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# MEMORANDUM

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**DATE:** April 30, 2007

**TO:** Dent Pierce, Division Director  
Public Works

**FROM:** John W. King, Sr. Director  
Lower Keys Operations

**RE:** Agenda Item – May 16, 2007 BOCC Meeting  
New Lease Agreement – State Attorney and Public  
Defender -Marathon

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On June 30, 2007, the current lease agreement with F. James Chaplin will expire with no additional options to renew. The tenants, State Attorney and Public Defender, wish to remain at this location in Marathon. Mr. Chaplin has agreed and he has submitted his terms for a new lease, i.e., initially a five-year term with one five-year option to renew, and a 10% increase in rent due to higher insurance and taxes. Both the State Attorney and the Public Defender have agreed to the terms and a new lease has been prepared.

JWK/jbw

Enclosures

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

**CONTRACT SUMMARY**

Contract with: F. James Chaplin Contract # \_\_\_\_\_  
 Effective Date: July 1, 2007  
 Expiration Date: June 30, 2012

Contract Purpose/Description:  
To lease 3600 square feet of office space in Marathon for the State Attorney and Public Defender.

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Contract Manager: Jo B. Walters 4549 Facilities Maint/Stop #4  
 (Name) (Ext.) (Department/Stop #)

for BOCC meeting on 05/16/07 Agenda Deadline: 05/01/07

**CONTRACT COSTS**

Total Dollar Value of Contract: \$ 77,506.20 Current Year Portion: \$ 19,376.55  
 Budgeted? Yes  No  Account Codes: 001-69600-530-440-  
001-69800-530-440-  
 Grant: \$ N/A  
 County Match: \$ N/A

**ADDITIONAL COSTS**

Estimated Ongoing Costs: \$ \_\_\_\_\_/yr For: \_\_\_\_\_  
 (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

**CONTRACT REVIEW**

	Date In	Changes Needed	Reviewer	Date Out
Division Director	<u>5/9/07</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>Beth Seta</u>	<u>5/9/07</u>
Risk Management <i>Risk C/S RA</i>	<u>5-9-07</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>M. Steink</u>	<u>5-9-07</u>
O.M.B./Purchasing	<u>5-9-07</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>Adrienne G</u>	<u>5/9/07</u>
County Attorney	<u>4/27/07</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<u>Nathane W Cassel</u>	<u>5/2/07</u>

Comments: Lease needs paragraph XVIII changed to standard language in purchasing policy; Paragraph IX must be changed - needs atty fee clause see attached suggestions via email

Revised Pwd 5/2/07  yo see change to signature page

OMB Form Revised 2/27/01 MCP #2

*copy 5/9/07 (10)  
 to: go*

*5/9/07 stamped OK by TWC*

No - change were made TWC 5/2/07

TWC 5/2/07

LEASE AGREEMENT

This Lease Agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007, between F. JAMES CHAPLIN, d/b/a ISLAND MARINA, INC., party of the first part, hereinafter called the Lessor, and the BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, party of the second part, hereinafter called the Lessee.

WITNESSETH:

That the Lessor, for and in consideration of the covenants and agreements hereinafter mentioned to be kept and performed by the Lessee, has demised and leased to the Lessee, for the term and under the conditions hereinafter set out, those certain premises in Marathon, County of Monroe, Florida, described as follows:

I. LEASE LOCATION:

4695 Overseas Highway, Marathon, Florida, which shall constitute an aggregate area of 3,600 square feet of net rentable space, at the rate of \$21.53 per square foot per year, \$6,458.85 per month, \$77,506.20 per year; including property boundaries of 122' x 200', as further described in the survey conducted by Phillips & Trice Surveying, Inc. (Exhibit A), attached hereto and incorporated as part of this lease document.

II. RENTALS:

The Lessor hereby leases to the Lessee 3,600 square feet and the Lessee hereby leases from the Lessor the above-described premises for the term set out in this Lease. Lessee hereby agrees to pay the Lessor the sum of Seventy-seven thousand five hundred six and 20/100 (\$77,506.20) annually. The lease amount agreed to herein may be adjusted annually in accordance with the percentage change in the Consumer Price Index (CPI-U), National Index for Wage Earners and Clerical Workers, and shall be based upon the CPI-U computation from January 1 through December 31 of the previous year. Rent shall be due and payable on or before the last day of each month, in arrears.

The rental shall be paid to the Lessor and mailed to James Chaplin, Chaplin Real Estate, 5190 Overseas Highway, Marathon, Florida 33050, prior to the last day of the month.

III. TERM:

To have and to hold the above-described premises for a term of five years commencing on July 1, 2007, up to and including June 31, 2012.

IV. RENEWAL

This agreement may be renewed, at the option of the Lessee, for one (1) additional five (5) year period. This option shall be executed only upon approval of the Board of County Commissioners.

V. AIR CONDITIONING AND JANITORIAL SERVICES

- (1) The Lessor agrees to furnish to the Lessee air conditioning equipment, and shall ensure that same is operational and functional at the commencement of this lease. Thereafter, the Lessee shall maintain air conditioning equipment in satisfactory operating condition at all times for the leased premises during the term of the Lease at the expense of the Lessee.
- (2) The Lessee shall provide janitorial services and all necessary janitorial supplies for the leased premises during the term of the Lease at the expense of the Lessee.

VI. MAINTENANCE AND REPAIRS:

- (1) The Lessee shall provide for interior maintenance and repairs in accordance with generally accepted good practices, including repainting, the replacement of worn or damaged floor covering and repairs or replacement of interior equipment as may be necessary due to normal usage. The Lessee shall, during the term of this Lease, keep the interior of the demised premises in as good a state of repair as it is at the time of the commencement of this Lease, reasonable wear and tear and unavoidable casualties excepted.
- (2) The Lessor shall maintain and keep in repair the exterior of the demised premises during the term of this Lease, and shall be responsible for the replacement of all windows broken or damaged in the demised premises, except such breakage or damage caused to the exterior of the demised premises by the Lessee, its officers, agents, or employees.
- (3) The Lessor shall maintain the exterior of the demised premises so as to conform to all applicable health and safety laws, ordinances, and codes which are presently in effect and which may subsequently be enacted during the term of this Lease and any renewal periods.
- (4) The Lessor shall provide appropriate entranceways to the structure to accommodate space allocation for government entities occupying the space, inclusive of ingress and egress, at the expense of the Lessor.

VII. UTILITIES:

The Lessee will promptly pay all solid waste, power, and electric light rates or charges which may become payable during the term of this Lease for solid waste disposal, power, and electricity used by the Lessee on the premises.

VIII. ALTERATIONS:

The Lessee shall have the right to make any alterations to the demised premises during the term of this Lease upon first having obtained the written consent thereto of the Lessor. The Lessor shall not capriciously withhold the consent to any such alterations.

IX. FIRE AND OTHER HAZARDS:

- (1) In the event that the demised premises, or the major part thereof are destroyed by fire, lightning, storm, or other casualty, the Lessor at its option may forthwith repair the damage to such demised premises at its own cost and expense. The rental thereon shall cease until the completion of such repairs and the Lessor will immediately refund the pro rata part of any rentals paid in advance by the Lessee prior to such destruction. Should the premises be only partly destroyed, so that the major part thereof is usable by the Lessee,

then the rental shall abate to the extent that the injured or damaged part bears to the whole of such premises and such injury or damage shall be restored by the Lessor as speedily as is practicable and upon the completion of such repairs, the full rental shall commence and the Lease shall then continue the balance of the term.

- (2) The Lessor shall provide for fire protection during the term of this Lease in accordance with the fire safety standards of the State and/or Monroe County Fire Marshal. The Lessor shall be responsible for maintenance and repair of all fire protection equipment necessary to conform to the requirements of the State and/or County Fire Marshal. The Lessor agrees that the demised premises shall be available for inspection by the State and/or County Fire Marshal, prior to occupancy by the Lessee, and at any reasonable time thereafter.

X. EXPIRATION OF TERM:

At the expiration of the term, the Lessee will peaceably yield up to the Lessor the demised premises in good and tenantable repair. It is understood and agreed between the parties that the Lessee shall have the right to remove from the premises all personal property of the Lessee and all fixtures, machinery, equipment, appurtenances, and appliances placed or installed on the premises by it, provided the Lessee restores the premises to as good a state of repair as they were prior to the removal.

XI. SUBLETTING AND ASSIGNMENT:

The Lessee upon the obtaining of the written consent of the Lessor, which written consent shall not capriciously be withheld, shall have the right to sublet all or any part of the demised premises, or to assign all or any part of the demised premises.

XII. NOT CONSENT TO SUE:

The provisions, terms, or conditions of this Lease shall not be construed as a consent of Monroe County to be sued because of said leasehold.

XIII. WAIVER OF DEFAULTS:

The waiver by the Lessor of any breach of this Lease by the Lessee shall not be construed as a waiver of any subsequent breach of any duty or covenant imposed by this Lease.

XIV. RIGHT OF LESSOR TO INSPECT:

The Lessor, at all reasonable times during regular business hours, may enter into and upon the demised premises for the purpose of viewing the same and for the purpose of making any such repairs as they are required to make under the terms of this Lease. Repairs shall be limited to non-business hours unless an emergency situation exists.

XV. BREACH OF COVENANT:

If the Lessee shall neglect or fail to perform or observe any covenant herein contained, which on the Lessee's part is to be performed and such default shall continue for a period of thirty days after receipt of written notice thereof from the Lessor to the Lessee, then the Lessor lawfully may, immediately or any time thereafter, and without further notice or demand, enter into and upon the demised premises, or any part thereof and repossess the same as of their former estate and expel the Lessee and remove its effects forcefully, if necessary, without being taken or deemed to be guilty of any manner of trespass and thereupon this demise shall terminate but without prejudice to any

remedy which might otherwise be used by the Lessor for arrears of rent or for any breach of the Lessee's covenants herein contained.

XVI. ACKNOWLEDGEMENT OR ASSIGNMENT:

The Lessee upon the request of the Lessor shall execute such acknowledgement or acknowledgments, or any assignment, or assignments, of rentals and profits made by the Lessor to any third person, firm or corporation, provided that the Lessor will not make such request unless required to do so by the Mortgage under a mortgage or mortgages, executed by the Lessor.

XVII. AVAILABILITY OF FUNDS:

Monroe County's performance and obligation to pay under this contract, is contingent upon an annual appropriation by the BOCC.

XVIII. USE OF PREMISES:

The Lessee will not make or suffer any unlawful, improper or offensive use of the premises or any use of occupancy thereof contrary to the Laws of the State of Florida or to such Ordinances of Monroe County now in effect or hereinafter adopted, as may be applicable to the Lessee.

XIX. NOTICES:

All notices required to be served upon the Lessor shall be served by certified mail, return receipt requested, at Chaplin Real Estate, 5190 Overseas Highway, Marathon, Florida 33050, and all notices required to be served upon the Lessee shall be served by certified mail, return receipt requested, at the Division of Public Works, Facilities Maintenance Department, 3583 S. Roosevelt Boulevard, Key West, Florida, 33040.

XX. RADON GAS NOTIFICATION:

Radon is a naturally occurring gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings. Additional information regarding radon and radon testing may be obtained from your county public health unit.

XXI. LEASE TERMINATION

This lease may be terminated by the Lessee upon written sixty (60) days notice to the Lessor that the Lessee has obtained adequate office space in a governmental building.

XXII. ETHICS CLAUSE:

Lessor warrants that it has not employed, retained or otherwise had act on its behalf any former County officer or employee subject to the prohibition of Section 2 of Ordinance No. 010-1990 or any County officer or employee in violation of Section 3 of ordinance No. 020-1990. For breach or violation of this provision the lessee may, in its discretion, deduct from the contract or purchase price, or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid to the former County officer or employee.

XXIII. AMERICAN WITH DISABILITIES ACT:

The lessor herein expressly agrees to maintain the subject premises in full compliance with the American Disabilities Act. Further, the lessor shall be liable for any cost or expenditure associated with said compliance. The lessor shall be fully responsible to restore all rest room facilities to meet ADA requirements at the expense of the lessor, prior to occupancy.

XXIV. PUBLIC ENTITY CRIME:

A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S. for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

(CATEGORY TWO: \$10,000.00)

XXV. ATTORNEY'S FEES, AND COSTS.

If any action at law or in equity shall be brought under this lease, or for or on account of any breach of, or to enforce or interpret any of the covenants, terms, or conditions of this lease, or for the recovery of possession of the demised premises, the prevailing party shall be entitled to recover from the other party, reasonable attorneys fees and costs, the amount of which shall be fixed by the court and shall be made a part of any judgment or decree rendered.

XXVI. GOVERNING LAW, AND VENUE:

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed entirely in the State. In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of this Agreement, the Lessee and Lessor agree that venue will lie in the appropriate court or before the appropriate administrative body in Monroe County, Florida. The Lessor and Lessee agree that, in the event of conflicting interpretations of the terms or a term of this Agreement by or between any of them the issue shall be submitted to mediation prior to the institution of any other administrative or legal proceeding.

XXVII. INDEMNIFICATION, HOLD HARMLESS.

The Lessor covenants and agrees to indemnify and hold harmless Lessee 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 Lessor occasioned by the negligence, errors, or other wrongful act of omission of the Lessor or its employees, or agents.

Subject to Section 768.28, Florida Statutes, Lessee shall indemnify and hold harmless Landlord against and from any and all claims arising from Lessee's use of the premises for the conduct of its business or from any activity, work, or other thing done, permitted or suffered by the Lessee in the building.

XXIII. DEFINITION OF TERMS:

- (1) The terms "lease", "lease agreement", or "agreement" shall be inclusive of each other and shall also include any renewals, extensions or modifications of this Lease.
- (2) The term "Lessor" and "Lessee" shall include the successors and assigns for the parties hereto.
- (3) The singular shall include the plural and the plural shall include the singular whenever the context so requires or permits.

XXIX. ADDITIONAL CONDITIONS:

No additional covenants or conditions form a part of this Lease.

IN WITNESS WHEREOF, the parties hereto have hereunto executed this instrument for the purpose herein expressed, the day and year above written.

ORIGINAL SIGNATURES REQUIRED ON ALL COPIES.

Signed, Sealed and Delivered  
in the presence of

Clara A Mayette  
Witnesses

CLARA A. MAYETTE  
Print Name

Date: 5/3/07

LESSOR:

By: F. James Chaplin

Title: Owner

F. James Chaplin  
Print Name

Date: 5-3-07

BOARD OF COUNTY COMMISSIONERS  
MONROE COUNTY, FLORIDA

By: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_

\_\_\_\_\_  
Clerk

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:

Natleene W Casse

NATILEENE W CASSEL

ASSISTANT COUNTY ATTORNEY

Date 5-9-07



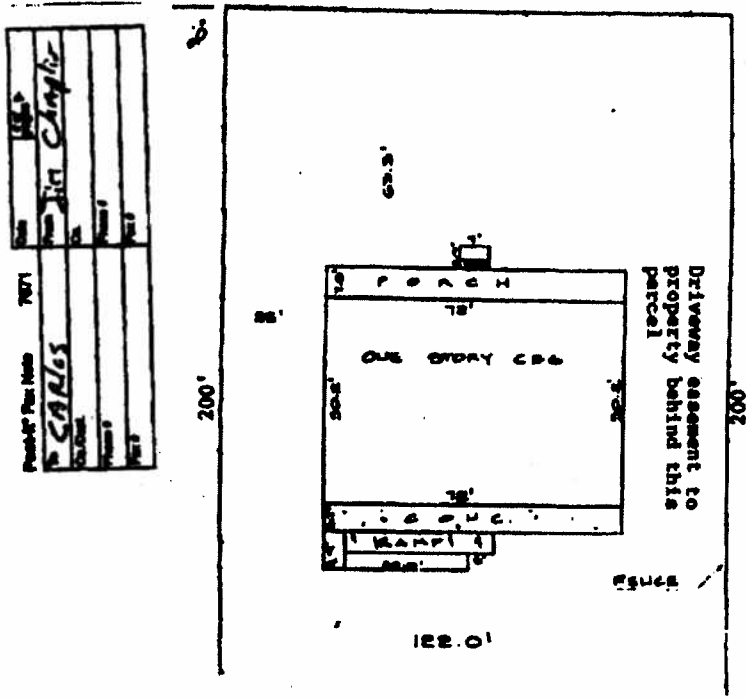
**PHILLIPS & TRICE SURVEYING, INC.**

Professional Land Surveyors  
1204 Simonton Street  
Key West, Florida 33040  
(305) 294-4747

JOE M. PHILLIPS, P.E.  
Professional Engineer No. 12110  
JOE M. TRICE, P.S.  
Professional Surveyor No. 12110

U.S. HIGHWAY 122 ONE

100' NW



**SPECIFIC PURPOSE SURVEY TO CREATE A NEW PARCEL:** A 122 foot strip of land in a part of Government Lots 1 and 2, Section 10, Township 66 South, Range 32 East, being on Key Vaca, Monroe County, Florida, and being more particularly described by metes and bounds as follows: BEGIN at the intersection of the Northwest corner of "MARINADE SUBDIVISION" as recorded in Plat Book 2, Page 185 of the Public Records of Monroe County, Florida, and the Southeasterly right of way line of U.S. Highway No. 1, thence South 74° 20' West along the Southeasterly right of way line of U.S. Highway No. 1, 122 feet to a point; thence South 15° 40' East, 200 feet to a point; thence North 74° 20' East, 122 feet to a point; thence North 15° 40' West, 200 feet back to the Point of Beginning.

**SURVEY FOR: ISLAND MARINA, INC.**

I HEREBY CERTIFY that the Specific Purpose Survey delineated hereon meets or exceeds the minimum technical standards as set forth by the Florida Board of Land Surveyors, pursuant to Section 472.027 of the Florida Statutes, and that there are no encroachments, above ground, other than those shown hereon.

THIS SURVEY IS NOT  
VALID UNLESS SIGNED  
WITH A RAMPED SEAL.

PHILLIPS & TRICE SURVEYING, INC.

April 17, 1987  
Key West, Florida

*Joe M. Trice*  
Joe M. Trice  
Professional Surveyor  
Florida Reg. Cert. 12110

"Exhibit A"