

RESOLUTION NO. 12-076

A RESOLUTION OF THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST (LRA) AUTHORIZING THE ATTACHED SECOND AMENDMENT TO LEASE AGREEMENT ENTERED INTO WITH FLORIDA KEYS ASSISTED CARE COALITION, INC. IN RESOLUTION 08-279 AND AMENDED IN RESOLUTION NO. 09-283 FOR TRUMAN WATERFRONT PROPERTY TO EXTEND THE COMMENCEMENT DATE FOR A PERIOD OF TWELVE (12) ADDITIONAL MONTHS BY CHANGING PARAGRAPH 2.1(B) TO PROVIDE FOR A COMMENCEMENT DATE OF DECEMBER 31, 2012; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in Resolution No. 08-279 the LRA approved a Lease Agreement between the LRA and Florida Keys Assisted Care Coalition, Inc., and in Resolution No. 09-283, the LRA approved the First Amendment to Lease Agreement, extending the commencement date to December 31, 2011; and

WHEREAS, the Florida Keys Assisted Care Coalition, Inc. has advised that the planning process has taken more time than anticipated, and upon staff recommendation, the LRA finds that an additional twelve-month extension of the commencement date would benefit the citizens of Key West;

NOW THEREFORE BE IT RESOLVED BY THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY, AS FOLLOWS:

Section 1: That the Second Amendment to Lease Agreement, attached hereto, providing for a change in paragraph 2.1(b) to allow for a December 31, 2012 commencement date is 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 Authority.

Passed and adopted by the Naval Properties Local Redevelopment Authority at a meeting held this 22 day of February, 2012

Authenticated by the presiding officer and Clerk of the Authority on February 23, 2012.

Filed with the Clerk February 23, 2012.



CRAIG CATES, CHAIRMAN

ATTEST



CHERYL SMITH, CITY CLERK

SECOND AMENDMENT TO LEASE AGREEMENT

This Second Amendment to Lease Agreement is entered into this ____ day of February, 2012, by and between the Naval Properties Local Redevelopment Authority of the City of Key West (hereinafter "LANDLORD"), and Florida Keys Assisted Care Coalition, Inc., a Florida non-profit corporation (hereinafter "TENANT").

WITNESSETH

WHEREAS, LANDLORD and TENANT entered into a Lease Agreement on the 7th day of October, 2008, (the "Agreement"), pertaining to the premises located on the Truman Waterfront in Key West, Florida; and

WHEREAS, LANDLORD and TENANT entered into the First Amendment to Lease, in November, 2009, amending the Commencement Date referred to in paragraph 2.1(b) of the Agreement to reflect a date of December 31, 2011; and

WHEREAS, the LANDLORD and TENANT now desire to amend their Lease agreement to further extend the Commencement Date.

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

Section 1: That the Commencement Date of December 31, 2011 referred to in amended paragraph 2.1(b) of the Agreement is hereby amended to reflect a date of December 31, 2012.

Section 2: Except as modified herein, the Lease Agreement as amended shall remain in full force and effect.

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

THE NAVAL PROPERTIES LOCAL
REDEVELOPMENT AUTHORITY OF
THE CITY OF KEY WEST



Craig Cates, Mayor/Chairman



Cheryl Smith, City Clerk

FLORIDA KEYS ASSISTED CARE
COALITION

By: 
Co-Chair

RESOLUTION NO. 09-283

A RESOLUTION OF THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST (LRA) AUTHORIZING THE FIRST AMENDMENT TO LEASE AGREEMENT ENTERED INTO WITH FLORIDA KEYS ASSISTED CARE COALITION, INC. PURSUANT TO RESOLUTION 08-279 FOR TRUMAN WATERFRONT PROPERTY TO EXTEND THE COMMENCEMENT DATE FOR A PERIOD OF ONE YEAR BY CHANGING PARAGRAPH 2.1(B) TO PROVIDE FOR A COMMENCEMENT DATE OF DECEMBER 31, 2011; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Florida Keys Assisted Care Coalition, Inc. has advised that zoning and land use staffing has taken more time than planned.

NOW THEREFORE BE IT RESOLVED BY THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY, AS FOLLOWS:

Section 1: That the first amendment to lease agreement attached hereto providing for a change in paragraph 2.1(b) to allow for a December 31, 2011 commencement date is 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 Authority.

Passed and adopted by the Naval Properties Local Redevelopment Authority at a meeting held this 4th day of November, 2009

Authenticated by the presiding officer and Clerk of the Authority on November 5, 2009.

Filed with the Clerk November 5, 2009.



CRAIG CATES, CHAIRMAN

ATTEST



CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

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EXECUTIVE SUMMARY

TO: Mayor & City Commissioners

FROM: Jim Scholl, City Manager

DATE: October 9, 2009

RE: Authorizing the extension of resolution 08-279 extending paragraph 2.1 to change commencement date to December 31, 2011.

REASON:

Zoning and Land use staffing has taken more time than planned. A one year extension will allow sufficient time to properly complete staffing and selection of appropriate lessee.

Key to the Caribbean - Average yearly temperature 77° F.

FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment to Lease Agreement is entered into this _____ day of October, 2009, by and between The Naval Properties Local Redevelopment Authority of the City of KeyWest, (hereinafter "LANDLORD") and Florida Keys Assisted Care Coalition, Inc., a Florida non-profit corporation, (hereinafter "TENANT").

WITNESSETH

WHEREAS, LANDLORD and TENANT entered into a Lease Agreement on the 7th day of October, 2008, (the "Agreement"), pertaining to the premises located on the Truman Waterfront in Key West, Florida; and

WHEREAS, the LANDLORD and TENANT now desire to amend their Lease Agreement.

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

Section 1: That the Commencement Date of December 31, 2010 referred to in paragraph 2.1(b) of the Agreement is hereby amended to reflect a date of December 31, 2011.

Section 2: Except as modified herein, the Lease Agreement as amended shall remain in full force and effect.

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

THE NAVAL PROPERTIES LOCAL
REDEVELOPMENT AUTHORITY OF
THE CITY OF KEY WEST

ATTEST: Cheryl Smith
CITY CLERK

By: [Signature]
MAYOR/CHAIRMAN

FLORIDA KEYS ASSISTED CARE
COALITION

By: [Signature]
CO-CHAIR

RESOLUTION NO. 08-279

A RESOLUTION OF THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST, FLORIDA (LRA), IMPLEMENTING REFERENDUM APPROVAL OF A 99-YEAR LEASE OF TRUMAN WATERFRONT PROPERTY FOR AN ASSISTED LIVING AND INDEPENDENT LIVING FACILITY FOR SENIOR CITIZENS; PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST, FLORIDA AS FOLLOWS:

Section 1: A referendum of the electors of the City of Key West, Florida, authorized the LRA to enter into a 99-year lease to a qualified operator or management company, of approximately four acres of real property located at Truman Waterfront, as a mixed-income assisted living and independent living facility for senior citizens (Facility).

Section 2: City of Key West Ordinance 07-09 recites that "referendum approval may be followed by consideration and approval of a particular lease".

Section 3: Florida Keys Assisted Care Coalition, Inc., (Coalition) is a community-based non-profit corporation whose members are collectively identified in Ordinance 07-09 as "the citizens urging development of this assisted living facility". The Coalition's stated vision, "Elders aging in place in a comfortable, tropical assisted living community", and its stated Mission, "To

provide a model assisted living community in harmony with the environment and fully integrated within the surrounding community" are in conformity with the referendum approval and with the objectives of the LRA.

Section 4: That pursuant to City Code of Ordinance section 2-941, the City Commission finds that the best use of the property would be achieved without resort to the bidding process and a public benefit has been illustrated on the record to justify a below market rental rate.

Section 5: That the attached lease agreement is hereby approved.

Passed and adopted by the Naval Properties Local Redevelopment Authority at a meeting held this 7th day of October, 2008.

Authenticated by the presiding officer and clerk of the Agency on October 8, 2008.

Filed with the Clerk October 8, 2008.


MORGAN MCPHERSON, CHAIRMAN

ATTEST:


CHERYL SMITH, CITY CLERK

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into this 7th day of Oct., 2008 by and between **THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST**, as Landlord, and **FLORIDA KEYS ASSISTED CARE COALITION, INC.**, a Florida non-profit corporation, as Tenant.

WHEREAS,

1. By Referendum conducted in October, 2007 ("the Referendum", herein), THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST was authorized to lease real property of approximately four acres located on the Truman Waterfront for a period of 99 years for exclusive use as a mixed-income senior citizens assisted living and independent living facility; and
2. The Utility Board of the City of Key West has set aside a parcel of land (adjacent to the above-referenced land provided by the City of Key West) for future use as part of an assisted living facility in Truman Annex; and
3. FLORIDA KEYS ASSISTED CARE COALITION, INC., is a community-based non-profit organization whose Vision is "Elders aging in place in a comfortable, tropical assisted living community", and whose Mission is "To provide a model assisted living community in harmony with the environment and fully integrated within the surrounding community";

NOW, THEREFORE,

In consideration of the mutual covenants and agreements hereinafter set forth, and the rent reserved by Landlord to be paid by Tenant, Landlord hereby leases and demises unto Tenant, and Tenant hereby does lease from Landlord, the Premises, for the terms, and at the rentals, and upon the terms and conditions, hereinafter set forth:

I

DEFINITIONS

1.1 **Certain Defined Terms.** As used herein, the following capitalized terms shall have the following meanings (such meanings to be applicable to both the singular and the plural form of the terms defined):

"Attorney's Fees" shall mean reasonable attorney's fees and costs incurred by a party, including attorney's fees and cost for trial and appellate proceedings.

"Assisted Living Facility" shall have the meaning set forth in *Florida Statute §429.02 (2007)*.

"Assisted and Independent Living Community" shall mean a mixed-income senior citizens assisted living and independent living facility comprised of an Assisted Living Facility and independent living units.

"Commencement Date" shall have the meaning set forth in Article 2.1.

"Governmental Regulations" shall mean all laws, ordinances, and regulations now or hereafter enacted by the State of Florida, City of Key West or by the Federal government.

"Hazardous Substances" shall mean flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and petroleum products, and substances declared to be hazardous or toxic under any Governmental Regulations.

"Indemnify" shall mean to hold harmless from, and defend against, all claims, demands, actions, causes of action, losses, expenses, damages, liabilities, and Attorney's Fees arising out of or incurred in connection with an identified circumstance, incident, condition, relationship, time period, or other matter.

"Lease Year" shall have the meaning set forth in Article 2.2.

"Premises" means the real property, including all structures erected thereon subsequent to the execution of this Lease, described in Exhibit A hereto, located in Key West, Florida.

1.2 **Other Terms.** All capitalized terms used in this Lease that are not defined in this Article 1 shall have the meanings set forth elsewhere in this Lease.

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TERM

2.1 **Commencement Date.** As used herein, the "Commencement Date" shall mean the earlier of (a) the date that Tenant receives from the City of Key West approval of Tenant's sublease of the Premises to an Assisted Living Community operator, or (b) December 31, 2010.

2.2 **Lease Year.** As used herein, the term "Lease Year" shall have the following meaning: The first Lease Year shall be the period beginning on the Commencement Date and ending on the last day of the same calendar month one year later, and successive Lease Years shall be the twelve (12) month periods immediately succeeding the end of the first Lease Year.

2.3 **Term.** The term of this Lease shall commence on the Commencement Date and shall terminate on the last day of the ninety-ninth (99th) Lease Year; provided, however, that the lease will terminate for nonperformance in the event that (1) Landord determines at a duly-noticed public meeting that Tenant has failed to meet any of the performance criteria set forth below, and (2) the noncompliance remains unremedied 60 days after such determination:

- a) Submission of an application for development plan approval with the City's planning department, within 180 days after Commencement Date.
- b) Issuance of a Planning Board resolution to approve or approve with conditions the Tenant's development plan, within 180 days following submission of the application for

development plan approval.

- c) Issuance of a City Commission resolution approving or approving with conditions Tenant's development plan application, within 180 days following submission of the application for development plan approval.
- d) Submission of an application for building permit for construction of the improvements authorized to be built as Phase 1 under the approved development plan, within 120 days after the effective date of development plan approval. "Effective date of development plan approval" is the date that any appeal from or DCA challenge to development plan approval is finally determined, and if no such appeal or challenge is filed, 60 days following rendition of the Resolution granting development plan approval.
- e) Issuance of a building permit for construction of the improvements authorized to be built as Phase 1 under the approved development plan, within 120 days after the building permit application is deemed complete by the Building Official.
- f) Issuance of a certificate of occupancy for the Phase 1 improvements, within two years following issuance of the building permit.

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RENT

3.1 **Rent.** During the term of this Lease Tenant shall pay to Landlord, without demand, setoff, or deduction, except as expressly provided herein, annual rent equal to One Dollar (\$1.00), payable no later than the sixtieth day of each Lease Year. Tenant may prepay the rent.

3.2 **Taxes, Insurance and Utilities.**

3.2.1 Tenant will pay or require payment by its subtenant of all Taxes and all hazard insurance premiums due and payable during any calendar year of the term. Landlord will prorate Tenant's share of any Taxes due and payable during the calendar year in which the Lease commences or terminates on a per diem basis based on the number of days of the term within such calendar year. Buildings constructed on the Premises shall be insured against damage by fire, windstorm, flood, and other hazards.

3.2.2 Tenant will be responsible for payment of all Utilities consumed on or charged to the Premises during the term of this Lease. The term "Utilities" shall include electricity, water, sewer, solid waste, telephone and other utility charges. Tenant will require its subtenant to open accounts in the subtenant's name for all Utilities.

3.2.3 The term "Taxes" shall mean any real estate taxes or assessments attributable to the Premises. Landlord shall deliver to Tenant any real estate tax bill or assessment upon receipt thereof. Taxes shall be paid by Tenant on or prior to due date.

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USE

4.1 **Use.** The Premises shall be used as an Assisted and Independent Living Community as specified in the Referendum, including uses incidental or accessory thereto (which uses may include, without limitation, food service, recreation, and respite care). Tenant and its subtenant shall comply with all Governmental Regulations pertaining to use of the Premises.

4.2 **Nuisances.** Tenant and its subtenant shall not make, suffer, or permit any unlawful, improper, or offensive use of the Premises, or any part thereof, or permit any nuisance thereon. Tenant shall not permit rubbish, refuse, or garbage to accumulate, or any fire or health hazard to exist, upon or about the Premises. Tenant shall not suffer or permit any waste or mistreatment of the Premises.

4.3 **Utility lines.** Tenant shall erect no buildings or other structures directly above the existing subterranean utility lines located under the Westerly extension of Angela St. Should either the existing City sewer or Navy water line running through the Premises sustain damage resulting from construction activities on, or use of, the Premises, Tenant shall promptly repair such damage at its expense.

4.4 **Nondiscrimination.** No person or firm shall be excluded from participation in, denied the benefits of, or otherwise discriminated against in conjunction with the awarding and performance by Tenant or its subtenant of any procurement, nor in the provision of housing on the Premises, on the basis of race, color, religion, national origin, age, sex, disability, sexual orientation, or marital status.

4.5 **Public entity conviction.** No person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may, for a period of thirty-six (36) months from the date of being placed on the convicted vendor list, submit a bid on, or be awarded a contract to perform, any of the following: provision of any goods or services to Tenant or its subtenant, the construction or repair of a building or work on the Premises, or work on the Premises as a contractor, supplier, subcontractor, or consultant in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO. Should the statutory bar against convicted vendors be amended during the term of this Lease, this paragraph shall be deemed amended to be consistent therewith, as of the effective date of such statutory amendment.

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SURRENDER OF PREMISES

Tenant shall, upon expiration of the term hereof, or any earlier termination of this Lease for any cause, surrender to Landlord the Premises, including, without limitation, all alterations, improvements, and other additions thereto that have been made or installed by either party in or upon the Premises, in good and clean condition and repair, ordinary wear and tear and casualty damage, if any, excepted.

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QUIET ENJOYMENT

Landlord covenants that so long as Tenant pays the rent reserved in this Lease and performs its agreements hereunder, Tenant shall have the right to quietly enjoy and use the Premises for the term of this Lease, subject to the provisions hereof. Landlord represents and warrants to, and covenants with, Tenant that Landlord owns fee simple title to the Premises and that the Premises shall be free from any and all liens, claims, and encumbrances that materially interfere with Tenant's intended use and enjoyment of the Premises.

ASSIGNMENT AND SUBLEASING

Except as provided in this Article 7, Tenant shall not assign this Lease or any right hereunder, without first obtaining the express prior written consent of Landlord, which may be withheld for any reason. Tenant shall not sublet all or any part of the Premises without first obtaining the express prior written consent of Landlord. Landlord's consent to subleasing may be conditioned on Landlord's reasonable approval of the subtenant's proposed plan for construction and operation of an Adult Living Community on the Premises, and such consent may be withheld in Landlord's sole judgment.

The consent by Landlord to any assignment or sublease shall not constitute a waiver of the necessity for such consent to any subsequent assignment or sublease.

MAINTENANCE AND REPAIR

Tenant shall be responsible, at Tenant's sole expense, to maintain the Premises in good order and to keep all buildings constructed on the Premises during the term of the Lease in good repair. At the conclusion of the lease term, whether by natural expiration or termination, any improvements to the premises shall become the property of the Landlord, or shall be removed by the Tenant at Tenant expense, at the sole discretion of the Landlord.

SIGNAGE

Tenant and its subtenant shall be entitled to place signage on the Premises in connection with, and appropriate to, the permitted use of the Premises. All signage shall comply with the regulatory requirements of the City of Key West, including without limitation HARC regulations.

LIENS

Tenant shall make full and prompt payment of all sums necessary to pay for the cost of all improvements or other work done by Tenant to the Premises. Tenant shall indemnify Landlord against all such costs and liabilities incurred by Tenant, and against all construction liens arising out of any such work, which may be asserted, claimed, or charged against Landlord, the Premises, or the Building. Notwithstanding anything to the contrary in this Lease, the interest of Landlord in the Premises shall not be subject to liens for improvements made by or for Tenant, whether or not the same shall be made or done in accordance with this Lease, a sublease, or other agreement between Landlord and Tenant or its subtenant. In no event shall Landlord or the interest of Landlord in the Premises be liable for, or subjected to, any liens under the Florida Construction Lien Law for improvements or work made by or for Tenant or its subtenant. In the event any notice or claim of lien shall be asserted of record against the interest of Landlord in the Premises on account of any improvement or work done by or for Tenant or any person claiming by, through, or under Tenant, or the cost of which is the responsibility of Tenant, Tenant shall have such notice or claim of lien canceled and discharged of record as a claim against the interest of Landlord in the Premises (either by

payment and satisfaction or by removal by transfer to bond or deposit as permitted by law) within ninety (90) days after notice to Tenant by Landlord.

11 INSURANCE

11.1 **Tenant's Insurance Obligations.** Tenant shall obtain or require its subtenant to obtain, no later than the Commencement Date, and shall maintain in force throughout the term hereof, either by "blanket" policy or separate policies, the types of insurance coverage specified in sub-paragraphs 11.1.1-11.1.3. Neither this requirement, nor the obtaining of insurance as provided herein, shall be deemed a waiver of sovereign immunity of or by the City of Key West.

11.1.1 **Liability Insurance.**

Comprehensive public liability insurance covering claims for personal injury, death, and property damage arising out of Tenant's or subtenant's use or occupation of the Premises, having a combined single limit of liability of not less than \$1,000,000 arising out of any one occurrence and a limit of liability of not less than \$500,000 for property damage.

11.1.2 **Workers' Compensation.** Workers' compensation insurance for the benefit of all employees entering upon the Premises as a result of or in connection with their employment by Tenant or its subtenant.

11.1.3 **Hazard Insurance.** Insurance against damage by fire, wind, storm, and flood, insuring all buildings subsequently erected on the Premises, in such amounts as Tenant deems appropriate in the reasonable exercise of its discretion.

11.2 **Minimum Requirements.** All insurance policies required hereunder shall be issued by companies licensed and registered to operate in the State of Florida. Tenant shall provide Landlord with copies of the policies or certificates evidencing that the required insurance is in full force and effect and stating the terms thereof. All insurance policies shall name Landlord and Tenant as insureds. Nothing herein is intended to waive the sovereign immunity accorded to Landlord pursuant to Florida Statutes, including Section 768.28.

12 CASUALTY

If any building located on the Premises (a "Building") is damaged by fire or other casualty, then not later than ninety (90) days after the casualty occurs, Tenant or its subtenant shall commence the repair and restoration of the Building to substantially the condition thereof immediately prior to such damage, and shall thereafter use reasonably diligent efforts to complete such repair and restoration, in no event later than twelve months after the casualty event, subject to extension for force majeure events.

INDEMNIFICATION

Landlord shall not be liable for injury or damage caused to any person or property by reason of the failure of Tenant or its subtenant to perform any of its covenants or agreements hereunder. Tenant shall Indemnify Landlord against all loss, damage, claim, demand, liability or expense by reason of any damage or injury to persons (including loss of life) or property that may arise or be claimed to have arisen as a result of, in connection with, or in any way related to the occupancy or use of the Premises by Tenant or its subtenant, whether or not occurring or resulting in damage or injury within the Premises, but except to the extent caused by the acts, omissions, negligence, recklessness, or willful misconduct of Landlord or any of Landlord's employees or agents. Nothing herein is intended to waive the sovereign immunity accorded to Landlord pursuant to Florida Statutes, including Section 768.28.

ENVIRONMENTAL MATTERS

14.1 **Landlord's Disclosure.** Landlord has disclosed to Tenant, and Tenant acknowledges, that the Premises were previously part of a military base on which Hazardous Substances were kept and used. As between Landlord and Tenant, Tenant shall be responsible for any Hazardous Substances removal or remediation that may be required by any Governmental Regulation..

14.2 **Tenant's Restrictions.** Tenant shall not cause or permit to occur any of the following:

14.2.1 Any violation of Governmental Regulations related to environmental conditions on, under, or about the Premises or arising from Tenant's use or occupancy of the Premises, including, but not limited to, soil and ground water conditions.

14.2.2 The use, generation, release, manufacture, refining, production, processing, storage, or disposal of any Hazardous Substances on, under, or about the Premises or the transportation to or from the Premises of any Hazardous Substances.

DEFAULT

15.1 **Event of Default.** The occurrence of any of the following events, acts, or circumstances shall constitute an "Event of Default":

15.1.1 Failure by Tenant to make any payment required hereunder when due, if such failure remains uncured thirty (30) days after written notice from Landlord.

15.1.2 Failure by Tenant or its subtenant to observe, perform, or comply with any of the terms, covenants, agreements, or conditions contained in this Lease (other than as specified in Article 15.1.1 and 15.1.8), and the continuance of such failure for sixty (60) days after Landlord has given Tenant written notice of such failure. If Tenant has

promptly commenced and diligently pursued remedial action within such 60-day period but has been unable to cure its default prior to the expiration thereof, such 60-day period shall be extended for a period reasonably required for the completion of Tenant's remedial action, provided Tenant continues to diligently pursue such remedial action, but in no case greater than an additional 90 days, unless approved by vote of the City Commission at a properly notice meeting.

15.1.3 The bankruptcy of, or appointment of a receiver or trustee for, Tenant.

15.1.4 Tenant's voluntarily petitioning for relief under, or otherwise seeking the benefit of, any bankruptcy, reorganization, or insolvency law.

15.1.5 The sale or relinquishment of Tenant's interest under this Lease by execution or other legal process.

15.1.6 Tenant's making an assignment of a material portion of its assets for the benefit of creditors.

15.1.7 Tenant's dissolution or liquidation.

15.1.8 Failure to operate an Assisted and Independent Living Community on the Premises. "Failure to operate" includes, without limitation, loss of any required State licensure for operation of an Assisted Living Facility, or failure to use the facility as an Assisted and Independent Living Community. If such failure to operate is not cured within thirty (30) days of a notice of default, this agreement shall be terminated and subject to the remedies specified herein.

15.2 **Remedies.** Upon the occurrence of an Event of Default, Tenant shall become a tenant at sufferance, and Landlord, at its option and at any time thereafter, may enter upon and take possession of the Premises, or may treat this Lease as remaining in existence, curing Tenant's default by performing or paying the obligation which Tenant has breached, whereupon all sums paid or expenses incurred by Landlord directly or indirectly in curing Tenant's default shall become immediately due and payable.

15.3 **Nonexclusive Remedies.** The remedies for which provision is made in this Article 15 shall not be exclusive, and in addition thereto, Landlord may pursue such other remedies as are provided by law upon the occurrence of an Event of Default. In any event, and irrespective of any option exercised by Landlord, Tenant shall pay to Landlord all costs and expenses incurred by Landlord, including Attorney's Fees, in connection with collection of rent or damages or enforcing other rights of Landlord under this Article 15, whether or not Landlord elects to terminate this Lease by reason of such Event of Default.

15.4 **Interest.** Any sums due under this Lease from Tenant to Landlord and not paid on the date due shall bear interest from the date due at twelve percent (12%) per annum until fully paid.

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WAIVER; ACCORD AND SATISFACTION

The failure of a party to insist, in any one or more instances, upon strict performance of any covenants or agreements of this Lease, or to exercise any option of such party herein contained, shall not be construed as a waiver or relinquishment of that or any right or remedy of such party hereunder and shall not be deemed a waiver of any subsequent breach or default by the other party of the covenants or conditions herein. Receipt of rent by Landlord, with knowledge of the breach of any covenant or agreement

hereof, shall not be deemed a waiver of such breach. No waiver by a party of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such party. With respect to Landlord, such written expression of waiver may only occur by resolution of the Key West City Commission or Naval Properties Local Redevelopment Authority of the City of Key West.

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NOTICES

All notices, requests, demands, and other communications which are required or may be given under this Agreement shall be in writing and shall be served on the parties at the addresses indicated below:

To Tenant: Florida Keys Assisted Care Coalition, Inc.
201 Front St.
Key West, FL 33040

To Landlord: City Manager
City Hall
Key West, FL 333040

Any such notices shall be (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the U.S. Mail, (b) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one business day after deposit with such courier, (c) sent by telephone facsimile transmission, in which case notice shall be deemed delivered on the day of transmission of such notice and confirmation of such transmission, or (d) sent by personal delivery, in which case notice shall be deemed delivered on the day of actual delivery. The above addresses may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice.

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ATTORNEY'S FEES

In the event of litigation affecting the rights of either party under this Lease, the losing party shall pay the prevailing party's costs, expenses, and Attorney's Fees incurred in the enforcement of the prevailing party's rights hereunder.

19
MISCELLANEOUS

19.1 **Entire Agreement.** This Lease and the exhibits attached hereto constitute the sole and exclusive agreement between the parties with respect to the Premises. No

amendment, modification, or revision of this Lease shall be effective unless in writing and executed by Landlord and Tenant.

19.2 **Severability.** If any term or provision of this Lease or the application thereof to any present or future circumstances, to any extent, be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Lease shall be in full force and effect, and only the provision found to be unenforceable shall be stricken from the terms hereof.

19.3 **Force Majeure.** Should a party be unable to perform any of its obligations contained in this Lease due to circumstances beyond its reasonable control, including but not limited to labor disputes; Governmental Regulations; fire or other casualty; acts of the other party or the other party's employees, agents, contractors, subcontractors, or invitees; inability to obtain material or services; strikes; or acts of nature, such party shall not be considered in default under the terms of this Lease, the time for performance by such party of the obligation shall be extended for a period of time equal to the length of the delay caused by such circumstances, and the other party shall not be excused from the obligation to pay all amounts and charges required under this Lease as the same become due except as otherwise expressly provided herein.

19.4 **Governing Law.** This Lease shall be construed according to Florida law and venue for any action relating to the terms and conditions of this Lease Agreement shall be in the Circuit Court in and for Monroe County.

19.5 **Binding Effect.** The terms and conditions of this Lease are binding upon the heirs, successors, and assigns of the parties hereto. The obligations of Tenant hereunder shall be joint and several.

19.6 **Usage.** Whenever used herein, the singular number shall include the plural and the plural the singular, and the use of any gender shall include all genders. Titles of articles, paragraphs, and subparagraphs of this Lease are for convenience only and neither limit nor amplify the provisions of this Lease.

19.7 **No Third Party Rights.** The provisions of this Lease are for the exclusive benefit of Landlord and Tenant, and except for rights expressly granted to third parties by the terms hereof, no third party shall have any right or claim against Landlord or Tenant by reason of such provisions or be entitled to enforce any of such provisions against Landlord or Tenant.


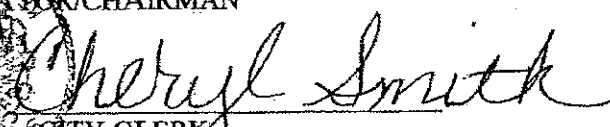
19.8 **Consents and Approvals.** Except as provided in paragraph 7, whenever the Lease requires Landlord's consent or approval, Landlord will not withhold its approval or consent in bad faith, and Landlord will not unreasonably delay its response to Tenant's request for approval or consent. Landlord will be deemed to have given its consent or approval to any such request made by Tenant if Landlord does not respond to Tenant in writing within thirty (30) days (or such other time period as is expressly provided herein) after Landlord's receipt of such request. If Landlord withholds its consent or approval to any such Tenant request, Landlord shall give Tenant a written statement setting forth the basis for withholding its consent or approval. In the event Tenant shall request the consent, review, or approval of Landlord under this Lease, Tenant shall not be charged any fee for any such required consent, review, or approval, except for uniform fees

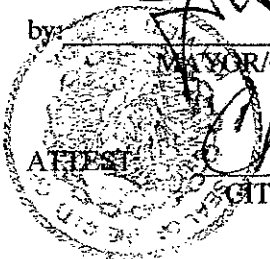
charged by the City of Key West in connection with the review and issuance of development orders.

19.9 U.S. Navy Consent. This Lease is expressly contingent upon issuance of any consent by the U. S. Navy that may be required under the terms of the instrument of conveyance from the U.S. Navy, as grantor of the subject property, to the City of Key West. Landlord shall promptly provide the U.S. Navy a copy of the Lease, together with a request for any required consent thereto.

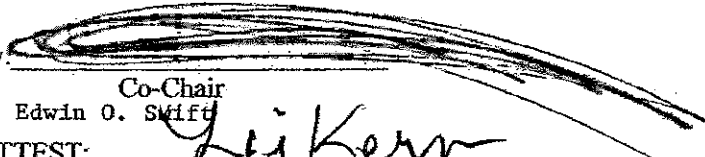
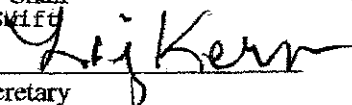
IN WITNESS WHEREOF, the parties have executed this Lease on the day and year first above mentioned.

THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST

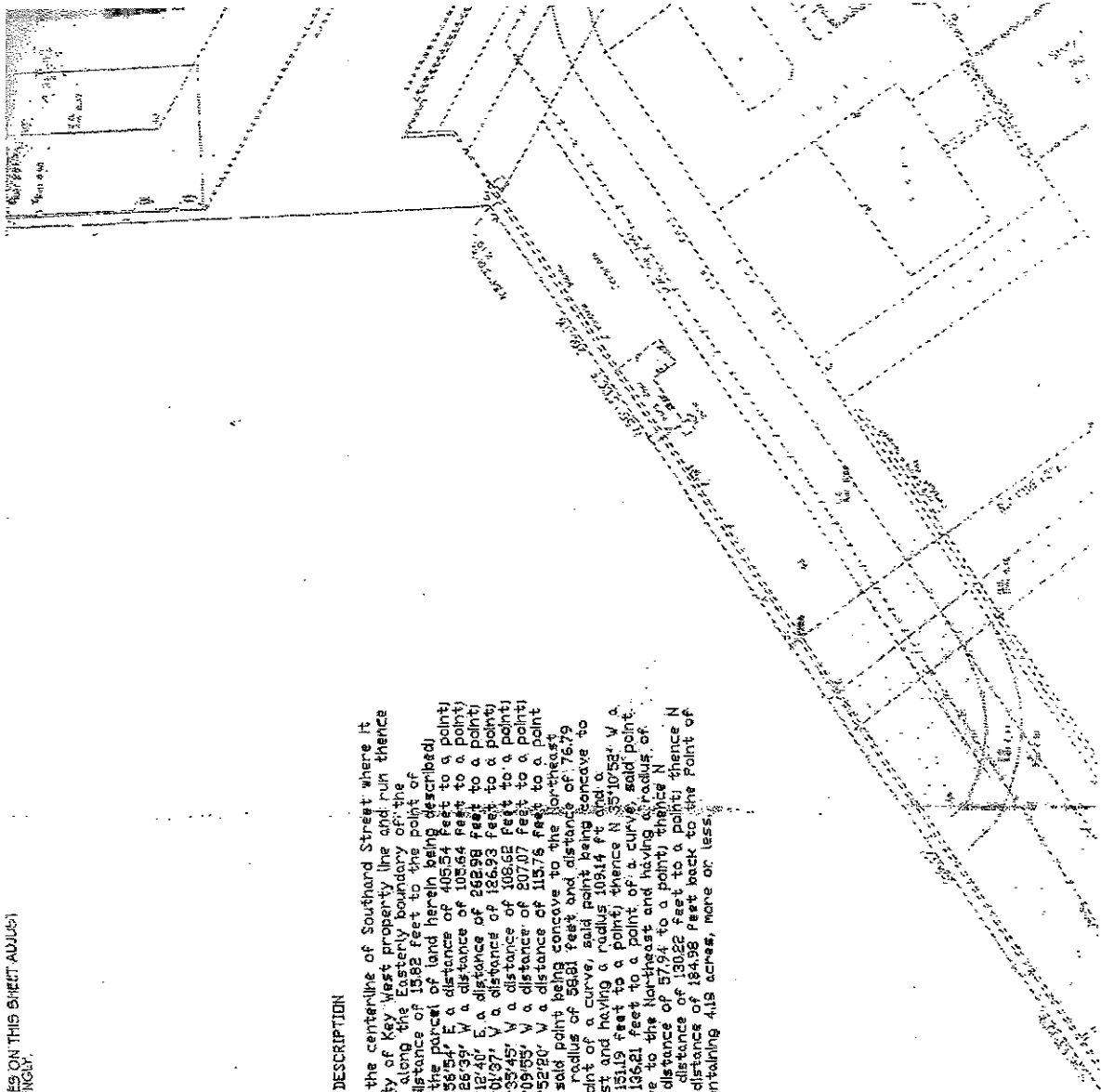
by: 
MAYOR/CHAIRMAN
ATTEST: 
CITY CLERK



FLORIDA KEYS ASSISTED CARE COALITION, INC

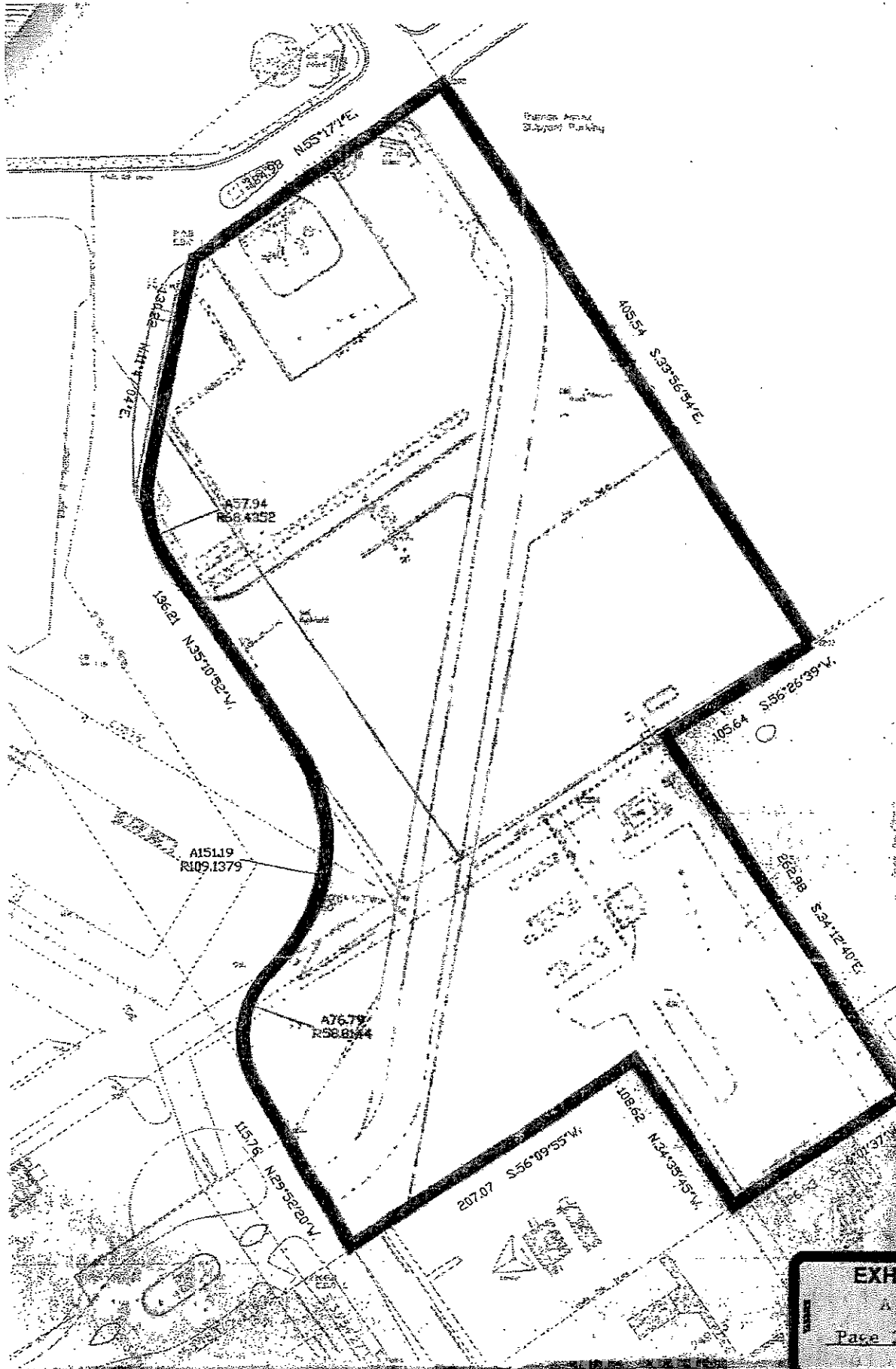
by: 
Co-Chair
Edwin O. Swift
ATTEST: 
Secretary
Liz Kern

IF NOT TWO INCHES ON THIS SHEET ADJUST
SCALES ACCORDINGLY.



DRAFT LEGAL DESCRIPTION

Commence at the centerline of Southard Street where it meets the City of Key West property line and run thence S 33°19'39" E a distance of 1368 feet to the point of Beginning of the parcel of land herein being described; thence S 33°58'54" E a distance of 40524 feet to a point; thence S 56°26'39" W a distance of 10264 feet to a point; thence S 34°12'40" E a distance of 26298 feet to a point; thence S 56°01'37" W a distance of 12693 feet to a point; thence N 34°35'45" W a distance of 308.62 feet to a point; thence S 56°09'55" W a distance of 207.07 feet to a point; thence N 29°52'20" W a distance of 115.75 feet to a point of a curve, said point being concave to the Northeast and having a radius of 5681 feet and distance of 76.79 feet to a point of a curve, said point being concave to the Northeast and having a radius of 10914 feet and a distance of 13119 feet to a point; thence N 35°10'55" W a distance of 13621 feet to a point of a curve, said point being concave to the Northeast and having a radius of 58714 feet and a distance of 57.94 feet to a point; thence N 33°17'14" E a distance of 13498 feet back to the Point of Beginning, containing 4.15 acres, more or less.



Transfer Area
 Subject Property

EXHIBIT
 A
 Page 2 of 2