

**CITY OF MARATHON, FLORIDA
RESOLUTION 2008-78**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, DIRECTING AND AUTHORIZING THE ACQUISITION BY THE CITY OF MARATHON OF THE REAL AND PERSONAL PROPERTY COMPRISING THE LITTLE VENICE WASTEWATER UTILITY FACILITIES OWNED BY THE FLORIDA KEYS AQUEDUCT AUTHORITY; PROVIDING FOR FINDINGS OF A PUBLIC PURPOSE; PROVIDING THAT THE ACQUISITION OF THE LITTLE VENICE WASTEWATER UTILITY OWNED BY THE FLORIDA KEYS AQUEDUCT AUTHORITY AND THE OPERATION AND MANAGEMENT OF SUCH UTILITY BY THE CITY OF MARATHON, FLORIDA ARE IN THE PUBLIC INTEREST IN CONFORMANCE WITH SECTION 180.301, FLORIDA STATUTES; AND PROVIDING FOR APPLICABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Florida Keys Aqueduct Authority, a political sub-division of the State of Florida (the "Authority"), is the sole provider of potable water for all of the residents of the Florida Keys and presently serves over 45,000 customers within Monroe County; and

WHEREAS, in 1998 and 2002, the Authority's enabling legislation was amended to redefine the primary purpose of the Authority to include collecting, treating and disposing of wastewater in certain areas of the Florida Keys. The Authority's amended enabling legislation excluded all cities located in Monroe County from the Authority's wastewater jurisdiction. The City of Marathon was not incorporated until after the Authority's enabling legislation was amended; and

WHEREAS, the City of Marathon, Florida (the "City") was created by legislation adopted by the Florida Legislature in 1999 and was granted therein similar powers, duties and responsibilities as other municipalities in the State which includes the power to collect, treat and dispose of wastewater within the City of Marathon; and

WHEREAS, the Authority, pursuant to its legislative mandate and consistent with the Monroe County Sanitary Wastewater Master Plan, designed and built the Little Venice Wastewater Utility ("the Utility"), which is located within the boundaries of the City of Marathon. The Utility began operation in 2004; and

WHEREAS, on April 12, 2005, pursuant to Resolution 2005-091, the City Council requested the Authority to relinquish the wastewater utility functions and responsibilities currently being performed by the Authority within the City's corporate limits in order that the City could plan, design, construct, own and operate a wastewater system within its city limits, as is common in many other municipalities; and

WHEREAS, on October 25, 2005 the Authority and the City entered into an Interlocal Agreement wherein the Authority granted the City the authority to exercise exclusive ownership and control over the administration, maintenance, development and provision of wastewater system services within the City of Marathon, Florida, with the sole exception being the area served by the "Little Venice" wastewater project. The parties further agreed to continue negotiations to transfer the Little Venice wastewater project to the City; and

WHEREAS, the City has developed a master wastewater plan for the City of Marathon and is in the process of designing and constructing the various components of the wastewater system. The acquisition of the Little Venice Utility by the City is a part of the City's master wastewater plan as this facility will be utilized as a part of the larger wastewater system for the City of Marathon; and

WHEREAS, the Transfer Agreement, attached hereto as Exhibit A, effectively provides the City with a City-owned wastewater utility system throughout the City limits of Marathon thereby allowing the residents of the City to be served by one wastewater system rather than having part of the City served by the Authority and part by the City. The ownership and operation of a Marathon wide wastewater system by one local government entity will provide for uniform service to the residents of Marathon; and

WHEREAS, the approach outlined in the Transfer Agreement for the delivery of wastewater services and facilities to residents of Marathon will allow the City to (a) provide for the coordinated, comprehensive and environmentally sensitive supply, distribution and treatment and disposal of wastewater; (b) seek future economies of scale resulting from the unified and coordinated provision of utility services by a single local government; (c) ensure that current and future users of wastewater facilities and services within the City of Marathon maintain reasonable rate structures imposed by a single local government; (d) ensure that the operation and maintenance of wastewater facilities is done in an accountable and environmentally responsible manner; (e) implement elements of uniformity and conservation into resulting rates thereby stabilizing and providing uniformity of wastewater utility rates over the long term; and (f) assure the appropriate expansion and interconnection of existing facilities and the construction of future facilities in a coordinated and uniform manner; and

WHEREAS, the proposed Transfer Agreement between the Authority and the City provides a real and positive opportunity for the Authority and the City to provide affected landowners and ratepayers served by the Utility public ownership in a single local government entity.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby authorizes and approves the acquisition by the City of Marathon of the real and personal property comprising the Little Venice Wastewater Utility owned by the Florida Keys Aqueduct Authority, as provided in the Transfer Agreement attached hereto as Exhibit A.

Section 3. The Transfer Agreement between the City of Marathon and the Florida Keys Aqueduct Authority, a copy of which is attached as Exhibit "A", together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is hereby approved. The City Manager is hereby authorized to execute the Transfer Agreement on behalf of the City.

Section 4. In addition to comments received at this public hearing set to consider the acquisition of the Utility by the City of Marathon in conformance with Section 180.301, Florida Statutes, the City Council has considered the following:


- (1) The most recently available income and expense statement relating to the Utility;
 - (2) The most recently available balance sheet for the Utility listing the assets and liabilities and showing the amount of contributions-in-aid-of construction and the accumulated depreciation thereon;
 - (3) A statement of the existing rate base of the Utility for regulatory purposes;
 - (4) The physical condition of the Utility;
 - (5) The reasonableness of the consideration and the terms of the acquisition of the Utility;
 - (6) The impacts of the contemplated acquisition on utility customers, both positive and negative;
 - (7) Any additional investment required and the ability and willingness of the City to make that investment;
 - (8) The alternatives to the contemplated Transfer Agreement and the potential impact on utility customers if the Utility is not acquired by the City as contemplated by the Transfer Agreement;
 - (9) The ability of the City to provide and maintain high quality and cost effective utility service;
- and

(10) A memorandum prepared by the City Manager reflecting: (i) that the transfer of the Utility by the Authority to the City pursuant to the Transfer Agreement and the subsequent operation and management by the City is in the public interest, including a summary of the experience in utility operation which will be employed by the City; and (ii) that the City has the financial ability to provide, now and in the future, high quality and cost effective wastewater utility services.

Section 5. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Marathon, Florida, this 27th day of May, 2008.


THE CITY OF MARATHON, FLORIDA



Edward P. Worthington, Mayor

AYES: Bull, Cinque, Tempest, Vasil, Worthington
NOES: None
ABSENT: None
ABSTAIN: None

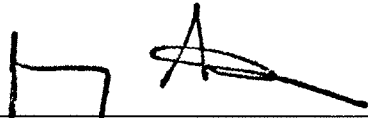
ATTEST:



Diane Clavier
City Clerk

(City Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:



City Attorney

LITTLE VENICE TRANSFER AGREEMENT

By and between

FLORIDA KEYS AQUEDUCT AUTHORITY

and

THE CITY OF MARATHON

DATED AS OF June 12, 2008

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INTERLOCAL AGREEMENT

THIS LITTLE VENICE TRANSFER AGREEMENT is made and entered into as of the 12 day of JUNE 2008, by and between the **FLORIDA KEYS AQUEDUCT AUTHORITY**, an Independent Special District ("FKAA"), and the **CITY OF MARATHON**, a Florida Municipal Corporation (the "CITY").

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration each to the other, receipt of which is hereby acknowledged by each party, FKAA and CITY hereby agree, stipulate and covenant as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. As used in this Agreement, the following terms shall have the meanings as defined unless the context requires otherwise:

"Accounts Receivable" - (i) all customer accounts receivable and other rights to payment from customers of FKAA within the System; (ii) all other accounts or notes receivable of FKAA from customers within the System and the full benefit of all security for such accounts or notes; and (iii) any claim, remedy or other right related to any of the foregoing.

"Acquisition Cost" means the Little Venice Wastewater System Debt Defeasance Amount, less any credits pursuant to Section 3.01(F) hereof; provided, however, that the Acquisition Cost shall expressly not include charges, prorations, credits or any similar adjustments for fees, costs, compensation, liquidated damages, demobilization charges or other charges from any vendor for any services which are not actually provided, rendered or otherwise

provide real and substantial value to the customers of the Little Venice Wastewater System on or before the Little Venice Transfer Date.

"Agreement" means this Little Venice Transfer Agreement between FKAA and CITY, including any amendments and supplements hereto executed and delivered in accordance with the terms hereof.

"City" means the City of Marathon, Florida, a Florida Municipal Corporation, created by Special Legislation, Chapter 99-427 Laws of Florida.

"Debt Obligations" means any series of bonds, notes or other evidence of indebtedness issued or incurred by any party hereto, in accrued interest thereon.

"FKAA" means the Florida Keys Aqueduct Authority, an independent Special District created by Special Legislation, Chapter 76-441, Laws of Florida as amended.

"Little Venice Wastewater System" or "System" means the sewer system in the City of Marathon, Florida owned by the FKAA solely to provide wastewater utility service in the City including without limitation the wastewater collection, transmission and treatment disposal owned by the FKAA located in the City of Marathon.

"Little Venice Wastewater System Debt Defeasance Amount" means the amount required to redeem, defease or otherwise pay in full any Debt Obligations of the FKAA issued to finance, or which are secured by the pledge of any revenues from, the Little Venice Wastewater System owned by the FKAA. Such amount shall include the reasonable and necessary costs, fees and expenses incurred by the FKAA in connection with the redemption, defeasance or payment of any such Debt Obligations, including, but not limited to (1) fees and disbursements of the FKAA's bond counsel, (2) fees and disbursements of the FKAA's financial advisor, and (3) any other costs of a similar nature reasonably incurred.

"Little Venice Transfer Date" means the date on which FKAA and the City anticipate closing on the conveyance and transfer of the Little Venice Wastewater System to CITY pursuant to this Agreement.

"Overlap Period" means a period of thirty (30) calendar days prior to the Little Venice Transfer Date during which the City's Operations Staff will be afforded the opportunity to observe the FKAA operations staff during routine and non-routine operation of the Wastewater Utility System.

"Plant" means the wastewater treatment plant located at Highway US 1 and 106th Street (Marathon Airport) in the City of Marathon, Florida, which is owned by FKAA and forms part of the System.

"Pre-Paid Assessments" means any assessments or other capital charges paid by Customers to FKAA in connection with the System which are unused and remain in reserve or other accounts of the FKAA.

"Repair and Replacement Reserve" means any funds held in reserve account(s) by the FKAA for purposes of repairs and/or replacement of the infrastructure of the System.

"Transition Project" means any one or more construction projects relating to the Little Venice Wastewater System under contract, including any contract funded by Debt Obligations of the FKAA, and which are not reasonably expected to be completed on the Little Venice Transfer Date.

"Unbilled Customer Revenue" - revenue for services provided to customers of the System prior to Closing that have not yet been billed as of the Closing Date, calculated on a basis consistent with The FKAA's current billing practices.

"**Utility Assets**" means those assets, business properties, and rights both tangible and intangible, that the FKAA owns or uses in conjunction with the operation of the Little Venice Wastewater System, or which during the term of this Agreement may become available to FKAA, or any ownership interest which FKAA has or hereafter acquires, relating thereto, including the following:

(1) All real property and interests, whether recorded in the public records or not, in real property owned, used or controlled in conjunction with the operation of the Little Venice Wastewater System by the FKAA.

(2) All wastewater treatment plants, wells, collection, transmission, distribution, pumping, effluent and disposal facilities of every kind and description whatsoever including without limitation, all trade fixtures, leasehold improvements, lift stations, pumps, generators, controls, tanks, distribution, collection or transmission pipes or facilities, valves, meters, service connections, and all other physical facilities and property installations used in the operation of the Little Venice Wastewater System, together with an assignment of all existing and assignable third party warranties that relate to completed or in progress construction.

(3) All equipment, inventory, tools, parts, and other personal property owned or used by the FKAA predominantly in connection with the operation of the Little Venice Wastewater System.

(4) All Easements in favor of the FKAA or its predecessors in interest to the Little Venice Wastewater System.

(5) All current customer records and supplier lists, as-built surveys and wastewater plans, plats, engineering and other drawings, designs, blueprints, plans and specifications, maintenance and operating manuals, engineering reports, calculations, computer

models and studies, accounting, budget and business records and all other information controlled by or in the possession of the FKAA that relates to the description and operation of the Little Venice Wastewater System, inclusive of all pertinent computer records and the lawful use of all computer software which is or was used in the operation of the Little Venice Wastewater System for billing or customer record keeping purposes, including but not limited to the lawful use of any licensed software or proprietary software developed for the FKAA during any transition. The parties hereto acknowledge that by separate Interlocal Agreement the FKAA will continue to do the billing for the City.

(6) All necessary regulatory authority or approvals subject to all conditions, limitations or restrictions contained therein; all existing permits and other governmental authorizations and approvals of any kind necessary to operate or provide wastewater utility service or construct, operate, expand, and maintain the Little Venice Wastewater System according to all governmental requirements.

(7) The following Records: (i) all information required by the Florida Department of Environmental Protection ("FDEP") to be maintained related to the System and Assets; (ii) all information provided through the due diligence process; (iii) engineering project files; (iv) electronic map files; (v) plans, design reports and specifications for engineering projects, construction progress, inspection and testing reports, and signed, sealed record drawings; (vi) environmental files, including reports of spills, effluent violations, equipment failures and other abnormal occurrences; (vii) developer files; (viii) daily operations logs, Discharge Monitoring Reports, annual sludge reports, monitoring well reports and all other reports related to system operations; (ix) operations files; (x) any consents, permits, or administrative orders, including any correspondence or official comments regarding such

consents, permits or orders; (xi) service and warranty records; (xii) equipment logs, preventive maintenance logs, operating guides, and manuals located at each plant; (xiii) database of customer accounts; (xiv) updated fixed asset list not warranted for accuracy (previously provided in due diligence); (xv) copies of the general ledger(s) for the Wastewater Collection, Treatment and Disposal systems; (xvi) developer database extract; and (xvii) list of electronic accounts and telephone accounts.

(8) All rights and obligations of the FKAA as of the Little Venice Transfer Date relating to the Utility Assets or the Little Venice Wastewater System under any existing or proposed agreements and contracts which specifically relate to the Little Venice Wastewater System; and, after the Little Venice Transfer Date, any such rights and obligations specifically relating to any Utility Assets, the Little Venice Wastewater System or Utility Service which the CITY, in its sole discretion, determines to assume or acquire from the FKAA.

(9) All moneys, funds, accounts and intangibles, or an amount equivalent thereto as of the Little Venice Transfer Date, held under or pursuant to any Debt Obligations, indenture of trust, resolution, ordinance, or other instrument by the FKAA, or any third party for the benefit of any ratepayers of the Little Venice Wastewater System, or in connection with the financing or operation of the Little Venice Wastewater System, the Utility Assets or providing Wastewater Utility Services.

"Wastewater Utility Service" means the duty, obligation, power and authority to acquire, obtain, construct, provide, collect, distribute, dispose of, regulate, finance and charge for the supply of wastewater collection, transmission, and treatment disposal facilities and services associated with the Little Venice Wastewater System.

"Wastewater Utility System" means the wastewater collection, transmission, treatment, and disposal systems which comprise the Little Venice Wastewater System owned by the FKAA, including any Utility Assets which may be owned or controlled by FKAA. After the Little Venice Transfer Date, the term shall be construed, when the context reasonably requires, to include any other wastewater collection, transmission, treatment, and disposal facilities which comprise the Little Venice Wastewater System that are acquired by the CITY.

SECTION 1.02 CONSTRUCTION.

(A) Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations. The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Agreement; the term "heretofore" shall mean before the date this Agreement is executed; and the term "hereafter" shall mean after the date this Agreement is executed.

(B) Each recital, covenant, agreement, representation and warranty made by a party herein shall be deemed to have been material and to have been relied on by the other parties to this Agreement. All parties shall be deemed to have participated in the drafting and preparation of this Agreement and the provisions hereof shall not be construed for or against any party by reason of authorship.

SECTION 1.03. SECTION HEADINGS. Any headings preceding the texts of the several Articles and Sections of this Agreement and any table of contents or marginal notes appended to copies hereof shall be solely for convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

SECTION 1.04. FINDINGS. It is hereby ascertained, determined and declared that:

(A) FKAA presently owns and operates the Little Venice Wastewater System which is located within the City of Marathon, Florida.

(B) FKAA was created in 1976 by Special Act which has been amended from time to time to provide water and wastewater utility systems.

(C) The City of Marathon was created in 1999 to provide local general purpose government to the area known as Marathon, Florida including in said government, services such as planning, designing, constructing, owning and operating a wastewater system within its City limits, as is common in many other municipalities.

[Remainder of page intentionally left blank.]

**ARTICLE II
REPRESENTATIONS**

SECTION 2.01. REPRESENTATIONS OF THE FKAA. The FKAA makes the following representations as the basis for the undertaking on the part of the County herein contained:

(A) FKAA is duly organized and validly existing as an independent special district.

(B) FKAA has full power and authority to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.

(C) FKAA is not in default under any provisions of the laws of the State which are material to the performance of its obligations under this Agreement.

(D) FKAA has duly authorized the execution and delivery of this Agreement and assuming the due authorization, execution and delivery by the City, this Agreement constitutes a valid and legally binding obligation of the FKAA, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

(E) The authorization, execution and delivery of this Agreement and the compliance by the FKAA with the provisions hereof will not conflict with or constitute a material breach of, or default under, any existing law, court or administrative regulation, decree, order or any provision of the Constitution or laws of the State relating to the FKAA or its affairs, or any ordinance, resolution, agreement, lease or other instrument to which the FKAA is subject or by which it is bound.

(F) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best knowledge of the FKAA, threatened against or affecting the FKAA, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated hereby or issuance of Debt Obligations by FKAA, or which, in any way, would materially adversely affect the validity of the FKAA Debt Obligations, this Agreement or any agreement or instrument to which the FKAA is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby.

(G) The FKAA is currently operating the Plant in accordance with Advanced Wastewater Technology (“AWT”) standards mandated by the FDEP, and will continue to operate the Plant in accordance with AWT standards through the Little Venice Transfer Date.

SECTION 2.02. REPRESENTATIONS OF THE CITY. The CITY makes the following representations as the basis for the undertaking on the part of CITY herein contained:

(A) The CITY is a Florida Municipal Corporation.

(B) The CITY has full power and authority to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.

(C) The CITY is not in default under any provisions of the laws of the State which are material to the performance of its obligations under this Agreement.

(D) The CITY has duly authorized the execution and delivery of this Agreement and assuming the due authorization, execution and delivery by FKAA, this Agreement constitutes a valid and legally binding obligation of the CITY, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy,

insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

(E) The authorization, execution and delivery of this Agreement and the compliance by the CITY with the provisions hereof will not conflict with or constitute a material breach of, or default under, any existing law, court or administrative regulation, decree, order or any provision of the Constitution or laws of the State relating to the CITY or its affairs, or any ordinance, resolution, agreement, lease or other instrument to which the CITY is subject or by which it is bound.

(F) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best knowledge of the CITY, threatened against or affecting the CITY, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated hereby, this Agreement or any agreement or instrument to which the CITY is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby.

[Remainder of page intentionally left blank.]

**ARTICLE III
TRANSFER OF LITTLE VENICE WASTEWATER SYSTEM**

SECTION 3.01. TRANSFER.

(A) Subject to the terms and provisions of this Agreement and for the consideration herein provided, the FKAA agrees to grant, bargain, sell, convey, assign, transfer and vest unto the CITY all of the FKAA's right, title, and interest in the Utility Assets and, to the maximum extent permitted by law, the duty, obligation, authority, power and jurisdiction to operate and provide Wastewater Utility Service within the City of Marathon, Florida, served either now or in the future by the Little Venice Wastewater System.

(B) On the Little Venice Transfer Date, the FKAA shall transfer to the CITY and the CITY shall accept all of the FKAA's right, title, and interest in Utility Assets and undertake to operate and provide Wastewater Utility Service within and throughout the City of Marathon, Florida, and served now or in the future by the Little Venice Wastewater System.

(C) The CITY acknowledges and agrees that it has had ample opportunity to perform such inspections, testing, records review and other investigations of the System and its operational history and, accordingly, agrees to accept the System in its "AS IS, WHERE IS, WITH ALL FAULTS" condition without any representations or warranties by the FKAA whatsoever, except for any representations and warranties in this Agreement, the certificates and schedules prepared and delivered to the CITY pursuant to Sections 3.02(I) and 4.01(B) hereof, the warranties of title in any warranty deed and the Bill of Sale in the forms attached hereto. The CITY waives all claims against FKAA for any defects in the Utility.

Without limiting the generality of the foregoing, the FKAA has not made and does not hereby make (except for those set forth in this Agreement and the certificates and schedules

prepared and delivered to the CITY pursuant to Sections 3.02(I) and 4.01(B) hereof) any express or implied representations or warranties whatsoever with respect to the System including, without limitation, any representation or warranty regarding: (i) the quality of construction, workmanship, merchantability or fitness for any particular purpose of any improvements located on the Plant site or with respect to the System; or (ii) the revenues to be received from operation of the System or the expenses to be incurred with respect thereto.

The City acknowledges and agrees that the FKAA has not made, does not make and specifically disclaims any representations regarding compliance with any environmental protection or pollution laws, rules, regulations, orders or requirements, including solid waste, as defined by the U.S. Environmental Protection Agency regulations at 40 C.F.R., Part 261, as may be amended from time to time, or the disposal or existence, in, on or around the property, of any hazardous substance, as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder or the disposal or existence of any petroleum or petroleum based products in, on or around the real property or the condition, status, suitability, suitability or any storage tanks in or on the real property or compliance with provisions of Florida Statute § 376.011 Et Setq. or the Florida Administrative Code. The CITY further acknowledges and agrees that having been given the opportunity to inspect the real property, it is relying solely on its own investigation of the real property and not on any information provided or to be provided by the FKAA.

(D) FKAA shall be entitled to bill, collect and retain all payments received in connection with Accounts Receivable and Unbilled Customer Revenue that accrued prior to the Closing Date. FKAA will promptly pay to CITY any payments received by FKAA in

connection with Accounts Receivable and Unbilled Customer Revenue that accrues on or after the Closing Date.

(E) On or before the Closing Date, FKAA and CITY will execute the Billing Agreement provided in **Exhibit ____**.

(F) FKAA acknowledges that it has received and is currently holding the Repair and Replacement Reserve(s), the Pre-Paid Assessments and other prepayments from Customers as set forth on **Exhibit ____** hereto. FKAA shall furnish to CITY, no sooner than ten (10) days prior to Closing, an updated list of all Repair and Replacement Reserve(s), the Pre-Paid Assessments and other prepayments from Customers. FKAA shall, on the Closing Date, grant CITY a credit against the Acquisition Cost Price for the amount of such Repair and Replacement Reserve(s), Pre-Paid Assessments and other prepayments, such credit to be set forth on the closing statement.

SECTION 3.02. COVENANTS AND CONDITIONS PRECEDENT TO TRANSFER.

(A) FKAA and the CITY acknowledge that substantial discussions concerning the transfer of the Little Venice Wastewater System have been undertaken by the FKAA and the CITY; and, FKAA and the CITY hereby waive any technical deficiencies in notice otherwise required by any interlocal or other agreement concerning the Little Venice Wastewater System.

(B) Prior to any transfer, the FKAA and the CITY shall be provided with a certified copy of a resolution of their respective governing boards which ratifies and confirms the intention of FKAA to transfer to the CITY the Little Venice Wastewater System and the unqualified commitment of CITY to defease, refund and/or retire the FKAA's outstanding Debt Obligations relating to the Little Venice Wastewater System.

(C) Prior to any transfer, the CITY must receive (i) from FKAA, an assignment of the Lease Agreement, dated March 15, 2000, between the FKAA as lessee and Monroe County, Florida, as lessor (as amended, the "Ground Lease"), pursuant to which Monroe County leases the land to the FKAA on which the Plant is located, and (ii) from Monroe County, written consent to the assignment of the Ground Lease.

(D) FKAA waives all notice periods concerning the transfer of the Little Venice Wastewater System and agrees to promptly undertake all procedures and notices to any trustee or insurer required to defease or retire any FKAA outstanding Debt Obligations relating to the Little Venice Wastewater System. Whenever possible FKAA shall request a waiver from any trustee or insurer of any notice period.

(E) At or prior to the Little Venice Transfer Date, the parties shall execute all documents necessary in the reasonable opinion of counsel to the FKAA which shall hold harmless the FKAA from any actions relating to the Little Venice Wastewater System which occur either prior to or subsequent to the transfer. Notwithstanding the foregoing, nothing contained herein shall be construed as an obligation by CITY to assume liability for or hold the FKAA harmless from any negligence of the FKAA or its officers, employees or agents.

(F) At or prior to the Little Venice Transfer Date, FKAA shall execute documents transferring to CITY the Little Venice Wastewater System and all associated assets and property, including the moneys in the funds and accounts held under any indenture of trust between the FKAA and any trustee created in conjunction with the issuance of any Debt Obligations.

(G) At or prior to the Little Venice Transfer Date, each party shall provide evidence that any public hearing required by law for the sale or transfer of the Little Venice Wastewater System has been duly held.

(H) On the Little Venice Transfer Date, the CITY shall assume all operations of the Little Venice Wastewater System.

(I) Approximately thirty (30) days prior to the Little Venice Transfer Date the FKAA shall provide one or more certificates to CITY:

(1) identifying all known regulatory compliance issues and otherwise certifying that the FKAA has not been cited nor notified, and is not, after due inquiry, aware of any violation of any governmental rule, regulation, permitting condition, or other governmental requirement of any type or nature applicable to the ownership, maintenance, construction or operation of the Little Venice Wastewater System, nor is the FKAA aware of any conditions which by reason of the passing of time or the giving of notice by the appropriate governmental agency would constitute such a violation;

(2) identifying all known environmental law violations and otherwise certifying, to the best of the FKAA's knowledge and belief, that the real property and easements to be conveyed are in compliance with, and that the FKAA has not violated, in connection with its ownership, use, maintenance, or operation of the Little Venice Wastewater System, applicable federal, state, county, or local environmental laws relating to pollution or protection of the environment, including but not limited to, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and the Resource Conservation and Recovery Act;

(3) certifying that the FKAA has not authorized the placing or depositing of hazardous substances on the real estate and easements encompassed within the Little Venice Wastewater System except, if at all, in accordance with applicable law, and that the FKAA has no actual knowledge of any hazardous substance having been, or currently being, placed or

deposited on said real property and easements except in a lawful manner (except for matters specifically referenced in any such certificate);

(4) certifying that there are no facts actually known to the FKAA materially affecting the physical condition or operation of the Little Venice Wastewater System which are not readily observable or which have not been disclosed or provided to CITY in connection with the contemplated transaction; and

(5) updating, prior to or at the Little Venice Transfer Date, and reaffirming its representations made herein.

(I) In no event shall any obligation of this Agreement require the FKAA to convey less than all of the Little Venice Wastewater System on the Little Venice Transfer Date. Parties hereto expressly covenant and agree that the obligations of the FKAA hereunder are contingent upon CITY authorizing the issuance of and issuing its Debt Obligations to defease, refund and or retire all of the FKAA's outstanding Debt Obligations relating to the Little Venice Wastewater System, and simultaneously accepting the transfer and assignment of and assuming of all obligations and responsibilities associated with the entire Little Venice Wastewater System on the Little Venice Transfer Date.

SECTION 3.03. CONSIDERATION FOR TRANSFER. As consideration for the transfer of the Little Venice Wastewater System to CITY, CITY shall pay to the FKAA an amount sufficient to fund the Acquisition Cost on the Little Venice Transfer Date.

**ARTICLE IV
CONVEYANCE PROVISIONS**

SECTION 4.01. DEVELOPING DUE DILIGENCE.

(A) FKAA shall timely cooperate with CITY in finalizing the identification of the Utility Assets and associated rights and obligations that comprise the Little Venice Wastewater System.

(B) Upon any request by CITY, FKAA covenants to promptly, fully and reasonably cooperate with any representative or consultant designated by CITY to provide and make available for inspection and copying all information available to the FKAA, or its agents. FKAA also agrees to prepare, complete and deliver to CITY due diligence data and information, including but not limited to, the following schedules without undue qualification:

(1) A schedule providing a complete legal description or recording references of all real property owned and used in the operation of the Little Venice Wastewater System, the Utility Assets or in providing Utility Service.

(2) A schedule identifying all unplatted easements known and available to the FKAA which are used or available for use in connection with the Little Venice Wastewater System, the Utility Assets or in providing Utility Service. Such schedule will include legal descriptions or recording references which will allow for subsequent location and title searches.

(3) A schedule of all plans and specifications in possession of the FKAA which substantially describe the Little Venice Wastewater System's wastewater plants, lift or pump stations, wastewater collection system, and major transmission facilities of the Little Venice Wastewater System.

(4) A schedule of all existing construction contracts and third party warranties that relate to completed or in progress construction.

(5) A schedule of all current or active permits, applications or other documents, together with effective dates and any expiration dates which authorize the operation of the wastewater treatment facilities by all applicable governmental authorities of the Little Venice Wastewater System.

(6) A schedule of any available Little Venice Wastewater System maps.

(7) An inventory of the equipment, tools, parts and other personal property predominantly used by FKAA in connection with the operation of the Little Venice Wastewater System.

(8) A schedule of all operating and vendor contracts affecting the Little Venice Wastewater System.

(9) A schedule of all executory reuse or effluent disposal agreements entered into by FKAA, or its predecessors, for the sale or reuse of effluent delivered through the Little Venice Wastewater System.

(10) A schedule of all existing executory agreements including any developer agreements entered into by the FKAA, or its predecessors and owners or developers of real property for the provision of wastewater disposal services through the Little Venice Wastewater System.

(11) A schedule of all Transition Projects, together with a narrative description of each project, the parties and contractual agreements involved, expected cost, completion date and specific sources of funding.

(12) A schedule, with respect to all executory agreements under which the FKAA as the legal owner of the Little Venice Wastewater System has any continuing or outstanding wastewater service obligations which shows the total number of (a) contractual connections; (b) contractual connections paid for and not yet connected; (c) contractual connections not yet paid for and not yet connected; and (d) any contractual connections for which any party hereto has or expects to begin collecting a periodic minimum or base charge prior to the Little Venice Transfer Date.

(13) A schedule of all other agreements entered into between the FKAA and its predecessors, or third parties which would be reasonably considered to materially affect or be an encumbrance upon the Little Venice Wastewater System including, without limitation, any leasehold agreements or oral agreements, if any. If any oral agreements exist, they shall be so identified together with a narrative of the terms thereof.

(14) A schedule of all current tariffs which represent the most current schedule of rates, fees and charges being imposed in conjunction with the Little Venice Wastewater System.

(15) A schedule, description and estimate of all monies, funds, accounts and intangibles held under any Debt Obligations, indenture of trust, resolution, agreement or other instrument by FKAA, or any third party for the benefit of any ratepayers of the Little Venice Wastewater System or in connection with the operation of the Little Venice Wastewater System or in providing services and facilities to the Little Venice Wastewater System.

(16) A schedule of any actions, arbitrations, audits, hearings, investigations, litigation or suits (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted or heard by or

before, or otherwise involving, any governmental body or arbitrator, whether actual or threatened.

(17) A schedule of any assets that currently form part of the Little Venice Wastewater System that are not being transferred by the FKAA to the CITY pursuant to this Agreement.

SECTION 4.02. DEVELOPMENT OF TRANSITION PLAN.

(A) The parties agree to promptly work together to develop and prepare a transition plan to effect the administrative and operational aspects of the transfer of the Little Venice Wastewater System to CITY. Immediately following execution and within thirty (30) days of entering into this Agreement, the parties shall cooperate to promptly develop and prepare a transition plan relating to the administrative and operational aspects of the transfer of the Little Venice Wastewater System to CITY. The parties agree that such transition plan will include, if timing requires, a time period during which the FKAA may need to collect assessments on behalf of the CITY until such time as the CITY can take over the assessment rolls pursuant to Florida statutes. On or before the closing date, the parties shall execute an agreement providing that the City will pay the FKAA a reasonable fee for preparing the assessment roll and collecting assessments on behalf of the City. The parties further agree that the transition plan will include the Overlap Period.

(B) It is the express intention of the parties to use the existing capabilities, resources and personnel of the CITY and FKAA to transition the Utility Assets, Little Venice Wastewater System and Utility Service to the CITY and any transition plan developed and prepared by the CITY shall be reasonably reflective of such intent.

SECTION 4.03. CONVEYANCE DOCUMENTATION. On the Little Venice Transfer Date the parties shall execute, deliver and accept a bill of sale and a transfer, assignment and assumption agreement together with any other necessary and reasonable documents to effect the conveyance of record of the Little Venice Wastewater System and the Utility Assets.

(A) From time to time after closing, each party hereto shall, upon the request to the other, execute, acknowledge and deliver, or shall cause to be executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers or other documentation for (1) confirming or correcting title in the name of the CITY or perfecting undisputed possession by the CITY of the Little Venice Wastewater System or any or all of the Utility Assets, including the establishment of record of easements reasonably capable of enforcement by the CITY without resort to litigation or other extraordinary means for any wastewater utility facilities which are a part of the Little Venice Wastewater System in existence or in use at the time of closing, or (2) otherwise fulfilling the obligations of the parties hereunder.

(B) The CITY hereby acknowledges that the FKAA cannot provide any warranties or assurances regarding any real or personal property interests in the Little Venice Wastewater System or the Utility Assets; provided, however, the FKAA affirmatively represents to the CITY, that FKAA has not been notified of any claims or disputes with respect to the Little Venice Wastewater System or any Utility Assets.

(C) The FKAA shall, not less than ten (10) days prior to the Little Venice Transfer Date, deliver to the CITY all drawings, surveys, as-built plans and similar documents in the possession of the FKAA that depict and describe in detail the System, the Plant, and any components thereof.

SECTION 4.04. TRANSFER DATE. It is anticipated that the transactions contemplated by this Agreement will be closed on a mutually agreed upon date on or before September 30, 2008 or as soon as practicable thereafter. The closing shall be held at such place or offices convenient and mutually agreeable to the parties.

SECTION 4.05. TRANSFER OF PERMITS. It shall be the obligation and responsibility of each of the parties hereto to timely cooperate with each other to commence all requisite action to apply for and cause the transfer of all necessary permits and governmental approvals, including but not limited to the procedures referenced in Rule 62-4.120, Florida Administrative Code, 40 C.F.R. § 122.63(d) (1980) and 47 C.F.R. § 73(1980) and shall use all reasonable efforts to obtain the timely transfer of such permits. Each party shall cooperate and provide all reasonably necessary assistance in this endeavor. Upon transfer, the CITY shall assume all obligations under the permits and governmental approvals necessary for continued operation of the Little Venice Wastewater System.

SECTION 4.06. EXECUTION OF LONG TERM AGREEMENTS.

(A) The FKAA hereby represents to CITY that it has not entered into any agreement for administration, operation, billing or the provision of any services that can not be terminated at will, except for the following: **[list to come]**

(B) The Authority shall not enter into any agreement for administration, operation, billing or the provision of any services for a term exceeding one (1) year, or enter into or extend any agreement, which does not include a provision that such agreement is terminable by CITY without penalty within one hundred twenty (120) days of the Little Venice Transfer Date.

SECTION 4.07. RISK OF LOSS. At all times prior to and through the Little Venice Transfer Date, the FKAA shall self-insure or maintain adequate fire and extended

insurance coverage for the cost of any repairs to the Little Venice Wastewater System or Utility Assets that may be required by casualty damage. The risk of loss during this said period of time shall fall upon the FKAA. The risk of loss shall pass to CITY on the Little Venice Transfer Date.

SECTION 4.08. HOLD HARMLESS.

The Parties to this Agreement understand and agree that all revenues produced by the Little Venice Wastewater System are generated by wastewater service provided to customers through rates and fees. That upon the transfer of the Little Venice Wastewater System to the CITY the FKAA will receive no revenue other than as provided in Section 3.01(D). The FKAA is retaining no other funds to satisfy any unknown obligations, liabilities or actions that may have occurred prior to the transfer of the Little Venice Wastewater System but was not known to the FKAA until subsequent of the transfer date.

Therefore, the CITY shall hold the FKAA harmless from any liabilities, obligations or actions relating to the Little Venice Wastewater System which were incurred or occurred either prior to or subsequent to the transfer date. Notwithstanding the foregoing, however, nothing contained herein shall be construed as an obligation by CITY to assume liability for or hold the FKAA harmless from any negligence of the FKAA or its officers, employees or agents.

SECTION 4.09. REGULATORY APPROVAL CONTINGENCY. The parties acknowledge and agree that the FDEP has the power and jurisdiction to approve or disapprove the transactions contemplated herein. The sale and transfer of the System and the Utility Assets pursuant to this Agreement is contingent, as a post-Closing matter, upon receipt of the FDEP approval. In the event that the FDEP denies such approval or imposes conditions on such approval that would have a material adverse effect on either the CITY or the FKAA, then the

System shall be repurchased by the FKAA via the same means the System was purchased by the CITY pursuant to this Agreement, and the obligations of the FKAA and the CITY under this Agreement shall be reversed for purposes of such repurchase. FKAA agrees that in the event of such repurchase, the FKAA will only reimburse the CITY for the original Acquisition Cost . From and after the Little Venice Transfer Date, and until the FDEP approval is issued, or the repurchase of the System by the FKAA, whichever occurs first, the CITY shall operate the System in the ordinary course of business and in compliance with all applicable agreements, laws, rules and regulations with due care such that the System, if repurchased by the FKAA, shall be in as good a condition as it was on the Little Venice Transfer Date, ordinary wear and tear excepted. Damage to the System above and beyond the foregoing shall be deducted from the repurchase price to be paid by the FKAA in the event of a repurchase of the System by the FKAA.

[Remainder of page intentionally left blank.]

**ARTICLE V
TRANSITION PROJECTS**

SECTION 5.01. IDENTIFICATION OF TRANSITION PROJECTS. Upon execution hereof and as soon as practicable prior to the Little Venice Transfer Date, the FKAA shall provide a certificate to CITY identifying all potential Transition Projects, and update such certificate on the Little Venice Transfer Date. The FKAA agrees that it shall not commence or initiate any new Transition Projects at any time after the execution hereof.

SECTION 5.02. ASSUMPTION OF WORK IN PROGRESS.

(A) Prior to the Little Venice Transfer Date, CITY and FKAA shall hold a project status conference to determine all Transition Projects, if any, which will not be completed prior to the Little Venice Transfer Date and to reconcile the accounts for each such project. FKAA shall provide thirty (30) days prior to closing a Transition Projects Status and Schedule Report, together with estoppel information from each affected party, for each Transition Project, with each such report being updated by the FKAA on the Little Venice Transfer Date. The FKAA shall use its best efforts to require and provide estoppel information in a form or manner requested by CITY.

(B) Any Transition Project not completed on the Little Venice Transfer Date shall be assigned to CITY in writing and CITY shall assume all of the FKAA's rights and obligations with regard to the construction, contracts, sub-contracts and material supply agreements for each such Transition Project.

(C) FKAA shall identify and transfer to CITY all moneys, funds or accounts for any unearned fees for contract administration of capital projects as of the Little Venice Transfer Date. Earned fees for contract administration of capital projects shall be determined prorata

based on the percentage of construction actually completed and shall, after consultation with the CITY, be disbursed for any Transition Project to any contractor as of the Little Venice Transfer Date.

SECTION 5.03. OPERATION OF THE SYSTEM. Except as otherwise expressly approved by the CITY in writing, between the date of this Agreement and the Little Venice Transfer Date, the FKAA:

(A) shall operate the System in the ordinary course of business and in accordance with AWT standards;

(B) shall use its best efforts to preserve intact its current business organization, and maintain its relations with suppliers, customers, landlords, creditors, employees, agents and others having business relationships with it;

(C) shall confer with the CITY prior to implementing operational decisions of a material nature which are not in the ordinary course of business;

(D) shall keep in full force and effect all rights relating to the System and the Utility Assets other than those rights, the absence of which would not have a material adverse effect on the System;

(E) shall comply with all legal requirements and contractual obligations applicable to the operation of the System for which the failure to comply would have a material adverse effect on the System; and

(F) shall maintain all books and records of the FKAA relating to the System in the ordinary course of business.

**ARTICLE VI
GENERAL PROVISIONS**

SECTION 6.01. INTERLOCAL AGREEMENT PROVISIONS. Portions of this Agreement constitute a joint exercise of power, privilege or authority by and among CITY and FKAA and shall be deemed to be an "interlocal agreement" within the meaning of the Florida Interlocal Cooperation Act of 1969, as amended.

SECTION 6.02. CONTINUING DISCLOSURE OBLIGATIONS. The FKAA agrees to cooperate with CITY in the preparation of disclosure information relating to the Little Venice Wastewater System for inclusion in any bond offering documents and will provide a certificate executed by an authorized officer of the FKAA at the closing of bonds purchased in reliance upon such offering documents that, to the knowledge of such officer, the information does not contain any material mis-statements or omissions. CITY shall pay the reasonable costs and expenses incurred by the FKAA to comply with the provisions of this section.

SECTION 6.03. PROFESSIONAL FEES; COSTS.

(A) Except as expressly provided otherwise in this Agreement, each party shall be responsible for securing its own counsel for representation relative to the negotiation, preparation and implementation of this Agreement, and all other matters associated with the implementation or performance hereunder; unless otherwise specified herein, and each party shall be responsible for the payment of all costs and expenses, including the fees of its own attorneys, engineers, accountants and other professional advisors or consultants, in connection therewith.

(B) In any litigation arising out of this Agreement, the prevailing party in such litigation shall, subject to the limitation imposed by Section 768.28, Florida Statutes, be entitled to recover reasonable attorneys' fees and costs.

SECTION 6.04. TERM OF AGREEMENT.

(A) The term of this Agreement shall commence on the date of execution of this Agreement by all the parties hereto, and shall continue until closing on the Little Venice Transfer Date or upon termination by a written agreement between all parties hereto. The covenants contained herein shall survive any closing and this Agreement shall be deemed in full force and effect until same have been fully executed.

(B) By notice given prior to or at the Little Venice Transfer Date, but subject to a five (5) day opportunity for the party receiving notice to cure, this Agreement may be terminated as follows:

(1) by the CITY, if a breach of any material provision of this Agreement has been committed by the FKAA and such breach has not been waived by the CITY;

(2) by the FKAA, if a breach of any material provision of this Agreement has been committed by the CITY and such breach has not been waived by the FKAA;

(3) by the CITY, if any condition in Article III has not been satisfied as of the date specified for the Little Venice Transfer Date or if satisfaction of such a condition by such date is or becomes impossible (other than through the failure of the CITY to comply with its obligations under this Agreement), and the CITY has not waived such condition on or before such date;

(4) by the FKAA, if any condition in Article III has not been satisfied as of the date specified for the Little Venice Transfer Date or if satisfaction of such a condition by such date is or becomes impossible (other than through the failure of the FKAA to

comply with its obligations under this Agreement), and the FKAA has not waived such condition on or before such date;

(5) by mutual consent of the CITY and the FKAA;

(6) by the CITY, if the closing has not occurred on or before October 31, 2008, or such later date as the parties may agree upon, unless the CITY is in material breach of this Agreement; or

(7) by the FKAA, if the closing has not occurred on or before October 31, 2008, or such later date as the parties may agree upon, unless the FKAA is in material breach of this Agreement.

SECTION 6.05. FAILURE OF PERFORMANCE.

(A) A breach of this Agreement shall mean a material failure to comply with any of the provisions of this Agreement. If any party breaches any obligation herein, then, upon receipt of written notice by the non-breaching party, the breaching party shall proceed diligently and in good faith to take all reasonable actions to cure such breach and shall continue to take all such actions until such breach is cured.

(B) Unless otherwise provided herein, the parties to this Agreement may proceed at law or in equity to enforce their rights under this Agreement.

SECTION 6.06. DISPUTE RESOLUTION.

(A) The parties agree to resolve any dispute related to the interpretation or performance of this Agreement in the manner described in this section. Either party may initiate the dispute resolution process by providing written notice to the other party.

(B) After transmittal and receipt of a notice specifying the area or areas of disagreement, the parties agree to meet at reasonable times and places, as mutually agreed upon, to discuss the issues.

(C) If discussions among the parties fail to resolve the dispute within sixty (60) days of the notice described in subsection (A) hereof, the parties shall appoint a mutually acceptable neutral third party to act as a mediator. The mediation contemplated by this subsection (C) is intended to be an informal and non-adversarial process with the objective of helping the parties reach a mutually acceptable and voluntary agreement. The decision-making shall rest solely with the parties. The mediator shall assist the parties in identifying issues, fostering joint problem-solving and exploring settlement alternatives. It is understood that any settlement may require approval of the City Council of the CITY and the Board of Directors of the FKAA.

(D) If the parties are unable to reach a mediated settlement within sixty (60) days of the mediator's appointment, any party may terminate the settlement discussions by written notice to the other party. In such event, either party may initiate litigation within sixty (60) days of the notice terminating the settlement discussions.

SECTION 6.07. AMENDMENTS AND WAIVERS. No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by all parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, unless otherwise expressly provided. Neither the failure nor any delay by any party hereto in exercising any right or power under this Agreement nor any course of dealing between or among the parties will operate as a waiver of such right or power, and no single or partial

exercise of any such right or power will preclude any other or further exercise of such right or power or the exercise of any other right or power.

SECTION 6.08. NOTICES.

(A) All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, or sent by nationally recognized overnight courier (with delivery instructions for "next business day" service) to the parties at the following addresses:

FKAA: 1100 Kennedy Drive
Key West, Florida 33040
Attention: Executive Director
(305)296-2454

MANDATORY COPY: FKAA
1100 Kennedy Drive
Key West, Florida 33040
Attention: Kirk C. Zuelch, General Counsel
(305)296-2454

CITY: 9805 Overseas Highway
Marathon, Florida 33050
Attention: City Manager
(305)743-3367

MANDATORY COPY: Stearns Weaver Miller Weissler Alhadeff
& Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130
Attn: Jimmy L. Morales, Esquire
(305)789-3200

(B) Any of the parties may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand (or facsimile transmission) or three days after the date mailed.

SECTION 6.09 BINDING EFFECT. To the extent provided herein, this Agreement shall be binding upon the parties, their respective successors and assigns and shall inure to the benefit of the parties, their respective successors and assigns.

SECTION 6.10. ASSIGNMENT. No assignment of this Agreement may be made in whole or in part to another governmental entity.

SECTION 6.11. SEVERABILITY. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 6.12. EXECUTION IN COUNTERPARTS. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 6.13. APPLICABLE LAW AND VENUE. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any action or proceeding to construe or enforce the provisions of this Agreement shall be in the Circuit Court in and for Monroe County, Florida.

SECTION 6.14. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement. The time period specified in this Agreement shall expire at midnight on the date stated unless the parties agree in writing to a different date or time. Any time period provided for herein which ends on a Saturday, Sunday or legal holiday shall extend to 5 P.M. on the next business day.

SECTION 6.15 ENTIRE AGREEMENT. This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties,

whether oral or written, and there are no warranties, representations or other agreements among the parties in connection with the subject matter hereof, except as specifically set forth herein.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, FKAA and CITY have caused this Transfer Agreement to be duly executed and entered into as of the date first above written.

FKAA Board Approved: May 22, 2008

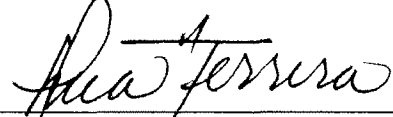
FLORIDA KEYS AQUEDUCT AUTHORITY

(SEAL)

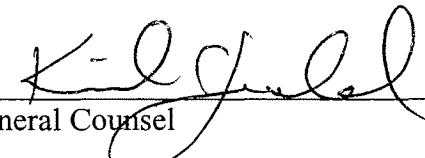
By: 
J. Robert Dean, Chairman

Date: 5-22-08, 2008

ATTEST:


Elena Z. Herrera, Secretary/Treasurer

Approved as to form and legal sufficiency solely for the use and reliance of the Florida Keys Aqueduct Authority.


General Counsel

IN WITNESS WHEREOF, FCAA and CITY have caused this Transfer Agreement to be duly executed and entered into as of the date first above written.

CITY OF MARATHON

(SEAL)

By: Edward P. Worthington
Edward P. Worthington, Mayor

Date: 6/12/08, 2008

ATTEST:

Diane Claver
Clerk

Approved as to form and legal sufficiency solely for the use and reliance of the City of Marathon, Florida.

[Signature]
City Attorney

ASSIGNMENT AND ASSUMPTION OF LEASEHOLD

THIS AGREEMENT for the Assignment and Assumption of Leasehold is entered into this 30th day of September 2008, by and between the FLORIDA KEYS AQUEDUCT AUTHORITY (FKAA) Assignor, an independent special district of the State of Florida, and the City of Marathon, Florida (City) Assignee, a Florida Municipal Corporation:

WHEREAS, The County of Monroe leased to Florida Keys Aqueduct Authority approximately 21,853 s.f. of a parcel of land at the Florida Keys Marathon Airport, Marathon, Florida, through an Agreement dated March 15, 2000, and amended on June 20, 2001, and July 14, 2004; and

WHEREAS, The County of Monroe leased to Florida Keys Aqueduct Authority approximately 2,438 s.f. of a parcel of land at the south end of Florida Keys Marathon Airport, Marathon, Florida, adjacent to the space designated in Paragraph 1 above through the Second Amendment to Agreement dated July 14, 2004; and

WHEREAS, the FKAA constructed and now operates the Little Venice Wastewater Treatment Facility on the above-described parcels of land; and

WHEREAS, the Florida Keys Aqueduct Authority, pursuant to the Little Venice Transfer Agreement, effective September 30, 2008, has transferred to the City of Marathon and the City has accepted all of the FKAA's right, title and interest in the Little Venice Wastewater System of which the Little Venice Wastewater Treatment Facility is located on the above-described parcels of land; and

WHEREAS, the existing lease requires an assignment document for the Florida Keys Aqueduct Authority to assign the lease to the City of Marathon; now therefore,

IN CONSIDERATION of the mutual promises and benefits set forth below, The FKAA and the City of Marathon agree as follows:

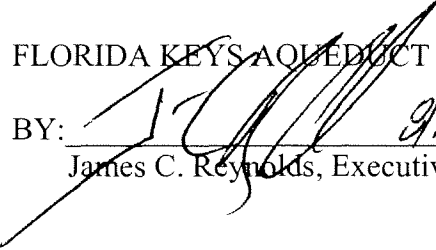
1. FKAA assigns to the City all of the Assignor's rights, title and interest in the original agreement and the amendments thereto. A copy of the original agreement and amended agreements are attached hereto as Exhibit A.
2. The County of Monroe has consented to the Lease Assignment by executing a Consent to Assignment of Lease, which is attached hereto as Exhibit B, under the same terms and conditions as the original lease as amended.
3. All responsibilities, liabilities, privileges and immunities held by the FKAA pursuant to the lease are hereby transferred to the City.
4. Rent payments shall be made by the Assignee City of Marathon payable to the Marathon Airport and sent to Key West Airports business office at 3491 S. Roosevelt Blvd., Key West, FL 33040.

IN WITNESS WHEREOF, the parties have set their hands and seals as of the date first written above.

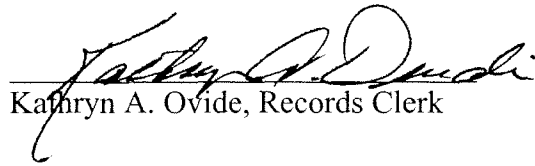
(SEAL)

FLORIDA KEYS AQUEDUCT AUTHORITY

BY:

 9/12/08
James C. Reynolds, Executive Director

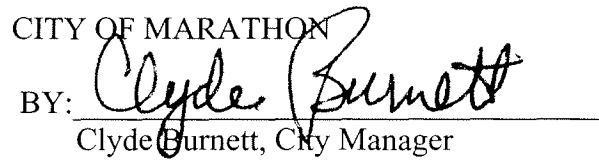
ATTEST:


Kathryn A. Ovide, Records Clerk

(SEAL)

CITY OF MARATHON

BY:


Clyde Burnett, City Manager

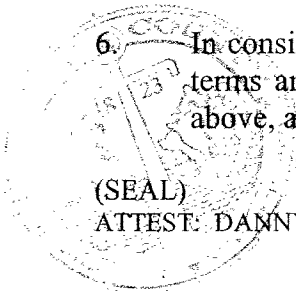
ATTEST:


Clerk

CONSENT TO ASSIGNMENT OF LEASE

This Consent to Assignment is entered into this 20th day of Aug., 2008, by and between Monroe County (Lessor), a political subdivision of the State of Florida, hereafter County, Florida Keys Aqueduct Authority (Lessee), Assignor, an independent special district of the State of Florida, and the City of Marathon (Sub-Lessee), Assignee, a Florida Municipal Corporation, the parties agreeing as follows:

1. The County leases to Florida Keys Aqueduct Authority approximately 21,853 s.f. of a parcel of land at the Florida Keys Marathon Airport, Marathon, Florida, through an Agreement dated March 15, 2000, hereafter the original agreement, and amended on June 20, 2001, and July 14, 2004. The original agreement and renewal agreements are attached and incorporated into this Consent to Assignment.
2. The County leases to Florida Keys Aqueduct Authority approximately 2,438 s.f. of a parcel of land at the south end of Florida Keys Marathon Airport, Marathon, Florida, adjacent to the space designated in Paragraph 1 above through the Second Amendment to Agreement dated July 14, 2004.
3. By Assignment of Lease effective September 30, 2008 Florida Keys Aqueduct Authority assigned to City of Marathon all the Assignor's rights, title and interest in the original agreement, as amended, including construction and operational authority of a wastewater treatment plant and office/support facility.
4. Rent payments shall be made by the Assignee City of Marathon payable to the Marathon Airport, and sent to Key West Airports Business Office at 3491 S. Roosevelt Blvd., Key West, FL 33040.
5. The County consents to the assignment of the above- described lease by the Florida Keys Aqueduct Authority to the City of Marathon.
6. In consideration for such consent, the Assignee agrees to be bound by all the terms and conditions of the original agreement, as amended, heretofore and above, and to provide for payment to be made to the County.



(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By *Danny L. Kolhage*
Deputy Clerk

Marie Wilson
Mayor/Chairman

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Pedro J. Mercado
PEDRO J. MERCADO
ASSISTANT COUNTY ATTORNEY
Date 9/3/08

Witnesses:

By: Diane Clavier
Diane Clavier, city clerk

CITY OF MARATHON/ASSIGNEE

Clyde Burnett
Clyde Burnett, City Manager

Witnesses:

By: Janet Coley
Janet Coley

FLORIDA KEYS AQUEDUCT
AUTHORITY/ASSIGNOR

James C. Reynolds 8/12/06
James C. Reynolds, Executive Director

LEASE AGREEMENT

THIS LEASE AGREEMENT is entered into on this 15th day of MARCH, 2000, by and between Monroe County, a political subdivision of the State of Florida, whose address is 5100 College Road, Key West, FL 33040, hereafter County, Lessor, or Owner, and the Florida Keys Aqueduct Authority, an independent special district, whose address is 1100 Kennedy Drive, Key West, FL 33040, hereafter FCAA, Lessee or Tenant. This agreement is entered into pursuant to Sec. 163.01, FS.

WITNESSETH:

IN CONSIDERATION of the mutual promises and benefits set forth below, the parties agree as follows:

1. a) The County leases to FCAA a parcel of land at the Florida Keys Marine Airport as depicted on Exhibit A, hereafter the premises. Exhibit A is attached to this agreement and made a part of it. The County must also provide and keep open ingress and egress to the premises sufficient to allow for the passage of the FCAA vehicles, including trucks and construction equipment.

b) The County is fee simple owner of the premises and covenants and agrees that the FCAA shall have quiet enjoyment of the premises during the term of this lease except as is provided in paragraph 7.

2. The term of this lease is twenty (20) years, beginning on the date first written above. The annual rent for the premises is \$19,866.23 per year. (The rent amount is based on 91 cents per square foot multiplied by the premises 21,853 square feet.) The annual rent is due on the date the construction of the wastewater treatment facility authorized in subparagraph 3(b) begins and thereafter on the anniversary of that date for each year this lease remains in effect. If the FCAA does not begin construction of the facility within one year from the date first written above, then the first rental payment will be due one year from that date and then on the anniversary of that date for each year this lease remains in effect. Following the initial year of this lease, the annual rental sum will be

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DANNY L. KHAN
CLK. CIVIL
MONROE COUNTY, FLA.

adjusted each year by a percent equal to the increase in the CPI for all urban consumers above that of the prior year. Alternatively, and in the discretion of the Monroe County Airport Director, following the initial year of this lease, the annual rental sum may be increased by the amount required by an updated rate and charges study prepared by a professional airport consultant and approved by the FAA.

3. a) The premises are leased to the FKAA for the purposes of constructing, operating and maintaining a waste water treatment facility. The facility must be constructed, operated and maintained according to all applicable DEP and EPA statutes and regulations.

b) The FKAA is authorized to construct a wastewater treatment facility at its expense, on the premises. The facility must be built in conformity with the applicable building codes, and DEP and EPA statutes and regulations. Before commencing construction the FKAA must obtain the development approvals and building permits that are required by the governmental entities having jurisdiction over the facility. When the facility is complete the FKAA must furnish the Monroe County Airport Director, in a form satisfactory to him, certification from a Florida licensed PE or architect that the facility was built in conformity with all applicable building codes, and DEP and EPA regulations.

c) The waste treatment facility will remain the property of the FKAA during the term of this lease and upon the termination of the lease the FKAA will quietly and peaceably deliver up the premises to the County, close down and remove the waste water treatment facility and restore the premises to their pre-lease condition.

d) During the term of this lease the FKAA is responsible for all maintenance and repairs to the facility. All maintenance and repairs must be of the same or better quality as the original work and conform to all applicable building codes, and DEP and EPA regulations.

4. The FKAA may terminate this lease before it would otherwise expire pursuant to paragraph 2 by giving the County 60 days written notice of such termination

5. a) During the term of this lease the FKAA must keep in force and effect the insurance described in Exhibit B. Exhibit B is attached to this Agreement and made a part of it.

b) The FKAA, to the extent authorized by Sec. 768.28, FS, covenants and agrees to indemnify and hold harmless the County from any and all claims for bodily injury (including death), personal injury, and property damage (including property owned by the County) and any other losses, damages and expenses (including attorney's fees) which arise out of, in connection with, or by reason of the use of the premises by the FKAA (including the construction of the facility) or any of its contractors, occasioned by the negligence, errors or other wrongful act or omission of the FKAA or its contractor(s), employees or agents. The FKAA must at its own expense immediately respond to, and correct and clean-up, spillage or other release of any effluent or toxic substances on the premises or on adjacent properties to the satisfaction of DEP and the EPA. The FKAA must indemnify and hold harmless the County from any claims resulting from any such spillage or other release of effluent or toxic substances without regard to whether the claims are asserted by the State of Florida, the United States or private persons. The obligation of indemnification is not vitiated by the insurance obligations contained in subparagraph 5(a) and Exhibit B.

6. The FKAA is responsible for telecommunications, electrical, sewer, water and solid waste collection service for the premises.

7. a) The tenant for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities: (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination; (3) that the tenant shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal

Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

b) That in the event of breach of any of the above non-discrimination covenants, Airport Owner shall have the right to terminate the lease and to re-enter and as if said lease had never been made or issued. The provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed including exercise or expiration of appeal rights.

c) It shall be a condition of this lease, that the Lessor reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property hereinafter described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from or operating on the airport.

That the Tenant expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the hereinafter described real property to such a height so as to comply with Federal Aviation Regulations, Part 77.

That the Lessee expressly agrees for itself, its successors and assigns, to prevent any use of the hereinafter described real property which should interfere with or adversely affect the operation or maintenance of the airport, or otherwise constitute an airport hazard.

d) This lease and all provisions hereof are subject and subordinate to the terms and conditions of the instruments and documents under which the Airport Owner acquired the subject property from the United States of America, and shall be given only such effect as will not conflict or be inconsistent with the terms and conditions contained in the lease of said lands from the Airport Owner, and any existing or subsequent amendments thereto and are subject to any ordinances,

rules or regulations which have been, or may hereafter be adopted by the Airport Owner pertaining to the Florida Keys Marathon Airport.

e) Notwithstanding anything herein contained that may be, or appear to be, to the contrary, it is expressly understood and agreed that the rights granted under this agreement are nonexclusive and the Lessor herein reserves the right to grant similar privileges to another lessee or other lessees on other parts of the Airport.

8. This lease has been carefully reviewed by both the County and the FKAA. Therefore, this lease is not to be construed against either party on the basis of authorship.

9. This lease agreement represents the parties' final and mutual understanding. It replaces any earlier agreements or understandings, whether written or oral. This lease cannot be modified or replaced except by another signed lease or lease amendment.

10. A copy of the lease agreement must be filed with the Clerk of the Circuit Court.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year



first above written.

ATTEST: DANNY L. KOLHAGE, CLERK

By Jamela Hancock
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By Shirley Freeman
Mayor/Chairperson

ATTEST:

By _____

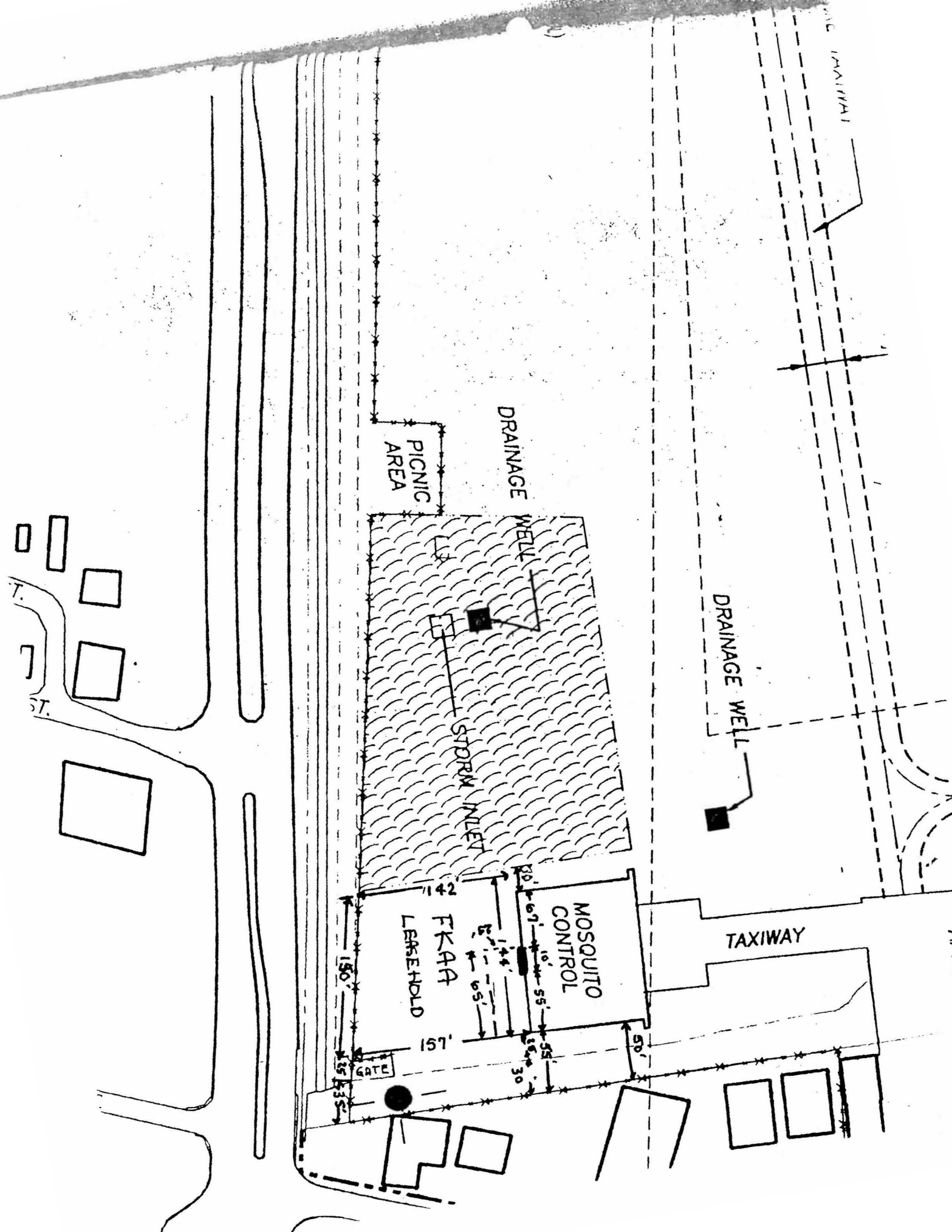
Jcflaa-map

FLORIDA KEYS AQUEDUCT AUTHORITY

By J. Pollock
Title Chairman/FKAA Board of Directors
Board Approved 3/22/00

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
By [Signature]
ROBERT N. [Signature]
DATE 3-7-00

EXHIBIT 'A'



PICNIC AREA

DRAINAGE

WELL

DRAINAGE WELL

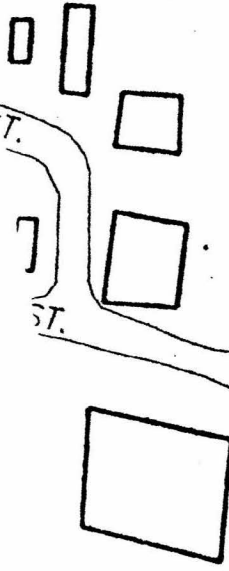
STORM INLET

MOSQUITO CONTROL

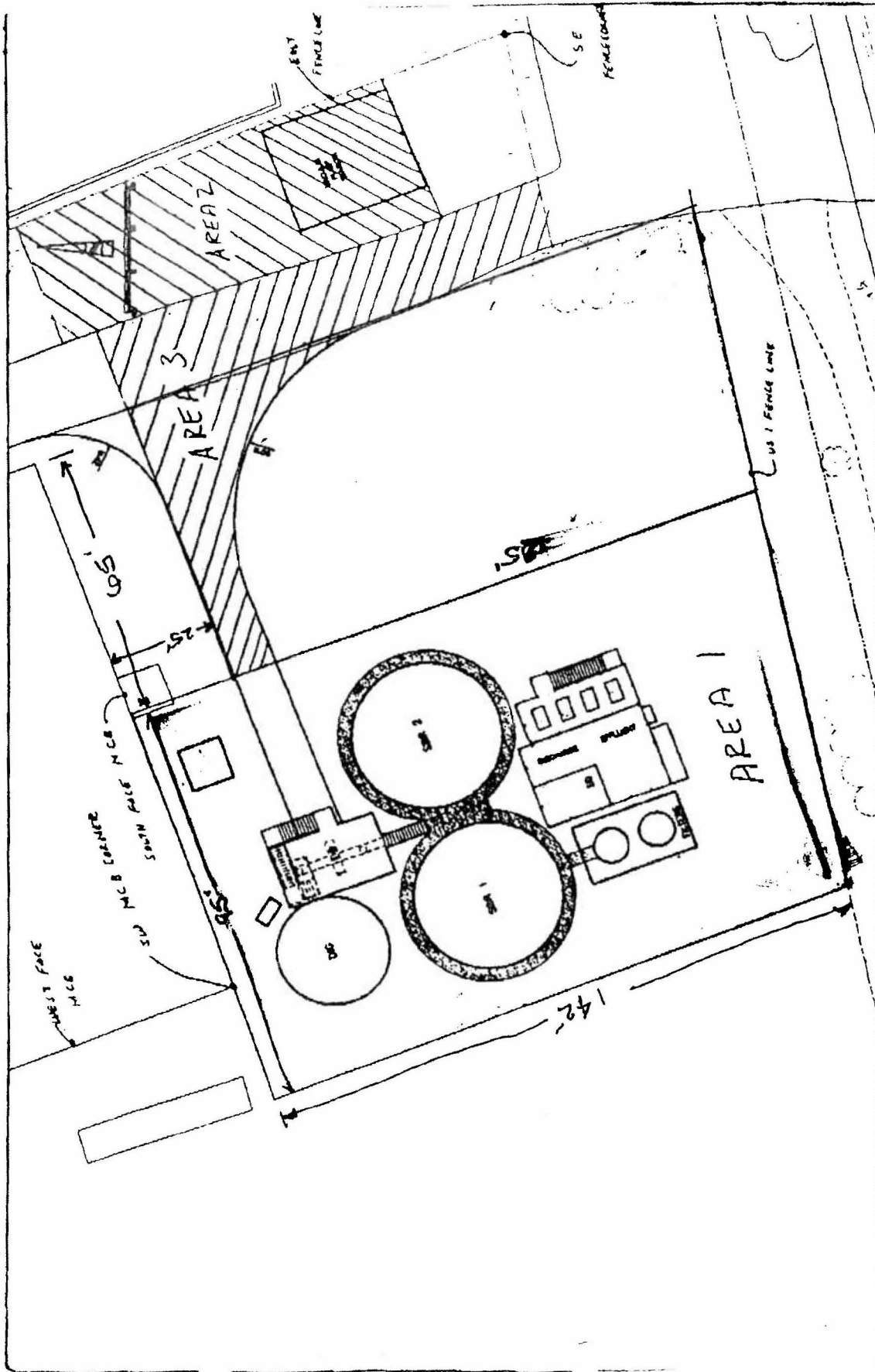
TAXIWAY

FKAA
LREHOLD

GATE



ST.



BOYD BOYD ENGINEERING & ARCHITECTURE 1000 N. W. 10th St., Ft. Lauderdale, FL 33304 Phone: (305) 555-1234		Florida State Architectural Board License No. 12345	BOYD BOYD ENGINEERING & ARCHITECTURE 1000 N. W. 10th St., Ft. Lauderdale, FL 33304 Phone: (305) 555-1234	BOYD BOYD ENGINEERING & ARCHITECTURE 1000 N. W. 10th St., Ft. Lauderdale, FL 33304 Phone: (305) 555-1234
BOYD BOYD ENGINEERING & ARCHITECTURE 1000 N. W. 10th St., Ft. Lauderdale, FL 33304 Phone: (305) 555-1234		Florida State Architectural Board License No. 12345	BOYD BOYD ENGINEERING & ARCHITECTURE 1000 N. W. 10th St., Ft. Lauderdale, FL 33304 Phone: (305) 555-1234	BOYD BOYD ENGINEERING & ARCHITECTURE 1000 N. W. 10th St., Ft. Lauderdale, FL 33304 Phone: (305) 555-1234
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EXHIBIT 'B'

INSURANCE REQUIREMENT

**MONROE COUNTY, FLORIDA
RISK MANAGEMENT
POLICY AND PROCEDURES
CONTRACT ADMINISTRATION
MANUAL**

**General Insurance Requirements
for
Airport/Aircraft Activities**

Prior to the commencement of work governed by this contract (including the pre-staging of personnel and material), the Vendor shall obtain, at his/her own expense, insurance as specified in the attached schedules, which are made part of this contract. The Vendor will ensure that the insurance obtained will extend protection to all Contractors engaged by the Vendor.

The Vendor will not be permitted to commence work governed by this contract (including pre-staging of personnel and material) until satisfactory evidence of the required insurance has been furnished to the County as specified below.

The Vendor shall maintain the required insurance throughout the entire term of this contract and any extensions specified in any attached schedules. Failure to comply with this provision may result in the immediate suspension of all activities conducted by the Vendor and its Contractors until the required insurance has been reinstated or replaced.

The Vendor shall provide, to the County, as satisfactory evidence of the required insurance, either:

- Certificate of Insurance

or

- A Certified copy of the actual insurance policy.

The County, at its sole option, has the right to request a certified copy of any or all insurance policies required by this contract.

All insurance policies must specify that they are not subject to cancellation, non-renewal, material change, or reduction in coverage unless a minimum of thirty (30) days prior notification is given to the County by the insurer.

The acceptance and/or approval of the Vendor's insurance shall not be construed as relieving the Vendor from any liability or obligation assumed under this contract or imposed by law.

The Monroe County Board of County Commissioners, its employees and officials will be included as "Additional Insured" on all policies, except for Workers' Compensation.

Any deviations from these General Insurance Requirements must be requested in writing on the County prepared form entitled "**Request for Waiver of Insurance Requirements**" and approved by Monroe County Risk Management.

MONROE COUNTY MONROE COUNTY, FLORIDA
RISK MANAGEMENT
POLICY AND PROCEDURES
CONTRACT ADMINISTRATION
MANUAL

**Indemnification and Hold Harmless
for Airport/Aircraft Activities**

The Vendor covenants and agrees to indemnify and hold harmless Monroe County Board of County Commissioners from any and all claims for bodily injury (including death), personal injury, and property damage (including property owned by Monroe County) and any other losses, damages, and expenses (including attorney's fees) which arise out of, in connection with, or by reason of services provided by the Vendor or any of its Contractors, occasioned by the negligence, errors, or other wrongful act or omission of the Vendor or its Contractor(s), their employees, or agents.

The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement.

GENERAL LIABILITY
INSURANCE REQUIREMENTS
FOR
CONTRACT _____

BETWEEN
MONROE COUNTY, FLORIDA
AND

Prior to the commencement of work governed by this contract, the Contractor shall obtain General Liability Insurance. Coverage shall be maintained throughout the life of the contract and include, as a minimum:

- Premises Operations
- Products and Completed Operations
- Blanket Contractual Liability
- Personal Injury Liability
- Expanded Definition of Property Damage

The minimum limits acceptable shall be:

\$300,000 Combined Single Limit (CSL)

If split limits are provided, the minimum limits acceptable shall be:

\$100,000 per Person
\$300,000 per Occurrence
\$ 50,000 Property Damage

An Occurrence Form policy is preferred. If coverage is provided on a Claims Made policy, its provisions should include coverage for claims filed on or after the effective date of this contract. In addition, the period for which claims may be reported should extend for a minimum of twelve (12) months following the acceptance of work by the County.

The Monroe County Board of County Commissioners shall be named as Additional Insured on all policies issued to satisfy the above requirements.

GL1

POLLUTION LIABILITY
INSURANCE REQUIREMENTS
FOR
CONTRACT _____

BETWEEN
MONROE COUNTY, FLORIDA
AND

Recognizing that the work governed by this contract involves the storage, treatment, processing, or transporting of hazardous materials (as defined by the Federal Environmental Protection Agency), the Contractor shall purchase and maintain, throughout the life of the contract, Pollution Liability Insurance which will respond to bodily injury, property damage, and environmental damage caused by a pollution incident.

The minimum limits of liability shall be:

\$1,000,000 per Occurrence/\$2,000,000 Aggregate

If coverage is provided on a claims made basis, an extended claims reporting period of four (4) years will be required.

POL2

VEHICLE LIABILITY
INSURANCE REQUIREMENTS
FOR
CONTRACT _____

BETWEEN
MONROE COUNTY, FLORIDA
AND

Recognizing that the work governed by this contract requires the use of vehicles, the Contractor, prior to the commencement of work, shall obtain Vehicle Liability Insurance. Coverage shall be maintained throughout the life of the contract and include, as a minimum, liability coverage for:

- Owned, Non-Owned, and Hired Vehicles

The minimum limits acceptable shall be:

\$100,000 Combined Single Limit (CSL)

If split limits are provided, the minimum limits acceptable shall be:

\$ 50,000 per Person
\$100,000 per Occurrence
\$ 25,000 Property Damage

The Monroe County Board of County Commissioners shall be named as Additional Insured on all policies issued to satisfy the above requirements.

WORKERS' COMPENSATION
INSURANCE REQUIREMENTS
FOR
CONTRACT _____

BETWEEN
MONROE COUNTY, FLORIDA
AND

Prior to the commencement of work governed by this contract, the Contractor shall obtain Workers' Compensation Insurance with limits sufficient to respond to Florida Statute 440.

In addition, the Contractor shall obtain Employers' Liability Insurance with limits of not less than:

- \$100,000 Bodily Injury by Accident
- \$500,000 Bodily Injury by Disease, policy limits
- \$100,000 Bodily Injury by Disease, each employee

Coverage shall be maintained throughout the entire term of the contract.

Coverage shall be provided by a company or companies authorized to transact business in the state of Florida.

If the Contractor has been approved by the Florida's Department of Labor, as an authorized self-insurer, the County shall recognize and honor the Contractor's status. The Contractor may be required to submit a Letter of Authorization issued by the Department of Labor and a Certificate of Insurance, providing details on the Contractor's Excess Insurance Program.

If the Contractor participates in a self-insurance fund, a Certificate of Insurance will be required. In addition, the Contractor may be required to submit updated financial statements from the fund upon request from the County.

LEASE AMENDMENT

THIS LEASE AMENDMENT is entered into on this 20th day of June, 2001, by and between Monroe County, a political subdivision of the State of Florida, whose address is 5100 College Road, Key West, FL 33040, hereafter County, and the Florida Keys Aqueduct Authority, an independent special district, whose address is 1100 Kennedy Drive, Key West, FL 33040, hereafter FKA.

WHEREAS, on March 15, 2000, the parties entered into a lease for a site at the Marathon Airport (the original lease) for use as a central wastewater treatment plant;

WHEREAS, the parties have determined that it is in their mutual best interest to modify the date that rent under the original lease first becomes due; now, therefore

WITNESSETH:

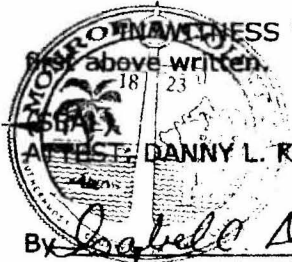
IN CONSIDERATION of the mutual promises and benefits set forth below, the parties agree as follows:

1. A copy of the original lease is attached to this lease amendment and made a part of it.
2. Paragraph 2 of the original lease is amended to read as follows:

The term of this lease is twenty (20) years, beginning on the date first written above. The annual rent for the premises is \$19,866.23 per year. (The rent amount is based on 91 cents per square foot multiplied by the premises 21,853 square feet.) The annual rent is due on the date the construction of the wastewater treatment facility authorized in subparagraph 3(b) begins and thereafter on the anniversary of that date for each year this lease remains in effect or two years from March 15, 2000, whichever occurs first. Following the initial year of this lease, the annual rental sum will be adjusted each year by a percent equal to the increase in the CPI for all urban consumers above that of the prior year. Alternatively, and in the discretion of the Monroe County Airport Director, following the initial year of this lease, the annual rental sum may be increased by the amount required by an updated rate and charges study prepared by a professional airport consultant and approved by the FAA.

3. Except as provided in paragraph 2 of this amendment, in all other respects, the terms and conditions of the original lease remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.



ATTEST: DANNY L. KOLHAGE, CLERK
 By Isabel De Santis
 Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
 OF MONROE COUNTY, FLORIDA
 By [Signature]
 Mayor/Chairperson

ATTEST:
 By _____
 DANNY L. KOLHAGE
 CLK. CIR. CT.
 MONROE COUNTY, FLA.

FLORIDA KEYS AQUEDUCT AUTHORITY
 By [Signature]
 Title Executive Director

Jdleasefkaa-mapa

2001 SEP 20 PM 2:22

FILED FOR RECORD

APPROVED AS TO FORM
 AND LEGAL SUFFICIENCY
 BY [Signature]
 ROBERT N. VOLPE
 DATE 6-4-01

AMENDMENT TO LEASE AGREEMENT

FLORIDA KEYS AQUEDUCT AUTHORITY

THIS AMENDMENT is made and entered into this 14th day of July, 2004, by and between Monroe County, hereafter County, and Florida Keys Aqueduct Authority, hereafter FKAA.

WHEREAS, on the 15th day of March, 2000, the parties entered into a 20 year lease (the original lease) to lease premises at the Marathon Airport for the purpose of constructing, operating and maintaining a waste water treatment facility; and

WHEREAS, the FKAA desires that the County lease the FKAA an additional parcel of land at the Marathon Airport and the County is willing to lease such a parcel; and

WHEREAS, the parties desire to amend the original lease, now, therefore,

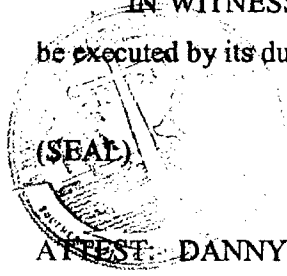
IN CONSIDERATION of the mutual promises and covenants set forth below, the parties agree as follows:

- 1) Monroe County proposes to lease to the FKAA additional area of 2,438 square feet at the southeast end of the airport adjacent to the FKAA's current leasehold, as depicted on Exhibit A-1, at the rate of 94 cents per square foot for an annual rent of \$2,291.72 for a proposed office/support facility which is to be provided by the FKAA and for automobile parking for employees and/or contractors of the Little Venice WWTP. Exhibit A-1 is attached to the agreement and made a part of it. The rate will be adjusted annually in accordance with Section 2 of the original lease.
- 2) FKAA is to install a 6-foot chain link fence with 1-foot barbed wire to surround the airport's existing rotating beacon, with two 3-foot pedestrian gates, one on the west side and the other on the north side. The fence will be at least 10-feet from the beacon's supporting tower on all sides.
- 3) FKAA is to relocate and install the airport's motorized gate (Gate 1) including all associated and/or related devices, mechanisms and hardware including the security card reader to a location on the present driveway just north of the FKAA leasehold and adjacent to the Mosquito Control District's aviation hangar. New 6-foot fencing with 1-foot barbed wire is to be installed behind that hangar's south entrance and from the driveway running easterly to the airport's existing eastern perimeter fence. "Gate 1" will be integrated into this new fence.

- 4) FKAA proposes to install a new motorized gate at the former location of the Airport's "Gate 1". FKAA must provide and keep open ingress and egress to the premises sufficient to allow for the passage of the Airport's vehicles, the Mosquito Control District's vehicles and any others designated by the Airport Manager. Furthermore, FKAA is to provide a means of opening this gate that is adequate to satisfy the needs of the Airport's personnel, those of the Mosquito Control District, and any others designated by the Airport Manager.
- 5) FKAA is to asphalt the driveway of "Gate 1" from U.S. Highway 1 to the existing asphalt driveway which is just north of the relocated Airport's "Gate 1".
- 6) FKAA is to ensure that the Little Venice WWTP's perimeter fence is 6-feet in height and equipped with 1-foot barbed wire in all areas where it adjoins with the Airport's property.
- 7) FKAA is responsible for obtaining all approvals and permits associated with the aforementioned and to bear the associated and or related costs of same.

All other provisions of the March 15, 2000 original lease, not inconsistent herewith, shall remain in full force and effect.

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



ATTEST: DANNY L. KOLHAGE, CLERK

By *Isabel C. Neupertis*
Deputy Clerk

ATTEST:

By 07-14-04

THIS COUNTY ATTORNEY
APPROVED AS TO FORM:
James Hutton
JAMES HUTTON
COUNTY ATTORNEY
6/28/04

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By *Murray E. Nelson*
Mayor/Chairman

FILED FOR RECORD
2004 AUG 10 PM 3:33
DANNY L. KOLHAGE
CLERK
MONROE COUNTY, FLORIDA

FLORIDA KEYS AQUEDUCT AUTHORITY

By *[Signature]* 8/2/04
Title EXECUTIVE DIRECTOR

EXHIBIT A-1

TAXIN

MOSQUITO CONTROL

FKAA

LEASE HOLD

RELOCATE AP GATE

NEW FKA DRIVEWAY AP GATE

FKAA PROPOSED ADD'L LEASEHOLD 2,438.99 SF.

