

RESOLUTION NUMBER 01-27

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING THE ATTACHED LEASE OF TOWN PROPERTY TO TOWN OF FORT MYERS BEACH PUBLIC WORKS SERVICES, INC.; AUTHORIZING THE MAYOR TO SIGN THE ASSIGNMENT OF LEASE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council, acting as the owner of the utility property has indicated a willingness to lease the property to the TOWN OF FORT MYERS BEACH PUBLIC WORKS SERVICES, INC.; and,

WHEREAS, it is to the public's best interest that the property be controlled by the TOWN OF FORT MYERS BEACH PUBLIC WORKS SERVICES, INC., for public utility use.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF FORT MYERS BEACH that:

Section one. The Council of the Town of Fort Myers Beach accepts and approves the attached lease.

Section two. The Mayor is authorized and directed to sign the attached Assignment Agreement and Assignment of Contract and Lease.

Section three. This resolution shall become effective immediately upon adoption.

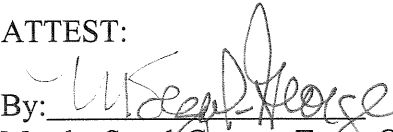
The foregoing resolution was adopted by the Fort Myers Beach Town Council and upon being put to a vote, the result was as follows:

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Daniel Hughes	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>absent</u>
Terry Cain	<u>aye</u>
Howard Rynearson	<u>aye</u>

APPROVED this 10th day of September, 2001.


ATTEST:

By:   
Marsha Segal-George, Town Clerk

Approved as to form by:

  
Richard V.S. Roosa, Town Attorney

TOWN OF FORT MYERS BEACH

By:   
Daniel Hughes, Mayor

This lease is made and executed at Fort Myers Beach, County of Lee, State of Florida, between the TOWN OF FORT MYERS BEACH, herein called lessor, whose main business office is located at 2535 Estero Boulevard, Fort Myers Beach, Florida 33931, and TOWN OF FORT MYERS BEACH PUBLIC WORKS SERVICES, INC., A Florida Corporation Not For Profit, herein called lessee, of at 2535 Estero Boulevard, Fort Myers Beach, Florida 33931.

**Section 1**  
**Description of Premises**

Lessor leases to lessee that certain commercial area herein referred to as the demised premises, as described in Exhibit A attached together with all easements, rights, and appurtenances in connection with the premises.

**Section 2**  
**Term**

The term of this lease shall be for a period of thirty years (30) and shall commence on August 3, 2001.

**Section 3**  
**Rent**

Lessee agrees to pay lessor as a fixed rental for the term of this lease, at such place as lessor may from time to time designate, the sum of one dollar each year payable in annual installments.

**Section 4**  
**Use of Premises**

a. Purposes: Lessee shall use the demised premises for the purpose of conducting water utility service, and no part of the demised premises shall be used for any other purpose without the prior written consent of lessor.

b. Maintenance of premises: The lessee shall at all times maintain all of the premises herein demised in a clean, neat, and orderly condition.

**Section 5**  
**Indemnification of Lessor**

Personal injuries; violations of law: Lessee hereby covenants and agrees at all times to indemnify and save harmless the lessor and the demised premises from and against any cost, liability, or expense arising out of any claims of any person or persons whatsoever by reason of the use or misuse of the demised premises, parking area, or common facilities by lessee or any person or persons holding under lessee. Lessee shall indemnify and save harmless the lessor from any penalty, damage, or charge incurred or imposed by reason of any violation of law or ordinance by lessee or any person or persons holding under lessee, and from any cost, damage, or expense arising out of the death of or injury to any person or persons holding under lessee.

**Section 6**  
**Repairs and Maintenance**

Lessee, at its expense, shall maintain and keep the premises, in good repair.

## **Section 7**

### **Delivery, Acceptance, and Surrender of Premises**

Lessee agrees to accept the premises on possession as being in a good state of repair and in sanitary condition. Lessee agrees to surrender the premises to the lessor at the end of the lease term, if the lease is not renewed, in the same condition as when lessee took possession, allowing for reasonable use and wear, and damage by acts of God, including fire and storms. Lessee agrees to remove all business signs or symbols placed on the premises by it before redelivery of the premises to the lessor, and to restore the portion of the premises on which they were placed in the same condition as before their placement.

## **Section 8**

### **Defects; Defective Condition; Wind; Acts of Third Persons**

a. Lessor's liability: Lessor shall not be liable to lessee for any damage or injury to lessee or lessee's property occasioned by any defect of the premises, or for any such damage or injury caused by wind or by the act, omission, or negligence of other persons.

b. Waiver of claims against lessor: All claims against the lessor for any damage or injury as provided in Subsection "a", are hereby expressly waived by lessee.

## **Section 9**

### **Assignment or Sublease**

Lessee agrees not to assign or sublease the premises leased, any part of the premises, or any right or privilege connected therewith, or to allow any other person, except lessee's agents and employees, to occupy the premises or any part of the premises, without first obtaining lessor's written consent.

## **Section 10**

### **Effect of Lessee's Receivership or Assignment for Benefit of Creditors**

Appointment of a receiver to take possession of lessee's assets (except a receiver appointed at lessor's request as herein provided) or lessee's general assignment for benefit of creditors is a breach of this lease.

## **Section 11**

### **Lessor's Remedies on Lessee's Breach**

If lessee breaches this lease, lessor shall have the following remedies in addition to their other rights and remedies in such event:

a. Reentry. Lessor has the right to obtain possession of the premises as provided by law.

b. Termination. After reentry, lessor may terminate the lease on giving 3 days' written notice of such termination to lessee. Reentry only, without notice of termination, will not terminate the lease.

c. Reletting Premises. After reentering, lessor may relet the premises or any part thereof, for any term, without terminating the lease at such rent and on such terms as they may choose. Lessor may make alterations and repairs to the premises.

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**Section 12  
Notices**

Notices given pursuant to the provisions of this lease, or necessary to carry out its provisions, shall be in writing, and delivered personally to the person to whom the notice is to be given, or mailed postage prepaid, addressed to such person.

**Section 13  
Effect of Lessor's Waiver of Covenants**

Lessor's waiver of breach of one covenant or condition of this lease is not a waiver of breach of others, or of subsequent breach of the one waived. Lessor's acceptance of rent installments after breach is not a waiver of the breach, except of breach of the covenant to pay the rent installment or installments accepted.

**Section 14  
Binding Effect on Successors and Assigns**

This lease and the covenants and conditions of this lease apply to and are binding on the heirs, successors, executors, administrators, and assigns of the parties to this lease.

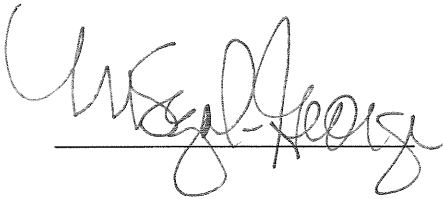
Executed on September 10, 2001.

LESSOR

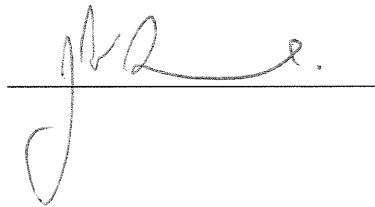
LESSEE

TOWN OF FORT MYERS BEACH

TOWN OF FORT MYERS BEACH  
PUBLIC WORKS SERVICES, INC.



A handwritten signature in cursive script, appearing to read 'W. J. ...', written over a horizontal line.



A handwritten signature in cursive script, appearing to read 'J. B. ...', written over a horizontal line.

## Exhibit "A"

Part of lots 40 and 41 Block A, Island Shores, Unit 2 as recorded in Plat Book 9 page 25 of the public records of Lee County Florida

And

A parcel in government lot 1, section 3, township 47, range 24, as described in O.R Book 1666, page 4620, of the public records of Lee County Florida

And

Part of lot 4, area 2 SE  $\frac{1}{4}$  Business Center, Plat Book 9, page 9, as described in O.R. Book 297, page 427 , of the public records of Lee County Florida