



Office of the County Manager  
 111 NW 1st Street • Suite 2910  
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April 27, 2007

Ms. Jacqueline Menendez  
 Village Manager  
 Village of Key Biscayne Village Hall  
 88 W. McIntyre Street  
 Key Biscayne, FL 33149

RE: Expiration of Lease Agreement at 85 West Enid Drive, Key Biscayne

Dear Ms. Menendez:

As you know, the Board of County Commissioners and the Key Biscayne Village Council executed an Amendment to Lease Agreement for the parcel located at 85 West Enid Drive, Key Biscayne. That amendment modified the original Lease Agreement approved in 1993 in several respects, the most significant of these being the following: (1) the term was reduced from 30 to 14 years, thereby to expire June 14, 2007; (2) the Village was granted the right to demolish the existing improvements on the property; and (3) the Village was granted an irrevocable and exclusive right, privilege, and option to purchase the property at any time before the expiration of the lease term for a purchase price equal to the property's Fair Market Value.

You and I met regarding the Village exercising the option to purchase, and I referred you to the General Services Administration (GSA), as they are responsible for land transactions. I understand that you met with GSA's Director, Wendi Norris, in January to discuss the potential transaction and to establish parameters for the negotiation. You asked if the Village could pay for the property over time rather than in one lump sum. Knowing the Village's interest, the County secured an appraisal late last year and you stated you were securing an independent fee simple appraisal. It was agreed that that the two appraisals would be exchanged, and that, barring an unusual disparity in value, the average of the two appraisals would be used to set the purchase price. The exact form and timing of payment was left to be determined at the time of negotiation.

As of this date, the County has received no further communication from you or any Village staff regarding either the agreed-upon actions or its intent with respect to the impending Lease Expiration. The County is prepared to move forward immediately to complete this transaction. Notwithstanding our willingness to proceed, in the absence of any expressed interest or formal notice by the Village, it is the County's intention to regain control of the property.

We respectfully request that you schedule this matter for direction at the May 15, 2007 meeting of the Village Council. We will have County representatives at this meeting to help bring the matter to closure.

*Delivering Excellence Every Day*

Jacqueline Menendez  
Page Two

I have attached a copy of the Lease Agreement, Amendment to Lease Agreement, and the prior "Notice of Termination – Right of First Refusal" letter for your information.

I look forward to hearing from you at your earliest convenience.

Sincerely,



Roger M. Carlton  
Assistant County Manager

Attachment

- c: Honorable Carlos Alvarez, Mayor, Miami Dade County
- Honorable Carlos A. Gimenez, Miami Dade County Commissioner
- Honorable Robert Vernon, Mayor, Village of Key Biscayne
- Conchita H. Alvarez, CMC, Village Clerk
- George M. Burgess, County Manager

Subj: **RE: VILLAGE OF KEY BISCAYNE: 85 W. ENID APPRAISEL**  
Date: 5/6/2007 6:55:19 P.M. Eastern Daylight Time  
From: [CARLTON@miamidade.gov](mailto:CARLTON@miamidade.gov)  
To: [VKBBZP@aol.com](mailto:VKBBZP@aol.com)  
CC: [WJN@miamidade.gov](mailto:WJN@miamidade.gov), [JCVALLE@miamidade.gov](mailto:JCVALLE@miamidade.gov), [GUEL@miamidade.gov](mailto:GUEL@miamidade.gov)

It is OK. Please make sure that we are on the June 5, 2007 meeting to resolve this. We would like to see the appraisal once you have it to determine if the numbers are close with our appraisal. This will resolve the price, then we can discuss the terms.

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**From:** [VKBBZP@aol.com](mailto:VKBBZP@aol.com) [<mailto:VKBBZP@aol.com>]  
**Sent:** Friday, May 04, 2007 9:42 AM  
**To:** Carlton, Roger (CMO)  
**Cc:** [SHelfman@wsh-flalaw.com](mailto:SHelfman@wsh-flalaw.com); [JMQMAI@aol.com](mailto:JMQMAI@aol.com); [jMenendez@keybiscayne.fl.gov](mailto:jMenendez@keybiscayne.fl.gov)  
**Subject:** VILLAGE OF KEY BISCAYNE: 85 W. ENID APPRAISEL

Roger,

As discussed with you yesterday, the Village has ordered an appraisal from Quinliven Associates for the above referenced property. Since we will not receive the appraisal until the last week in May, the earliest we can place this item on our Council Agenda is June 5, 2007. It is my understanding from our conversation, that this is acceptable to you.

Please contact me if you require additional information.

Jud Kurlancheek, AICP  
Acting Village Manager  
Building, Zoning, and Planning Director

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See what's free at [AOL.com](http://AOL.com).

20738PG4949

Prepared by:

Elaine M. Cohen, Esq.  
Weiss Serota Helfman  
Pastoriza & Guedes, P.A.  
2665 South Bayshore Drive  
Suite 420  
Miami, Florida 33133

02R651072 2002 OCT 21 15:15

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HARVEY RUVIN, CLERK DADE COUNTY, FL

AMENDMENT TO LEASE

THIS AMENDMENT TO LEASE (this "Amendment") made this 15<sup>th</sup> day of October, 2002, by and between VILLAGE OF KEY BISCAYNE, a municipal corporation of the State of Florida, hereinafter referred to as the "TENANT", and MIAMI-DADE COUNTY, a political subdivision of the State of Florida, herein referred to as the "LANDLORD"

WITNESSETH:

WHEREAS, by Resolution No. R-1275-93, ratified by the Board of County Commissioners on October 5, 1993, the Board authorized a Lease between the above named parties for that certain property located at 85 West Enid Drive, Key Biscayne, Florida legally described on Exhibit "A" attached hereto (the "Property");

WHEREAS, Landlord and Tenant entered into a Retroactive Lease Agreement on September 7, 1993 for the Property (the "Lease"); and

WHEREAS, by Resolution No. 2002-42, adopted September 10, 2002, the Board of County Commissioners has authorized the amending of the Lease;

NOW, THEREFORE, in consideration of the restrictions and covenants herein contained, it is agreed that the said Lease is hereby amended as follows:

1. Term. The term for the Lease shall be reduced from a thirty (30) year term to a fourteen (14) year term commencing June 15, 1993 and terminating June 14, 2007.

2. Demolition. The Landlord and Tenant have agreed that Tenant can demolish the existing improvements presently located on the Property, at the expense of the Tenant. The demolished improvements will be replaced with a municipal motor vehicle parking lot and access road into West Enid Drive.

3. Grant of Option. The Landlord hereby grants to Tenant the irrevocable exclusive right, privilege and option ("Option") to purchase the Property at any time before expiration of the term of the Lease (the "Option Period") for a purchase price equal to the "Fair Market Value" of the Property as determined in accordance with the provisions of Section 6 below, upon the terms and conditions hereinafter set forth.

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4. Option Consideration. The Option to purchase the Property is granted in consideration of One Hundred Dollars (\$100.00) paid by Tenant to Landlord upon the execution of this Agreement, receipt of which is hereby acknowledged by the Landlord.

5. Exercise of Option. Exercise of the Option herein granted shall be by written notice thereof given by Tenant to Landlord (the "Option Exercise Notice") in the manner provided herein during the term of the Option Period. The purchase of the Property by Tenant shall be closed within ninety (90) days of the date of such notice upon terms and conditions consistent with the then current FAR/BAR Contract for Sale and Purchase provided, however, Tenant shall be responsible to pay all closing costs. The deed to the Property shall be in the form prescribed in Florida Statutes Section 125.411. The Property will be purchased in its "as-is" condition as of the date of closing.

6. Fair Market Value. Landlord and Tenant shall each obtain appraisals of the fair market value of the Property as if vacant and unimproved (the "Fair Market Value") within forty-five (45) days following the date the Option Exercise Notice is given to Landlord. Pursuant to the terms of this Amendment, Tenant intends to demolish the existing improvements presently located on the Property and to improve the Property with a municipal parking lot. Landlord and Tenant specifically acknowledge and agree that the Fair Market Value of the Property shall be determined as if the Property was vacant and unimproved with such parking lot and other improvements made to the Property by the Tenant during the term of the Lease. The Fair Market Value for the Property shall then be negotiated between Landlord and Tenant based upon the appraisals obtained by Landlord and Tenant. If the Fair Market Value cannot be negotiated between the parties within sixty (60) days following the date the Option Exercise Notice is given to Landlord, then a review appraiser as mutually selected by Landlord and Tenant shall conduct a review appraisal of the two original appraisals and such review appraiser's determination of the Fair Market Value shall be conclusive and binding on the parties. Appraisals hereunder shall be made by appraisers who (i) hold the MAI or comparable designation, (ii) are members of the American Institute of Appraisals and (iii) have not less than 10 years' experience in appraising properties in Miami-Dade County, Florida.

7. Prevailing Party Attorneys' Fees. In the event either Landlord or Tenant shall be required to institute any litigation to enforce any of its rights hereunder, the prevailing party shall be entitled to recover from the unsuccessful party all costs incurred in connection therewith, including, but not limited to, all court costs and reasonable attorney's fees and costs, whether incurred in a court of original or appellate jurisdiction.

8. Notice. When either of the parties desires or is required to give notice to the other in connection with the Option, including the exercise thereof, such notice shall be in writing and shall be given in accordance with the provisions of Article XVIII of the Lease.

9. Landlord as Fee Simple Title Holder. Landlord represents to Tenant that Landlord is the owner in fee simple of the Property and Landlord has full power and authority to grant the Option as set forth in this Option Agreement.

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10. Removal of Tenant's Personal Property. If the Tenant has not purchased the Property by the end of the term of this Lease, TENANT shall upon notice from Landlord, remove at its sole cost and expense all of the personal property, if any, belonging to Tenant.

In all other respects the said Lease shall remain in full force and effect in accordance with the terms and conditions specified therein.

IN WITNESS WHEREOF, the Landlord and Tenant have caused this Amendment to Lease to be executed by their respective and duly authorized officers the day and year first above written.

TENANT:

VILLAGE OF KEY BISCAYNE, a Florida municipal corporation

Attest:

*[Handwritten Signature]*  
 Village Clerk

*[Handwritten Signature]*  
 Village Manager



Approved as to legal form and sufficiency:

By: *[Handwritten Signature]*  
Village Attorney

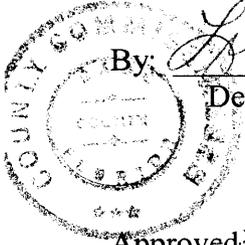
20738PG4952

LANDLORD:

MIAMI-DADE COUNTY  
FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

ATTEST:

HARVEY RUVIN, CLERK



By: Andre J. Cone  
Deputy Clerk

By: [Signature]  
Steve Shiver  
County Manager

Approved by County Attorney as to  
form and legal sufficiency:

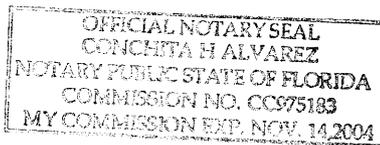
[Signature]

STATE OF FLORIDA )  
 )SS  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 11th day of September 2002, by Jacqueline Menendez, as Village Manager of the Village of Key Biscayne, a Florida municipal corporation, in the capacity aforesated; such person is personally known to me or has produced a driver's license as identification.

*Conchita H. Alvarez*  
\_\_\_\_\_  
Notary Public, State of Florida

My Commission Expires:

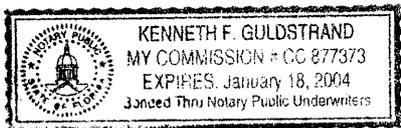


STATE OF FLORIDA )  
 )SS  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 15th day of October 2002, by Steve Shiver, County Manager of Miami-Dade County, Florida by its Board of County Commissioners, in the capacity aforesated; such person is personally known to me or has produced a driver's license as identification.

*Kenneth F. Guldstrand*  
\_\_\_\_\_  
Notary Public, State of Florida

My Commission Expires:



OFF. REC BK.

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EXHIBIT "A"

Tract A, Less the East 179 feet thereof, of BISCAYNE KEY ESTATES, according to the Plat thereof, recorded in Plat Book 50, at Page 61, of the Public Records of Miami-Dade County, Florida.

RECORDED IN OFFICIAL RECORDS BOOK  
OF DADE COUNTY, FLORIDA  
RECORD VERIFIED  
HARVEY RUVIN  
CLERK CIRCUIT COURT