined by 24 CFR 35 and 40 CFR 745 and are not proposed for reuse as target housing.

Based on the findings of the EBSL and the 1997 SI, the subject property may be classified in accordance with joint DoD/U.S. EPA guidance as 4/Dark Green (areas where a release of a hazardous substance has occurred, and all remedial actions necessary to protect human health and the environment have been taken.)

13 June 2000  
Date

Karen Snodgrass  
KAREN SNODGRASS  
Environmental Protection Specialist

EXHIBIT 1

HAZARDOUS SUBSTANCE LIST  
KW-65, KEY WEST FLORIDA

CAS NO.	CHEMICAL	REPORTABLE QUANTITY (LBS)	DATE STORED	STORAGE LOCATION	AMOUNT STORED	AMOUNT RELEASED	REMEDIAL ACTION
75-01-4	Vinyl Chloride	1	1960-1970	unknown	unknown	unknown	none
7438-92-1	Lead	10	1960-1994	unknown	unknown	unknown	excavation
72-55-9	4, 4' -DDE	1	1960-1970	unknown	unknown	unknown	excavation

MONROE COUNTY  
OFFICIAL RECORDS

## Proposed Hawk Missile Site Conservation Easement



### Legend

- Culverts or Trenches
- Conservation Easement GPS Points
- Proposed Conservation Easement

0 90 180 360 Feet



### EXHIBIT I

## GPS Points for Hawk Missile Conservation Easement (Decimal Degrees)

Point #	Latitude	Longitude
1	24.56036763150	-81.76017404110
2	24.56034340310	-81.76010674010
3	24.55967877380	-81.75973510840
4	24.55955615380	-81.75993877510
5	24.55960133920	-81.76002047730
6	24.55976964230	-81.76010126020
7	24.56004964440	-81.76033560610
8	24.56012805460	-81.76015826190
9	24.55991646840	-81.76052259060
10	24.55972334450	-81.76054136760
11	24.55981560150	-81.76033087080
12	24.55971799660	-81.76069754800
13	24.55971799660	-81.76069754800
14	24.55964807300	-81.76076003810
15	24.55948844370	-81.76074963750
16	24.55948543420	-81.76006304910
17	24.55942713800	-81.76006977570
18	24.55918105770	-81.76051420780
19	24.55948969630	-81.76092895540
20	24.55954550120	-81.76098827600
21	24.55961968960	-81.76125297100
22	24.55917109450	-81.76120543480
23	24.55901978660	-81.76125642660
24	24.55958052750	-81.76131643690
25	24.55962901260	-81.76154322730
26	24.55962631830	-81.76164938180
27	24.55951125160	-81.76178788810
28	24.55944277450	-81.76167422570
29	24.55936318640	-81.76162419870

Point #	Latitude	Longitude
30	24.55930314970	-81.76154833700
31	24.55904292650	-81.76137453330
32	24.55935865620	-81.76243109970
33	24.55925116930	-81.76243985450
34	24.55887726510	-81.76170383990
35	24.55877942510	-81.76142248800
36	24.55906691150	-81.76217921290
37	24.55875462840	-81.76163231890
38	24.55897198140	-81.76132219940
39	24.55867844970	-81.76133458290
40	24.55865144690	-81.76112679860
41	24.55866349600	-81.76044974300
42	24.55875939110	-81.76047305640
43	24.55893983960	-81.76054974700
44	24.55920096890	-81.75956115350
45	24.55912794860	-81.75949229270
46	24.55962770340	-81.76241172240
47	24.55986592950	-81.76240896220
48	24.55978083140	-81.76252187160
49	24.55968087530	-81.76253386970
50	24.55949193650	-81.76266715510
51	24.55950312240	-81.76273443690
52	24.55947612200	-81.76275527800
53	24.55945330380	-81.76270893020
54	24.55932638980	-81.76273336770
55	24.55926449230	-81.76281701070
56	24.55907258300	-81.76277804170
57	24.55912722150	-81.76261033750

## EXHIBIT II