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**CITY OF MARATHON, FLORIDA
RESOLUTION 2003-060**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MARATHON AND MARATHON RESORT DEVELOPMENT, INC., A FLORIDA CORPORATION, PIRATES COVE VILLAS CONDOMINIUM ASSOCIATION, INC., A FLORIDA NOT-FOR-PROFIT CORPORATION REGARDING THE BUCCANEER RESORT REDEVELOPMENT PROJECT, AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Marathon Resort Development, Inc., a Florida corporation, and Pirates Cove Villas Condominium Association, Inc., a Florida not-for-profit corporation, are the owners of approximately 11.054 contiguous acres of land (the "Property") in the corporate limits of the City of Marathon, Florida (the "Owners"); and

WHEREAS, the Owners wish to redevelop the Property as a resort destination with motel rooms and time share plan accommodations; and

WHEREAS, the Buccaneer Resort employs a number of persons who reside in the City of Marathon, Florida (the "City"), is an integral part of the economy of the City and the Middle Keys, attracts tourism to the City and the Middle Keys, and is a contributor to the economic success of the District 3 Tourist Development Area of Monroe County, including the City; and

WHEREAS, the City desires to encourage development and redevelopment of hotels and motels in the City to attract tourism, enhance the economy of the City for the benefit of its residents, and improve the good appearance of the City; and

WHEREAS, in the past number of years, the City has not enjoyed the same level of economic benefit from the tourist industry as other locales in the Lower and Upper Keys and is in need of redevelopment and enhancement of its tourist economic base to assist in the City's economic recovery, growth, and continued vitality; and

WHEREAS, the City has concluded that the direction for redevelopment and enhancement of the City's tourist base should be as a family attraction area; and

WHEREAS, the City has recognized that to attract family visitors, accommodations must be available that meet the special needs of families and offer affordable vacation options; and

WHEREAS, the City has further recognized that the special needs of families that would provide for their comfort and encourage longer visits include separate sleeping areas for children and adults, living space for games and other family pursuits, and the ability to prepare meals and dine in, to enable families to vacation for long periods of time; and

WHEREAS, the Property is on the Gulf of Mexico, and redevelopment of the Property as a resort destination with motel rooms and time share plan accommodations provides an opportunity for the type of redevelopment that will provide recreational facilities and resort accommodations to attract families to the City for longer stays; and

WHEREAS, the City has determined that this Development Agreement is in the public interest and will further the health, safety and welfare of the residents of the City.


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

Section 1. The Development Agreement between the City and Marathon Resort Development, Inc., a Florida corporation, and Pirates Cove Villas Condominium Association, Inc., a Florida not-for-profit corporation in substantially the form as the attached as Exhibit "A" is approved. The City Manager and City Attorney are authorized to finalize the terms and conditions of the Agreement and the Mayor is authorized to execute said Agreement on behalf of the City.

Section 2. This Resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Marathon, Florida this 13th day of May, 2003.


THE CITY OF MARATHON, FLORIDA



Randy Mearns, Mayor

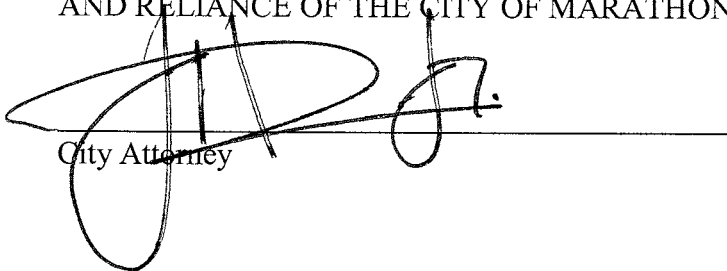
AYES: 5
Noes: 0
ABSENT: 0
ABSTAIN: 0

ATTEST:



Cindy L. Ecklund
City Clerk

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



City Attorney

**DEVELOPMENT AGREEMENT FOR
BUCCANEER RESORT AND PIRATES COVE VILLAS CONDOMINIUMS**

THIS AGREEMENT is entered into by and between MARATHON RESORT DEVELOPMENT, INC., a Florida corporation, PIRATES COVE VILLAS CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation (herein collectively referred to as "Owners"), and the CITY OF MARATHON, a Florida municipal corporation (herein referred to as "City"), pursuant to Sections 9.5-101 and 9.5-102 of the City Code, and the Florida Local Government Development Agreement Act, Sections 163.3220-163.3243, Florida Statutes (2002), and is binding on the "Effective Date" set forth herein.

WITNESSETH:

WHEREAS, Marathon Resort Development, Inc., a Florida corporation, and Pirates Cove Villas Condominium Association, Inc., a Florida not-for-profit corporation, are the owners of approximately 11.054 contiguous acres of land (herein the "Property") in the corporate limits of the City of Marathon, Florida; and

WHEREAS, the Buccaneer Resort is an existing destination resort with modest transient accommodations and amenities that has been allowed to deteriorate and is in need of major renovation; and

WHEREAS, the Pirates Cove Villas Condominiums are immediately adjacent to the existing Buccaneer Resort, are used as both owner-occupied condominiums and time share plan accommodations, and are suitable for redevelopment as part of a redeveloped and expanded Buccaneer Resort destination resort; and

WHEREAS, the Buccaneer Resort employs a number of persons who reside in the City of Marathon, is an integral part of the economy of the City of Marathon and the Middle Keys, attracts tourism to the City of Marathon and the Middle Keys, and is a contributor to the economic success of the District 3 Tourist Development Area of Monroe County, including the City of Marathon; and

WHEREAS, the City desires to encourage development and redevelopment of hotels and motels in the City to attract tourism, enhance the economy of the City for the benefit of its residents, and improve the good appearance of the City; and

WHEREAS, in the past number of years, the City has not enjoyed the same level of economic benefit from the tourist industry as other locales in the Lower and Upper Keys and is in need of redevelopment and enhancement of its tourist economic base to assist in the City's economic recovery, growth, and vitality; and

WHEREAS, the City has an abundance of coastline, with beautiful blue water on both the Atlantic Ocean and the Gulf of Mexico, that offers the attractions of swimming, boating, and fishing that families enjoy; and

WHEREAS, the trend in the leisure and hospitality industry is for larger hotel and motel rooms or suites to accommodate families for longer stays; and

WHEREAS, the City has concluded that the direction for redevelopment and enhancement of the City's tourist base should be as a family attraction area; and

WHEREAS, the City has recognized that to attract family visitors, accommodations must be available that meet the special needs of families and offer affordable vacation options; and

WHEREAS, the City has further recognized that the special needs of families that would

available that meet the special needs of families and offer affordable vacation options; and

WHEREAS, the City has further recognized that the special needs of families that would provide for their comfort and encourage longer visits include separate sleeping areas for children and adults, living space for games and other family pursuits, and the ability to prepare meals and dine in, to enable families to vacation for long periods of time; and

WHEREAS, the Property is on the Gulf of Mexico, and redevelopment of the Property as a destination resort with hotel rooms and time share plan accommodations provides an opportunity for the type of redevelopment that will provide recreational facilities and resort accommodations to attract families to the City for longer stays; and

WHEREAS, redevelopment of the Property may have the added benefit of encouraging owners of other tourist accommodations to renovate or upgrade their facilities, producing greater aesthetic and economic benefits to the City; and

WHEREAS, the Buccaneer Resort and Pirates Cove Villas Condominiums were in existence at the time of Monroe County's analysis and census of existing dwelling units in April 1992, the results of which formed the basis of the City's dwelling unit allocation ordinance, also known as Residential ROGO, codified at Sections 9.5-121 through 9.5-129 of the City Code; and

WHEREAS, the redevelopment of the Property will not require additional market rate ROGO allocations but will utilize the existing ROGO exempt transient units on the Property; and

WHEREAS, the City has held public hearings to accept and encourage public input with respect to the proposal of Owners contained in this Agreement, and has considered such public input; and

WHEREAS, Owners have provided public notice of the parties' intent to consider entering into this Development Agreement by publishing an advertisement in a newspaper of general circulation and readership in the City, posting the Property subject to this Agreement, and mailing notice to the persons and entities shown on the most recent Monroe County Tax Roll to be the owners of property lying within 300 feet of the boundaries of the Property subject to this Agreement; and

WHEREAS, the City Planning Commission has held a public hearing on March 11, 2003, to consider this Agreement, and the City Council of the City has held public hearings on March 11, 2003, and May 13, 2003, to consider this Agreement; and

WHEREAS, the City has determined that this Development Agreement is in the public interest and will further the health, safety and welfare of the residents of the City of Marathon.

NOW, THEREFORE, in consideration of the mutual promises and undertakings contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

A. RECITALS. The recitals set forth in the preceding "Whereas" clauses are incorporated herein and form a material part of this Agreement.

B. DEFINITIONS. For the purposes of this Agreement, the following terms shall have the following meanings. Terms not defined in this Agreement shall be as defined in the City Code, Chapter 163, Florida Statutes, or, if not defined in the Code or statute, shall be understood by their usual and customary meaning.

1. "Agreement" shall refer to this Development Agreement, as the same may be subsequently amended, modified or supplemented pursuant to its terms and provisions and pursuant

to the provisions of Sections 163.3220-163.3243, inclusive, Florida Statutes.

2. "City Code" shall refer to the Code of Ordinances of the City of Marathon.

3. "Comprehensive Plan" shall refer to the City's Transitional Comprehensive Plan.

4. "Development" shall refer to the development of the Property for the uses permitted by the existing Future Land Use Map and Land Use District Map, subject to the conditions, obligations, restrictions and terms contained in this Agreement.

5. "Effective Date" shall refer to the date this Agreement becomes effective, as set forth in Section C.29. of this Agreement.

6. "Hotel room" shall refer to a hotel room as defined in the City Code. It is the intent of the parties that the definition contained in City Ordinance No. 2003-08 amending the Destination Resort District regulations shall apply to this Agreement once the regulations contained in said Ordinance become effective.

7. "Owners" shall refer to the Owners of the Property subject to this Agreement.

8. "Property" shall refer to one or more of the parcels of real property located in the City that are subject to this Agreement as set forth in Section C.1.c. of this Agreement.

9. "Public facilities" means those facilities identified in Section 163.3221, Florida Statutes (2002), and as set forth in Section C.6. of this Agreement.

10. "Transient residential unit" means a unit or units in a public lodging establishment, as defined in Section 509.013(4)(a), Florida Statutes (2002), intended for transient lodging only for periods not exceeding thirty (30) days.

11. "Time share plan accommodation" has the meaning given to the term in Chapter 721,

Florida Statutes (2002).

12. “Florida Department of Community Affairs” and “state land planning agency” shall mean and refer to the “state land planning agency” as defined by the Florida Legislature in Chapter 163, Part II, Florida Statutes.

C. TERMS OF AGREEMENT.

1. Legal Description, Ownership and Equitable Interests in the Property; Unity of Title.

a. The legal description of the Buccaneer Resort property subject to this Development Agreement is attached hereto as Exhibit A and incorporated herein by reference. The owner of the Buccaneer Resort as of the date of execution of this Agreement is Marathon Resort Development, Inc., a Florida corporation. There are no other legal or equitable owners of the Buccaneer Resort known to the parties to this Development Agreement.

b. The legal description of the Pirates Cove Villas Condominiums subject to this Development Agreement is attached hereto as Exhibit B and incorporated herein by reference. Pirates Cove Villas Condominium Association, Inc., a Florida not-for-profit corporation, whose address is 1010 Kennedy Drive, 4th Floor, Key West, Florida, 33040, is the owner of the real property described in Exhibit B. Units at the Pirates Cove Villas Condominiums are either owner-occupied or used as time share plan accommodations. Marathon Resort Associates, Inc., a Florida corporation, 1010 Kennedy Drive, Key West, Florida, 33040, is the owner of a majority of the condominium units and time share plan weeks at the Pirates Cove Villas Condominiums. Michael Rosenbush, whose address is 4400 Edgefield Road, Kensington, Maryland, 20895, owns Pirates Cove Villas

Condominiums units 105, 106, and 107. Bonnie Kramer, whose address is also 4400 Edgefield Road, Kensington, Maryland, 20895, owns Pirates Cove Villas Condominiums unit 206. A number of individuals own time shares in units at the Pirates Cove Villas Condominiums. There are no other legal or equitable owners of the Pirates Cove Villas Condominiums known to the parties to this Development Agreement.

c. The term "Property" as used in this Development Agreement shall mean and refer to the combined Buccaneer Resort and Pirates Cove Villas Condominiums properties described in Exhibits A and B.

d. **Unity of Title.** The Owners shall execute a binding instrument, in a form acceptable to the City, combining the Property for purposes of the redevelopment authorized by this Agreement. The Owners shall record the instrument in the public records of Monroe County, Florida, at their sole expense, within twenty-one (21) days after the Effective Date of this Agreement. The Owners shall provide copies of the recorded instrument showing the book and page where recorded to the City and to the Florida Department of Community Affairs Florida Keys Field Office within a reasonable time after recordation.

2. Duration of Agreement; Renewal. This Development Agreement shall remain in effect for a period of ten (10) years, commencing on the Effective Date set forth below. This Development Agreement may be renewed or extended as provided in this Agreement.

3. Existing Development; Preparation for Redevelopment.

a. Transient Residential Development and Amenities on the Property.

Ninety-six (96) dwelling units were lawfully authorized and existed at the Buccaneer Resort. Nine

(9) Buccaneer Resort units consisting of seventeen (17) bedrooms have been extinguished for the use and benefit of the Hawk's Cay Expansion DRI in Monroe County pursuant to City of Marathon Resolution No. 2003-31, leaving a total of eighty-seven (87) ROGO-exempt transient residential units on the Property that may be renovated or redeveloped. Amenities on the Property that serve the transient residential development include a swimming pool and tennis courts.

b. Existing Marina and Shoreline Development on the Property. The following marina and shoreline development exists on the Property:

1. Areas designated "marina lease" and "existing lease area" on the Conceptual Site Plan to the northwest, north, and southeast of the proposed restaurant building.
2. Wood dock and walkways at the "marina lease" area.
3. Several wood docks in and adjacent to the bay bottom lease areas depicted on the Conceptual Site Plan (structures to be removed during redevelopment) .
4. Two docks/piers in the "proposed aquarium and snorkel trail w/artificial reef" area depicted on the Conceptual Site Plan.
5. Shoreline development on Coral Key (riprap, seawall cap, wood dock, and concrete structure on eastern shoreline).

c. Preparation for Redevelopment of the Existing Buccaneer Resort. The existing Buccaneer Resort property will be prepared for redevelopment by demolition of all existing transient residential and nonresidential structures on the uplands, including the swimming pool and tennis courts; except that the existing wastewater treatment plant and necessary infrastructure to support the wastewater treatment plant at the existing Buccaneer Resort shall remain in place to

serve the redevelopment on the Property, subject to final approval by DEP to current standards.

d. Redevelopment of Pirates Cove Villas Condominium Buildings. It is anticipated that all eleven (11) existing Pirates Cove Villas Condominium buildings will be demolished in preparation for redevelopment of the Property. However, the Owners reserve the right to retain and renovate two (2) of the eleven (11) existing Pirates Cove Villas Condominium buildings on the southern portion of the Property. Each such building currently contains two (2) 2-bedroom, 2-bath residential units, approximately nine hundred fifty (950) square feet in size, with patios or balconies.

4. Development Uses Permitted, Including Population Densities and Building Intensities and Height.

a. Approval of Conceptual Site Plan; Minor Revisions; Final Site Plan.

Redevelopment on the Property shall be limited to transient residential uses and time share plan accommodations, together with commercial, retail, nonresidential, and accessory structures and facilities, and employee housing dormitory space, described in this Development Agreement and depicted on the Conceptual Site Plan for the Buccaneer Resort, Sheets 1 and 2, revised April 24, 2003, prepared by The Weiler Engineering Corporation of Port Charlotte, Florida, attached hereto as Exhibit C and incorporated herein. The Conceptual Site Plan is hereby approved by the City Council, and all subsequent site plans, site plan approvals and building permits shall substantially comply with the Conceptual Site Plan; provided, however, that the final site plan may deviate from the Conceptual Site Plan (1) to accommodate refinements to the development plan made by the Owners, including minor shifts of thirty-five (35) feet or less in the structures, roadways, pathways,

and swimming pool configurations; (2) to change the type and number of transient residential units, so long as the maximum hotel density set forth in this Agreement is not exceeded; or (3) to accommodate modifications that are necessary to meet regulatory requirements. The setback requirements in Section 9.5-286 of the City Code shall not be varied.

b. Transient Residential Development Under this Agreement. The following transient residential development or redevelopment, as depicted on the Conceptual Site Plan, is approved by this Agreement:

1. Maximum Hotel Density. The Property is in the Mixed Use Commercial (MC) future land use category under the City's Transitional Comprehensive Plan, which category allows a density of 15 rooms an acre. The Property is in the Destination Resort (DR) Land Use District under the City's zoning map, which district allows a density of 10 rooms an acre. The maximum hotel density on the Property after the redevelopment authorized by this Agreement shall not exceed eighty-seven (87) hotel units, a density not exceeding the allocated density under both the MC future land use category and the DR land use district.

2. 3-Bedroom Units. Units designated "A" on the Conceptual Site Plan may be developed or redeveloped to consist of three (3) bedroom units with a total interior, air-conditioned space of approximately one thousand three hundred twenty (1,320) square feet, up to a maximum of one thousand four hundred twenty (1,420) square feet, with a porch or patio five (5) feet in depth on the front, a porch or patio ten (10) feet in depth on the back, and a porch or patio ten (10) feet in depth on the side. The length or width of the porches or patios may, at a maximum, coincide with the length/width of the units. The interior of each unit may include a full kitchen and

dining area, two (2) or three (3) bathrooms, and one (1) other living space. The kitchen may include, at a minimum, a full-sized refrigerator/freezer, a single or double sink, a stove and oven, a dishwasher, and a microwave. These units may be used as hotel rooms and time share plan accommodations. The number of "A" units approved on the final site plan may be greater or fewer than the number shown on the Conceptual Site Plan, so long as the maximum hotel density set forth in this Agreement is not exceeded.

3. 2-Bedroom Units. Units designated "B" on the Conceptual Site Plan may be developed or redeveloped to consist of two (2) bedroom units with a total interior, air-conditioned space of approximately nine hundred (900) square feet, up to a maximum of nine hundred fifty (950) square feet, with a porch or patio five (5) feet in depth on the front, a porch or patio ten (10) feet in depth on the back, and a porch or patio ten (10) feet in depth on the side. The length or width of the porches or patios may, at a maximum, coincide with the length/width of the units. The interior of each unit may include a full kitchen and dining area, two and one-half (2-1/2) bathrooms, and one (1) other living space. The kitchen may include, at a minimum, a full-sized refrigerator/freezer, a single or double sink, a stove and oven, a dishwasher, and a microwave. These units may be used as hotel rooms and time share plan accommodations. The number of "B" units approved on the final site plan may be greater or fewer than those shown on the Conceptual Site Plan, so long as the maximum hotel density set forth in this Agreement is not exceeded.

c. **Employee Housing; ROGO Allocation Awards.** To comply with Section 9.5-243(b) of the City Code, the Owners shall provide four thousand (4,000) square feet of employee housing on the Property. The City shall award two (2) affordable housing ROGO allocations to the

Property for the purpose of providing the on-site employee housing. The remaining employee housing required by Section 9.5-243(b) shall be provided off site, and may be located or developed by the Owners individually or in conjunction with other persons or entities. The provision of required on-site employee housing shall be completed before the certificate of occupancy is issued for the first transient residential unit. For off-site employee housing, before issuance of the first certificate of occupancy for transient residential units, thirty-three percent (33%) of employee/affordable housing shall have the certificate of occupancy; before issuance of the certificate of occupancy for the twenty-seventh (27th) transient residential unit, sixty-six percent (66%) of employee/affordable housing shall have the certificate of occupancy; and before the issuance of the fifty-eighth (58th) transient residential unit, one hundred percent (100%) of the employee/affordable housing shall have the certificate of occupancy. Employee housing provided pursuant to Section 9.5-243(b) shall be deed restricted as required by the City Code. The Owners shall prepare the deed restrictions in a form acceptable to the City and shall record same in the public records of Monroe County, Florida, within a reasonable time after the forms have been accepted by the City. Copies of the recorded instruments showing the book and page where recorded shall be provided to the City and to the state land planning agency within a reasonable time after recordation. All employee housing provided under this Agreement is limited to use as employee housing.

d. Prohibition Against Use of Transient Residential Units as Permanent Residences. All transient residential units developed on the Property under this Development Agreement are specifically limited to use as transient residential accommodations and time share plan accommodations. The Owners and their successors in interest are not authorized, and shall not

be allowed, to maintain a permanent residence at a transient residential unit or units on the Property, including a time share plan accommodation, and shall not allow others to maintain a permanent residence in any such transient residential unit. The Owners and their successors in interest acknowledge that they have no legal right to file for homestead exemption where such application declares a transient residential unit on the Property, including a time share plan accommodation, as the primary residence of the Owners or their successors in interest, and agree not to seek such homestead exemption for any such transient residential unit.

e. Guest Rooms and Amenities, Commercial, and Retail Square Footage, and Other Uses Approved Under This Agreement.

1. The following Guest Rooms and Amenities, commercial, and retail square footage, and other uses, as depicted on the Conceptual Site Plan, excluding shoreline development addressed below, are approved under this Agreement:

Guest Rooms and Amenities	Commercial Square Footage	Other Uses
87 guest rooms (as described in Section C.4.b. of this Agreement)	One 4,800 square foot reception and breakfast building.	4,000 square foot employee housing dormitory space
One 1,600 square foot cart depot (for golf carts for guests to use on site and for luggage carts for use by guests).	One 1,995 square foot restaurant and lounge near the shoreline.	
One main swimming pool (a maximum of 9,818 square feet).	One 4,000 square foot maintenance building.	
One kiddy pool (a maximum of 711 square feet).	One (1) 1,627 square foot retail space.	
Brick pavers around the swimming pool and kiddy pool.	288 square feet of hotel storage space.	
One gazebo of approximately 625 square feet in size to the west of the		

aquarium and snorkel area, to be used as a shaded observation area (replaces an existing one-story structure). Structure shall be set back at least ten (10) feet from mean high water.		
Six (6) foot wide concrete sidewalks throughout the Property.		

2. The City acknowledges that the Owners are vested for a total of twenty-one thousand three hundred fifty-four (21,354) square feet of commercial or nonresidential development. Total commercial development on the Property approved under this Agreement is twelve thousand seven hundred ten (12,710) square feet, leaving eight thousand six hundred forty-four (8,644) vested commercial square feet remaining. Total commercial development on the Property pursuant to this Agreement or subsequently-requested development approvals shall not exceed the 21,354 square feet for which the Owners are vested, except as may be allowed by the City Code.

f. Future Shoreline Development Approved Under this Agreement. The following future shoreline development is approved by this Agreement, subject to the Owners acquiring all necessary authorizations from state, regional, or other local agencies:

1. Expansion of the existing sandy beach for swimming and kayaking.
2. Expansion of the existing submerged lease areas to include an additional 56,226.8 square feet for water dependent uses, as noted on the Conceptual Site Plan.
3. An aquarium, snorkel trail with artificial reef, and net fence on the northeastern portion of the Property.

4. Two (2) 15' x 15' floating swimming platforms.
5. Development of six (6) foot wide wooden boardwalks along the

shoreline, provided that no more than sixty percent (60%) of the twenty (20) foot buffer is covered.

5. Additional Development Conditions. The following additional conditions, terms, restrictions, and other requirements have been determined by the City of Marathon to be necessary for the public health, safety, and welfare of its citizens:

a. Buffers. The Owner shall provide 20-foot front "D" buffers and 10-foot side "C" buffers pursuant to Sections 9.5-375 - 379 of the City Code.

b. Building Heights/Floor Area Ratio. Pursuant to Section 9.5-283 of the City Code, buildings shall not exceed a maximum of thirty-five (35) feet in height, measured from the crown of U.S. 1 adjacent to the Property or from the existing grade, whichever is higher. Buildings shall also comply with any applicable floor area ratio in the City Code.

c. Setbacks. The City acknowledges that there is no undisturbed or unaltered shoreline on the Property. Pursuant to Section 9.5-281 of the City Code, setbacks shall be as follows:

1. From a disturbed or altered shoreline: twenty (20) feet.
2. From the right of way of U.S. 1: twenty-five (25) feet.
3. From side (neighboring) property lines: ten (10) feet.
4. Required setbacks between on-site structures: none.

d. Utilities, Lighting, and Signage. Utilities, lighting, and signage shall comply with all applicable requirements of the City Code, including the waterfront lighting criteria in

Section 9.5-395. The Owners shall install all utilities underground where practical and shall screen all utility facilities. The Owners shall utilize shaded light sources to illuminate all signs, facades, buildings, parking and loading areas, and shall arrange such lighting so as to eliminate glare to properties lying outside the Property. No intermittent or flashing lights or flashing signs shall be allowed.

e. Landscaping. The Owners shall utilize the best practices of landscaping throughout the development, and shall guarantee one hundred percent (100%) survival of all owner-installed plants for one (1) year. Seventy percent (70%) of all plants installed shall be native plants and of a species diversity typical of a Middle Keys hardwood hammock. The Owners shall remove all invasive exotic plants in each area of the Property at the time plants are installed in such area. The Owners shall provide Class “A” landscaping for all parking areas in accordance with Section 9.5-361 of the City Code.

f. Parking. The Owners shall provide no fewer than 135 parking spaces, a minimum of five (5) of which shall be handicapped parking spaces, as required by Section 9.5-351 of the City Code.

g. Internal Infrastructure. The roads, landscaping, and other internal, owner-provided infrastructure serving each unit shall be completed before a certificate of occupancy may be issued for the unit. The Owners shall be responsible for all maintenance and repair of internal infrastructure.

h. Fire Safety. The Owners shall provide such fire wells and other fire protection facilities as required by the Life Safety Code administered by the City Fire Department.

i. Open Space Ratio. Pursuant to Sections 9.5-269 and 9.5-343 of the City Code, the Owners shall maintain a minimum of twenty percent (20%) open space on the Property.

j. Old S.R. 4A Right-of-Way. If the request of Marathon Resort Development, Inc., for the City to abandon that portion of the Old S.R. 4A right-of-way that crosses Parcels 101991, 101992, 101993, and 101930.003 on the Property is granted, that portion of the Old S.R. 4A right-of-way shall be used only for plant material, signage, lighting, parking, and stormwater retention.

k. Wind Load. The Owners shall construct all structures on the Property, including doors, windows, and cladding, to withstand the mile an hour peak winds as specified in the Building Code.

l. Energy Efficiency. The Owners shall construct all residential structures so that they are in conformance with the specifications of the State of Florida Energy Efficiency Code for Building Construction (State Energy Code).

m. Schematics. All new or redeveloped units constructed on the Property shall adhere to one of the architectural styles and one of the representative floor plans depicted in the schematics attached as Composite Exhibit D and incorporated herein by reference.

n. Permits From Other Regulatory Entities. The Owners shall obtain all necessary permits from other local, regional, and state regulatory entities and provide copies of same to the City within a reasonable time after such permits are issued.

o. Compliance With Destination Resort District Requirements. The proposed development complies with all requirements for a destination resort as provided in Section

9.5-243(b) of the City Code, as reflected in Exhibit E attached hereto and incorporated herein.

p. Stormwater Management. The development shall comply with the stormwater management criteria in Section 9.5-293 of the City Code.

q. Additional Conditions by Mutual Agreement. Nothing in this Agreement shall preclude the parties from applying additional conditions, by mutual agreement, during final site plan review or permitting.

6. Public Facilities; Impact Fees.

The public facilities that are required and that will service the development authorized by this Agreement, who shall provide the facilities, the date new facilities, if any, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of development are as follows:

- a. Domestic potable water is provided by the Florida Keys Aqueduct Authority.
- b. Electric service is provided by Florida Keys Electric Cooperative.
- c. Solid waste service is provided by Marathon Garbage Service.
- d. Wastewater and sewage treatment shall be provided by an on-site wastewater treatment plant approved by the Florida Department of Environmental Protection.
- e. Fire service will be provided by the Marathon Fire Department.
- f. New public facilities will not be constructed.
- g. All public facilities identified above are available as of the date of this

Agreement and are projected to be available concurrent with the impacts of development.

- h. Schools: not applicable.

- i. Recreational facilities: addressed through impact fees, if any.

Any increased impacts on public facilities or public services attributable to each unit of the development, and the cost of capital improvements to meet the associated demand on such facilities or services, shall be assured by payment to the City, concurrent with the issuance of the building permits for each unit, of any City impact fees required by Ordinance then in effect, as well as by payment by the Owners of any applicable utility system development fees. In addition, the Owners agree to be subject to any impact fee ordinance adopted by the City within six (6) months after the Effective Date of this Agreement if such ordinance applies equally and uniformly to all redevelopment in the City.

7. Reservations or Dedications of Land for Public Purposes. The parties anticipate that the Owners may reserve or dedicate land for public purposes in connection with the development authorized by this Agreement, but are currently unaware of the specifics of such reservation(s) or dedication(s). Reservations and dedications for public purposes in connection with this Agreement will be as required by the City's Transitional Comprehensive Plan and City Code. Such reservations or dedications may include, by way of example, easements necessary for the provision of stormwater, utility, and wastewater services to the Property.

8. All Local Permits Approved or Needed.

- a. The following City development approvals are needed for the development authorized by this Agreement:

1. Final site plan approval by City planning staff confirming compliance with this Agreement and applicable City Code requirements.

2. As-of-right building permits (including necessary ROGO allocations for employee housing).

b. No further review or discretionary review will be required by the City, it being agreed that the development, as depicted on the approved Conceptual Site Plan attached hereto, requires only the above development approvals so long as the final site plan substantially complies with the Conceptual Site Plan approved under this Agreement.

c. Nothing in this Agreement shall be deemed to obviate the Owners' compliance with terms and provisions of each such identified approval.

9. Mutual Cooperation. The City agrees to cooperate with the Owners in timely providing and/or granting all permits, licenses, approvals, or consents necessary or appropriate to fully implement this Agreement. The City and the Owners agree to cooperate fully with and assist each other in the performance of the provisions of this Agreement.

10. Development to Comply with Permits and City Comprehensive Plan and Code Provisions. The development described in and authorized by this Development Agreement shall be developed in accordance with all required permits, and in accordance with all applicable provisions of the City's Transitional Comprehensive Plan and City Code in effect on the date of execution of this Agreement. No certificate of occupancy for an individual building shall be issued until all plans for that building are approved by the City and the Owner has complied with all conditions in permits issued by the City and other regulatory entities for that building, and all on-site and off-site housing has received a certificate of occupancy in accordance with Section C.4.c. of this Development Agreement.

11. **Finding of Consistency.** The City of Marathon finds that the development authorized herein is consistent with the City's Transitional Comprehensive Plan and land development regulations in effect on the date of execution of this Agreement.

12. **Compliance With Permits, Terms, Conditions, and Restrictions Not Identified Herein.** The failure of this Development Agreement to address a particular permit, condition, term, or restriction shall not relieve the Owners of the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions.

13. **Laws Governing.**

a. For the duration of this Development Agreement, all approved development of the Property shall comply with and be controlled by this Development Agreement and provisions of the City's Transitional Comprehensive Plan and City Code in effect on the date of execution of this Agreement. The parties do not anticipate that the City will apply subsequently-adopted laws and policies to the Property, except as expressly provided in this Agreement.

b. Pursuant to Section 163.3233, Florida Statutes (2002), the City may apply subsequently adopted laws and policies to the Property only if the City holds a public hearing and determines that: (a) the new laws and policies are not in conflict with the laws and policies governing the Agreement and do not prevent development of the land uses, intensities, or densities set forth in this Agreement; (b) the new laws and policies are essential to the public health, safety, or welfare, and the City expressly states that they shall apply to the development that is subject to this Agreement; (c) the local government demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement; or (d) the Agreement is based

on substantially inaccurate information supplied by the Owners. However, nothing in this Agreement shall prohibit the parties from mutually agreeing to apply subsequently adopted laws to the Property.

c. If state or federal laws enacted after the effective date of this Development Agreement preclude any party's compliance with the terms of this Agreement, this Development Agreement shall be modified as is necessary to comply with the relevant state or federal laws. However, this Development Agreement shall not be construed to waive or abrogate any rights that may vest pursuant to common law.

14. Amendment, Renewal, and Termination. This Agreement may be amended, renewed, or terminated as follows:

a. As provided in Section 163.3237, Florida Statutes (2002), this Development Agreement may be amended by mutual consent of the parties to this Agreement or by their successors in interest. Amendment under this provision shall be accomplished by an instrument in writing signed by the parties or their successors.

b. As provided in Section 163.3229, Florida Statutes (2002), this Development Agreement may be renewed by the mutual consent of the parties, subject to the public hearing requirements in Section 163.3225, Florida Statutes (2002): the City shall conduct at least two (2) public hearings, one of which may be held by the local planning agency at the option of the City. Notice of intent to consider renewal of the Development Agreement shall be advertised approximately seven (7) days before each public hearing in a newspaper of general circulation and readership in Monroe County, Florida, and shall be mailed to all affected property owners before the

first public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing. The notice shall specify the location of the land subject to the Development Agreement, the development uses on the Property, the population densities, and the building intensities and height and shall specify a place where a copy of the Development Agreement can be obtained.

c. This Development Agreement may be terminated by the Owners or their successor(s) in interest following a breach of this Development Agreement upon written notice to the City as provided in this Agreement.

d. Pursuant to Section 163.3235, Florida Statutes (2002), this Agreement may be revoked by the City if the City finds, on the basis of competent substantial evidence, that there has been a failure to comply with the terms of this Development Agreement.

e. This Agreement may be terminated by mutual consent of the parties.

15. Breach of Agreement and Cure Provisions.

a. If the City concludes that there has been a material breach in this Agreement, prior to revoking this Agreement, the City shall serve written notice on the Owner identifying the term or condition the City contends has been materially breached and providing the Owner with ninety (90) days from the date of receipt of the notice to cure the breach or negotiate an amendment to this Development Agreement. Each of the following events, unless caused by fire, storm, flood, other Act of God, or events beyond the control of the Owner, shall be considered a material breach of this Agreement: (1) failure to comply with the provisions of this Agreement; and (2) failure to comply with terms and conditions of permits issued by the City of Marathon or other regulatory

entity for the development authorized by this Agreement.

b. If the Owner concludes that there has been a material breach in the terms and conditions of this Development Agreement, the Owner shall serve written notice on the City identifying the term or condition the Owner contends has been materially breached and providing the City with thirty (30) days from the date of receipt of the notice to cure the breach. The following events, unless caused by fire, storm, flood, other Act of God, or events beyond the control of the City, shall be considered a material breach of this Agreement: failure to comply with the provisions of this Agreement; failure to timely process any application for site plan approval or other development approval required to be issued by the City for the development/redevelopment authorized by this Agreement.

c. If a material breach in this Agreement by the City occurs and is not cured within the time periods provided above, the party that provided notice of the breach may elect to terminate this Agreement or may seek to enforce this Agreement as provided herein.

d. If the City waives a material breach in this Development Agreement by the Owners, such a waiver shall not be deemed a waiver of any subsequent breach.

16. Notices. All notices, demands, requests, or replies provided for or permitted by this Development Agreement, including notification of a change of address, shall be in writing to the addressees identified below, and may be delivered by any one of the following methods: (a) by personal delivery; (b) by deposit with the United States Postal Service as certified or registered mail, return receipt requested, postage prepaid; or (c) by deposit with an overnight express delivery service with a signed receipt required. Notice shall be effective upon receipt. The addresses and telephone

numbers of the parties are as follows:

TO THE OWNERS:

Marathon Resort Development, Inc.
1010 Kennedy Drive, 4th Floor
Key West, FL 33040
Telephone: (305) 296-5601

Pirates Cove Villas Condominium Association, Inc.
1010 Kennedy Drive, 4th Floor
Key West, FL 33040
Telephone: (305) 296-5601

With a copy by regular U.S. Mail to:

Sherry A. Spiers, Esquire
Law Offices of Robert C. Apgar
320 Johnston Street
Tallahassee, FL 32303
Telephone: (850) 224-9343

TO THE CITY:

City Manager
City of Marathon
10045-65 Overseas Highway
Marathon, Florida 33050
Telephone: (305) 743-0033

With a copy by regular U.S. Mail to:

John R. Herin, Jr., Esquire
Weiss, Serota & Helfman
2665 Bayshore Drive, Suite 420
Miami, Florida 33133-5402
Telephone: (305) 854-0800

17. Annual Report. On the anniversary date of the Effective Date of this Agreement, the Owners shall provide the City with a report identifying (a) the amount of development authorized

by this Agreement that has been completed, (b) the amount of development authorized by this Agreement that remains to be completed, and (c) any changes to the plan of development that have occurred during the one (1) year period from the Effective Date of this Agreement or from the date of the last annual report.

18. Enforcement. In accordance with Section 163.3243, Florida Statutes (2002), any party to this Agreement, any aggrieved or adversely affected person as defined in Section 163.3215(2), Florida Statutes (2002), or the state land planning agency may file an action for injunctive relief in the circuit court of Monroe County, Florida, to enforce the terms of this Development Agreement or to challenge the compliance of this Agreement with the provisions of Sections 163.3220-163.3243, Florida Statutes (2002).

19. Binding Effect. This Agreement shall be binding upon the parties hereto, their successors in interest, heirs, assigns, and personal representatives.

20. Assignment. This Agreement may not be assigned without the written consent of the parties.

21. Drafting of Agreement. The parties acknowledge that they jointly participated in the drafting of this Development Agreement and that no term or provision of this Agreement shall be construed in favor of or against either party based solely on the drafting of the Agreement.

22. Severability. In the event any provision, paragraph or section of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, such determination shall not affect the enforceability or the validity of the remaining provisions of this Agreement.

23. Applicable Law. This Agreement was drafted and delivered in the State of Florida

shall not affect the enforceability or the validity of the remaining provisions of this Agreement.

23. Applicable Law. This Agreement was drafted and delivered in the State of Florida and shall be construed and enforced in accordance with the laws of the State of Florida.

24. Litigation; Attorney's Fees; Venue; Waiver of Right to Jury Trial. As between the City and Owners, in the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred with respect to such litigation, including reasonable attorney's fees. This includes, but is not limited to, reimbursement for such reasonable attorneys' fees and costs incurred with respect to any appellate, bankruptcy, post-judgment, or trial proceedings related to this Agreement. Venue for any legal proceeding arising out of this Agreement shall be in Monroe County, Florida. The parties to this Agreement waive the right to a jury trial in any litigation arising out of or initiated under this Agreement.

25. Use of Singular and Plural. Where the context requires, the singular includes the plural, and the plural includes the singular.

26. Duplicate Originals; Counterparts. This Development Agreement may be executed in any number of originals and in counterparts, all of which evidence one agreement. Only one original is required to be produced for any purpose.

27. Headings. The headings contained in this Agreement are for identification purposes only and shall not be construed to amend, modify, or alter the terms of the Agreement.

28. Entirety of Agreement. This Development Agreement incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, or understandings regarding the matters contained herein. The parties agree that there are no commitments, agreements, or

understandings concerning the subjects covered by this Development Agreement that are not contained in or incorporated into this document and, accordingly, no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether written or oral. This Development Agreement contains the entire and exclusive understanding and agreement among the parties and may not be modified in any manner except by an instrument in writing signed by the parties.

29. Recording; Effective Date. The Owners shall record this Agreement in the public records of Monroe County, Florida, within fourteen (14) days after the date of this Agreement. A copy of the recorded Agreement showing the date, page and book where recorded shall be submitted to the state land planning agency by hand delivery, registered or certified United States mail, or by a delivery service that provides a signed receipt showing the date of delivery, within fourteen (14) days after the Agreement is recorded. The Owners shall also provide a copy of the recorded Agreement to the City within the same time period. This Agreement shall become effective thirty (30) days after the date it is recorded in the public records of Monroe County, Florida, and received by the state land planning agency.

30. Date of Agreement. The date of this Agreement is the date the last party signs and acknowledges this Agreement.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have set their hands and seals on the dates below written.

MARATHON RESORT DEVELOPMENT, INC.,
a Florida corporation,

5/19/03
Date

By [Signature]
JOHN R. ALLISON, III, PRESIDENT

STATE OF FLORIDA
COUNTY OF DADE

The foregoing instrument was acknowledged before me on this 19th day of May, 2003,
by JOHN R. ALLISON, III, as President of Marathon Resort Development, Inc., who is personally
known to me or who produced _____ as identification, and who did/did not take
an oath.



WILHELMINA A. HUTCHINS
MY COMMISSION # DD 131274
EXPIRES: July 6, 2006
Bonded Thru Budget Notary Services

[Signature]
Notary Public, State of Florida At Large
My commission expires:

PIRATES COVE VILLAS CONDOMINIUM
ASSOCIATION, INC., a Florida not-for-profit
Corporation

5/19/03
Date

By [Signature]
JOHN R. ALLISON, III., President

STATE OF FLORIDA
COUNTY OF DADE

The foregoing instrument was acknowledged before me on this 19th day of May, 2003,
by JOHN R. ALLISON, III, as President of Pirates Cove Villas Condominium Association, Inc., who
is personally known to me or who produced _____ as identification, and who
did/did not take an oath.




WILHELMINA A. HUTCHINS
MY COMMISSION # DD 131274
EXPIRES: July 6, 2006
Bonded Thru Budget Notary Services

[Signature]
Notary Public, State of Florida At Large
My commission expires:

CITY OF MARATHON

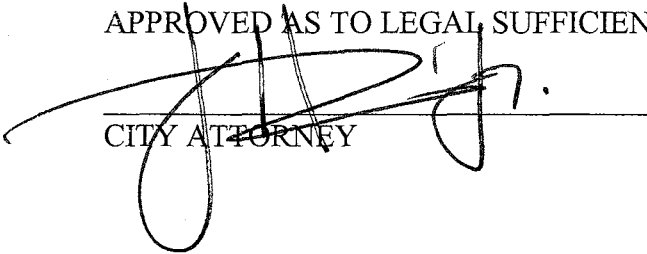
05/16/03
Date

By 
RANDY MEARNS, MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:


CITY ATTORNEY

EXHIBITS TO BUCCANEER DEVELOPMENT AGREEMENT:

- EXHIBIT A: BUCCANEER RESORT LEGAL DESCRIPTION
- EXHIBIT B: PIRATES COVE VILLAS CONDOMINIUMS PROPERTY LEGAL DESCRIPTION
- EXHIBIT C: CONCEPTUAL SITE PLAN, SHEETS 1 AND 2
- EXHIBIT D: SCHEMATICS FOR BUILDINGS (COMPOSITE EXHIBIT)
- EXHIBIT E: TABLE OF COMPLIANCE WITH SECTION 9.5-243(b)(1), CITY OF MARATHON CODE, DESTINATION RESORT DISTRICT

EXHIBIT A
BUCCANEER RESORT LEGAL DESCRIPTION

A part of Government Lot 1, Section 9, township 66 South, Range 32 East; Tallahassee Meridian, Monroe County, Florida, more particularly described by metes and bounds as follows: COMMENCING at the intersection of the West Line of Government Lot 1, Section 9, Township 66 South, Range 32 East, Tallahassee Meridian, Monroe County, Florida and the Northerly right-of-way line of Old State Highway No. 4-A as existing May 5, 1958; thence North 74 Degrees 21' 20" East 544.96 feet to the Point of Beginning; thence continuing along said right-of-way line North 74 Degrees 21' 20" East 650.25 feet, to the Point of Curve of a 7 Degree 01' 48" curve to the left; thence continue along said curve arc, 200.79 feet; thence North 223.30 feet; thence South 87 Degrees 50' West 100.00 feet; thence North 138.50 feet; thence North 02 Degrees 48' 52" West, 77.40 feet; thence North 52 Degrees 18' 52" West 6.61 feet, to the Mean High Water Line of the Bay of Florida; thence meander said Mean High Water Line in a Southwesterly, Northwesterly, and Westerly direction to its intersection with a line that runs North from the Point of Beginning; thence South along said line 9.00 feet, more or less, to a point; thence continue South along said line, 606.21 feet, to the Point of Beginning

LESS AND EXCEPTING ALL OF

PIRATES COVE VILLAS, A CONDOMINIUM, according to that certain Declaration of Condominium entitled "Declaration of Condominium of Pirate's Cove Villas, a Condominium, Monroe County, Florida" and recorded on December 17, 1982 in Official Records 868, Page 2098 of the Public Records of Monroe County, Florida, and any amendments thereto.

- AND ALSO -

PARCEL "C"

Situated in the County of Monroe, State of Florida and know as being a part of Government Lot 1, Section 9, Township 66 South, Range 32 East, on Key Vaca and further known as being a westerly portion of that land on said Key Vaca described in Official Record Book 839, Pages 364 through 368 of Monroe County, Florida deed records, which exists above the mean high water line located upon the natural Florida Bay shore of Key Vaca, and being more particularly described by metes and bounds as follows:

Commencing at the intersection of the west line of Government Lot 1, Section 9, Township 66 South, Range 22 east and the northeasterly right-of-way of Old State Highway No. 4-A, bear north 74 degrees 21 minutes, 20 seconds east along the northwesterly right-of-way line of Old State Highway No. 4-A 1194.18 feet to a point of curvature therein; thence continue northeasterly along the said northwesterly right-of-way line of said State Highway 4-A on the arc of a curve deflecting to the left 201.82 feet, said curve having a radius of 781.21 feet, the chord of which bears north 66

degrees, 57 minutes, 16 seconds east 201.26 feet to the point of beginning of the parcel of land herein intended to be described; from said point of beginning bear north 00 degrees, 00 minutes, 16 seconds east 224.48 feet to the centerline of an existing cyclone fence which bears south 88 degrees, 02 minutes, 58 seconds west; thence bear south 88 degrees, 02 minutes, 58 seconds west along the centerline of said existing cyclone fence 99.85 feet to the centerline of an existing cyclone fence which bears north 00 degrees, 00 minutes, 23 seconds east; thence bear north 00 degrees, 00 minutes, 23 seconds east along the centerline of said existing cyclone fence 137.49 feet to an angle point therein; thence continue along the centerline of said existing cyclone fence bearing north 03 degrees, 37 minutes, 12 seconds west 6.12 feet to its intersection with the mean high water line within the natural Florida tide shore of Key Vaca; thence meander said mean high water line in a generally easterly direction on the following descriptive courses, bearing first south 63 degrees, 24 minutes, 34.4 seconds east 7.788 feet; thence south 33 degrees, 04 minutes 17.8 seconds east 56.629 feet; thence south 77 degrees, 52 minutes, 58 seconds east 58.512 feet; thence south 85 degrees, 43 minutes, 9.7 seconds east 67.668 feet; ;thence north 79 degrees, 01 minutes, 15.4 seconds east 43.29 feet; thence bear south 00 degrees, 00 minutes, 23 seconds west from said mean high water line 76.61 feet; thence bear south 88 degrees, 02 minutes 58 seconds west 213.00 feet to a point on the northeasterly right-of-way line of Old State Highway No. 4-A; thence bear southwesterly along the said northwesterly right-of-way of Old State Highway No. 4-A on the arc of said curve deflecting to the right 23.41 feet, said curve having a radius of 781.21 feet, the chord of which bears south 58 degrees, 41 minutes, 41.5 seconds west 23.409 back to the point of beginning and containing 0.5000 acres of land above the mean high water line located upon the natural Florida Bay shore of Key Vaca.

Containing 0.499 acres more or less.

- AND ALSO -

PARCEL "D"

Situated in the County of Monroe, State of Florida, and known as being a parcel of filled bay bottom land formerly submerged by waters of Florida Bay contiguous and northerly of Government Lot 1, Section 9, Township 66 South, Range 32 east, Key Vaca, and further known as being a portion of those lands described in Official Record Book 839, Pages 364 through 368 of Monroe County, Florida, deed records, and being more particularly described by metes and bounds as follows:

Commencing at the intersection of the west line of Government Lot 1, Section 9, Township 66 South, Range 32 East and the northwesterly right-of-way line of Old State Highway No. 4-A, bear north 74 degrees, 21 minutes, 20 seconds east along the northwesterly right-of-way line of Old State Highway No. 4-A, 1194.18 feet to a point of curvature therein; thence continue northwesterly along the said northwesterly right-of-way line of said Old State Highway No. 4-A on the arc of a curve reflecting to the left 225.23 feet, said curve having a radius of 781.21 feet, the chord of which bears

north 66 degrees, 05 minutes, 45 seconds east 224.45 feet; thence bear north 00 degrees, 00 minutes, 16 seconds east 213.00 feet; thence bear north 88 degrees, 02 minutes, 58 seconds east 85.03 feet; thence bear north 00 degrees, 00 minutes, 23 seconds east 76.61 feet to the mean high water line within the natural (historic) Florida Bay shore of Vaca Key and point of beginning of the parcel formerly submerged land herein intended to be described; from said point of beginning meander said mean high water line within the Florida Bay shore of Vaca Key in a generally westerly direction on the following descriptive courses, bearing first south 79 degrees, 01 minutes, 15 seconds west 43.39 feet; thence north 85 degrees, 43 minutes, 09.7 seconds west 67.668 feet; thence north 77 degrees, 52 minutes, 58 seconds west 58.512 feet; thence north 33 degrees, 04 minutes 17.8 seconds west 56.629 feet; thence north 63 degrees, 24 minutes 34.4 seconds west 7.788 feet to a point on the westerly line of that land described in the first paragraph of Exhibit "A page 367 of Official Record Book 839 of Monroe County, Florida public records; thence bear north 03 degrees, 37 minutes, 12 seconds west along the said westerly line of lands described as aforesaid, 71.31 feet; thence continue along the said westerly line of land so described bearing north 52 degrees, 18 minutes, 52 seconds west 6.62 feet to a point on the mean high water line within the existing Florida Bay shore of the filled bay bottom land herein intended to be described, said mean high water line being in the waterward face of a concrete retaining wall; thence meander said mean high water line on the face of said retaining wall bearing first north 07 degrees, 14 minutes, 24 seconds east 8.70 feet; thence north 36 degrees, 15 minutes, 57 seconds east 0.93 feet; thence south 60 degrees, 44 minutes, 03 seconds east 14.85 feet to where said mean high water line continues southerly along the waterward face of a concrete retaining wall constructed to form a boat basin consisting of 0.839 acres of submerged land; thence meander said mean high water line on the waterward face of said boat basin retaining wall bearing first south 09 degrees, 42 minutes, 29 seconds west 8.52 feet; thence south 09 degrees, 10 minutes, 43 seconds west 6.05 feet; thence south 01 degrees, 37 minutes, 27 seconds east 6.85 feet; thence south 05 degrees, 00 minutes, 23 seconds east 5.26 feet; thence south 07 degrees, 14 minutes, 41 seconds east 12.02 feet; thence south 09 degrees, 38 minutes, 40 seconds east 7.35 feet; thence south 16 degrees, 26 minutes, 35 seconds east 12.31 feet; thence south 33 degrees, 42 minutes, 32 seconds east 12.15 feet; thence south 40 degrees, 12 minutes, 43 seconds east 21.80 feet; thence south 41 degrees, 41 minutes, 14 seconds east 20.21 feet; thence south 48 degrees, 23 minutes, 40 seconds east 18.07 feet; thence south 66 degrees, 47 minutes, 26 seconds east 19.00 feet; thence north 20 degrees, 51 minutes, 18 seconds east 1.64 feet; thence north 52 degrees, 14 minutes, 22 seconds east 3.84 feet; thence south 81 degrees, 49 minutes, 34 seconds east 8.66 feet; thence south 25 degrees, 04 minutes, 35 seconds east 3.58 feet; thence south 10 degrees, 20 minutes, 49 seconds west 2.78 feet; thence 81 degrees, 58 seconds east 11.45 feet; thence south 86 degrees, 38 minutes, 30 seconds east 7.56 feet; thence north 82 degrees, 12 minutes, 12 seconds east 16.10 feet; thence north 73 degrees, 24 minutes, 23 seconds east 16.61 feet; thence north 70 degrees, 30 minutes, 06 seconds east 16.46 feet; thence north 67 degrees, 32 minutes, 05 seconds east 10.03 feet; thence north 64 degrees, 46 minutes, 53 seconds east 11.66 feet; thence north 61 degrees, 08 minutes, 12 seconds east 25.86 feet; thence north 55 degrees, 49 minutes, 03 seconds east 1.045 feet; thence bear south 00 degrees, 00 minutes, 23 seconds west from the mean high water line on the waterward face of said boat basin retaining wall 52.78 feet back to the mean high water line within the natural (historic) Florida Bay

shore of Vaca Key and point of beginning, containing 0.14713 acres of filled, formerly submerged land in Florida Bay.

Containing 0.146 acres more or less.

EXHIBIT B
PIRATES COVE VILLAS CONDOMINIUMS LEGAL DESCRIPTION

A part of Government Lot 1, Section 9, Township 66 South, Range 32 East, Tallahassee Meridian, Monroe County, Florida, more particularly described by metes and bounds as follows:

Commencing at the intersection of the West line of Government Lot 1 Section 9, Township 66 South, Range 32 East, Tallahassee Meridian, Monroe County, Florida and the Northerly right-of-way line of Old State Highway 4-A, as existing May 5, 1958, thence North 74^B 21' 20" East for a distance of 664.93 feet to the Point of Beginning; thence continuing along said right-of-way line North 74^B 21' 20" East for a distance of 222.15 feet to a point;
Thence North 15^B 38' 40" West for a distance of 305.00 feet to a point;
Thence South 74^B 21' 20" West for a distance of 45.00 feet to a point;
Thence North 15^B 38' 40" West for a distance 40.00 feet to a point;
Thence South 74^B 21' 20" West for a distance of 110.00 feet to a point;
Thence West for a distance of 02.15 feet to a point;
Thence South for a distance of 215.00 feet to a point;
Thence East for a distance of 52.63 feet to a point;
Thence South 15^B 38' 40" East for a distance of 140.53 feet back to the Point of Beginning.

-AND ALSO-

A part of Government Lot 1, Section 9, Township 66 South, Range 32 East Tallahassee Meridian, Monroe County, Florida, more particularly described by metes and bounds as follows:

Commencing at the intersection of the West line of Government Lot 1, Section 9, Township 66 South, Range 32 East, Tallahassee Meridian, Monroe County, Florida and the Northerly right-of-way line of Old State Highway 4-A, as existing May 5, 1958; thence North 74^B 21' 20" East for a distance of 922.08 feet to a point; thence North 15^B 30' 40" West for a distance of 305.00 feet to a point; thence North 74^B 21' 20" East for a distance of 45.00 feet to a point; thence North 15^B 38' 40" West for a distance of 200.00 feet to the Point of Beginning; thence South 15^B 30' 40" East for a distance of 200.00 feet to a point; thence South 74^B 21' 20" West for a distance of 45.00 feet to a point; thence South 15^B 30' 40" East for a distance of 305.00 feet to a point; thence along said right-of-way line North 74^B 21' 20" East for a distance of 273.10 feet, to the point of curve of a 07^B 01' 48" curve to the left; thence continue along said curve arc, for a distance of 200.76 feet to a point; thence North 223.30 feet to a point; thence South 87^B 50' West for a distance of 100.00 feet to a point; thence North 138.50 feet to a point; thence North 02^B 48' 52" West for a distance of 77.40 feet to a point; thence North 52^B 18' 52" West for a distance of 6.01 feet to a point on the Mean High Water Line of the Bay of Florida; thence meander Northwesterly and Westerly direction to its intersection with a line that runs North 74^B 21' 20.2" East from the Point of Beginning; thence South 74^B 21' 20.2" West for a distance of 130.00 feet, more or less back to the Point of Beginning.

EXHIBIT B
PIRATES COVE VILLAS CONDOMINIUMS LEGAL DESCRIPTION

A part of Government Lot 1, Section 9, Township 66 South, Range 32 East, Tallahassee Meridian, Monroe County, Florida, more particularly described by metes and bounds as follows:

Commencing at the intersection of the West line of Government Lot 1 Section 9, Township 66 South, Range 32 East, Tallahassee Meridian, Monroe County, Florida and the Northerly right-of-way line of Old State Highway 4-A, as existing May 5, 1958, thence North 74^B 21' 20" East for a distance of 664.93 feet to the Point of Beginning; thence continuing along said right-of-way line North 74^B 21' 20" East for a distance of 222.15 feet to a point;

Thence North 15^B 38' 40" West for a distance of 305.00 feet to a point;

Thence South 74^B 21' 20" West for a distance of 45.00 feet to a point;

Thence North 15^B 38' 40" West for a distance 40.00 feet to a point;

Thence South 74^B 21' 20" West for a distance of 110.00 feet to a point;

Thence West for a distance of 02.15 feet to a point;

Thence South for a distance of 215.00 feet to a point;

Thence East for a distance of 52.63 feet to a point;

Thence South 15^B 38' 40" East for a distance of 140.53 feet back to the Point of Beginning.

-AND ALSO-

A part of Government Lot 1, Section 9, Township 66 South, Range 32 East Tallahassee Meridian, Monroe County, Florida, more particularly described by metes and bounds as follows:

Commencing at the intersection of the West line of Government Lot 1, Section 9, Township 66 South, Range 32 East, Tallahassee Meridian, Monroe County, Florida and the Northerly right-of-way line of Old State Highway 4-A, as existing May 5, 1958; thence North 74^B 21' 20" East for a distance of 922.08 feet to a point; thence North 15^B 30' 40" West for a distance of 305.00 feet to a point; thence North 74^B 21' 20" East for a distance of 45.00 feet to a point; thence North 15^B 38' 40" West for a distance of 200.00 feet to the Point of Beginning; thence South 15^B 30' 40" East for a distance of 200.00 feet to a point; thence South 74^B 21' 20" West for a distance of 45.00 feet to a point; thence South 15^B 30' 40" East for a distance of 305.00 feet to a point; thence along said right-of-way line North 74^B 21' 20" East for a distance of 273.10 feet, to the point of curve of a 07^B 01' 48" curve to the left; thence continue along said curve arc, for a distance of 200.76 feet to a point; thence North 223.30 feet to a point; thence South 87^B 50' West for a distance of 100.00 feet to a point; thence North 138.50 feet to a point; thence North 02^B 48' 52" West for a distance of 77.40 feet to a point; thence North 52^B 18' 52" West for a distance of 6.01 feet to a point on the Mean High Water Line of the Bay of Florida; thence meander Northwesterly and Westerly direction to its intersection with a line that runs North 74^B 21' 20.2" East from the Point of Beginning; thence South 74^B 21' 20.2" West for a distance of 130.00 feet, more or less back to the Point of Beginning.

EXHIBIT E

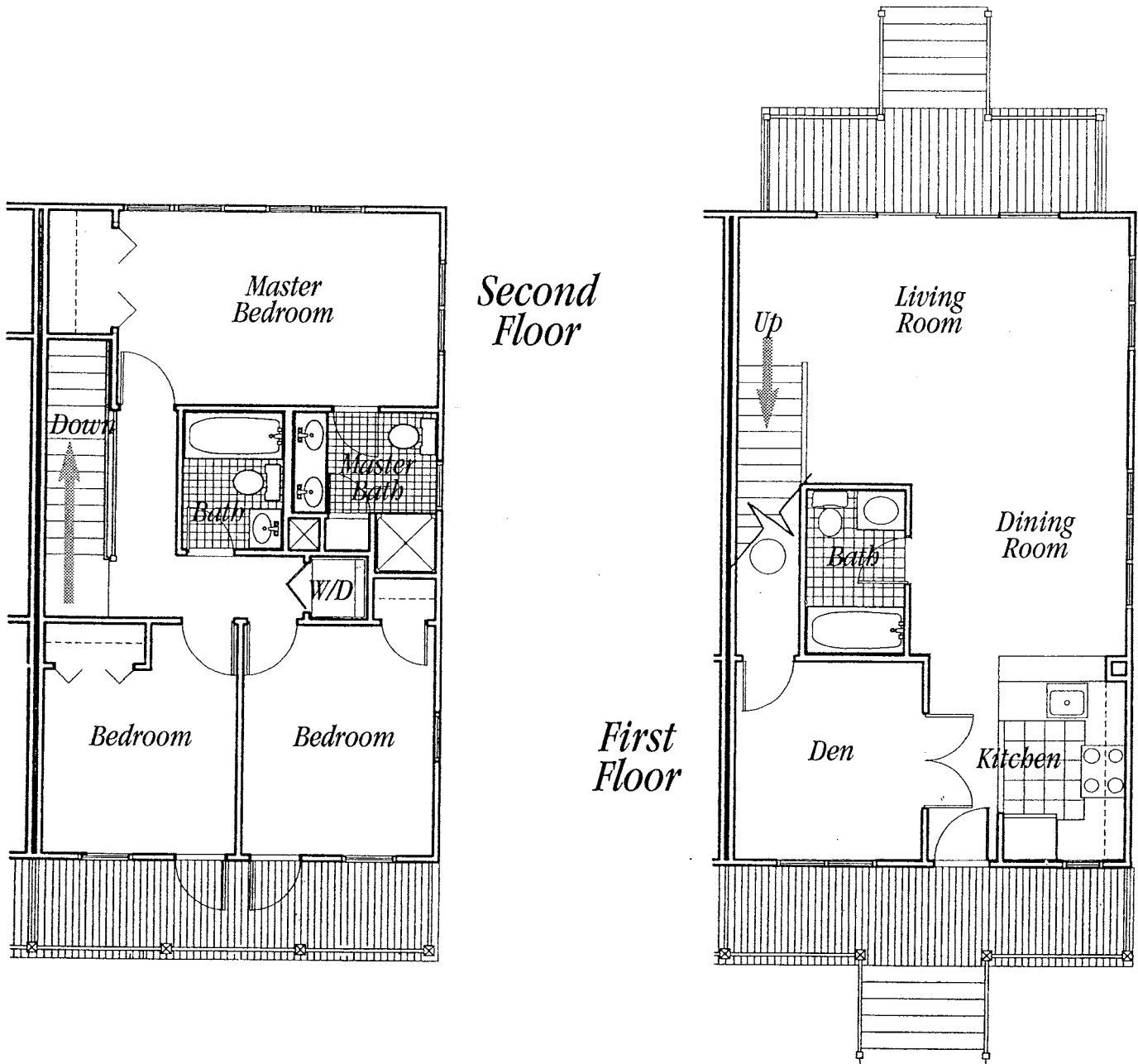
TABLE SHOWING COMPLIANCE WITH SECTION 9.5-243(b),
CITY OF MARATHON CODE, DESTINATION RESORT DISTRICT¹

City Code Requirement	Project Compliance
Restaurant facilities on or adjacent to premises that will accommodate no less than one-third of all hotel guests at maximum occupancy at a single serving.	On-site restaurant that meets occupancy requirement
At least 2 satellite eating and drinking facilities, each accommodating at least 25 persons.	Bar/lounge in restaurant building; breakfast area in reception and breakfast building; outdoor seating/dining area around main pool.
A separate meeting/conference and entertainment area which can also function as a banquet facility.	In reception and breakfast building.
A lobby which provides 24-hour telephone and reservation service.	In reception and breakfast building.
Active and passive recreation land-based activities are available, with a minimum of tennis courts (1/25 units) or racquetball courts (1/25 units), or a spa/exercise room (no less than 500 square feet).	Exercise room in reception and breakfast building.
At least 2 additional active recreation land-based activities are available.	Observation area at Parcel 4 (marina lease area, northwest corner of Property); shaded observation area (gazebo); game area in reception and breakfast building.
One additional passive recreational facility is available.	Seaside nature trail/boardwalks along shoreline.
Active and passive water-oriented recreational facilities are available, a minimum of a swimming pool, or swimming areas, at the rate of 7 square feet of water surface (excluding hot tubs and Jacuzzi) per hotel room (this requirement may be converted to linear feet of shoreline swimming area at a ratio of 1 linear foot of beach per 7 square feet	Main swimming pool; kiddy pool; swimming area waterward of sand beach; aquarium and snorkel trail with artificial reef; two 15' x 15' floating swimming platforms.

¹ The parties intend that Section 9.5-243(b)(1) of the City Code, as amended by Ordinance No. 2003-08, shall apply when the regulations contained therein become effective.

Marathon Resort Development

2600 Overseas Highway, Marathon, Florida



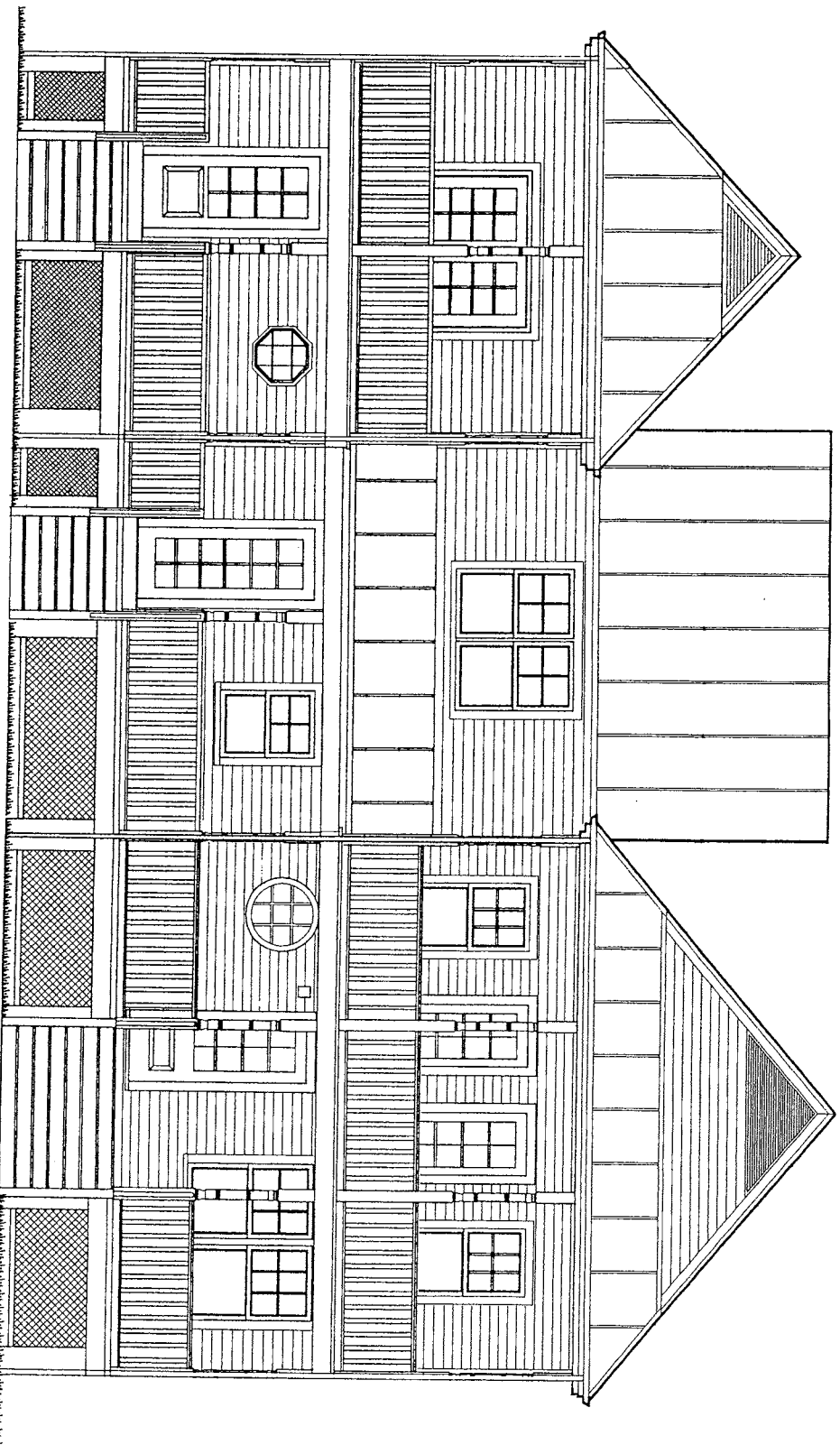
Cottage with 3 Bedrooms

*Roof lines, front decorative kitchen windows and front doors subject to change. Washer/Dryer is an upgrade.

Marathon Resort Development

2600 Overseas Highway, Marathon, Florida

Front Elevations



Conch

with Second Floor Front Porch

Conch

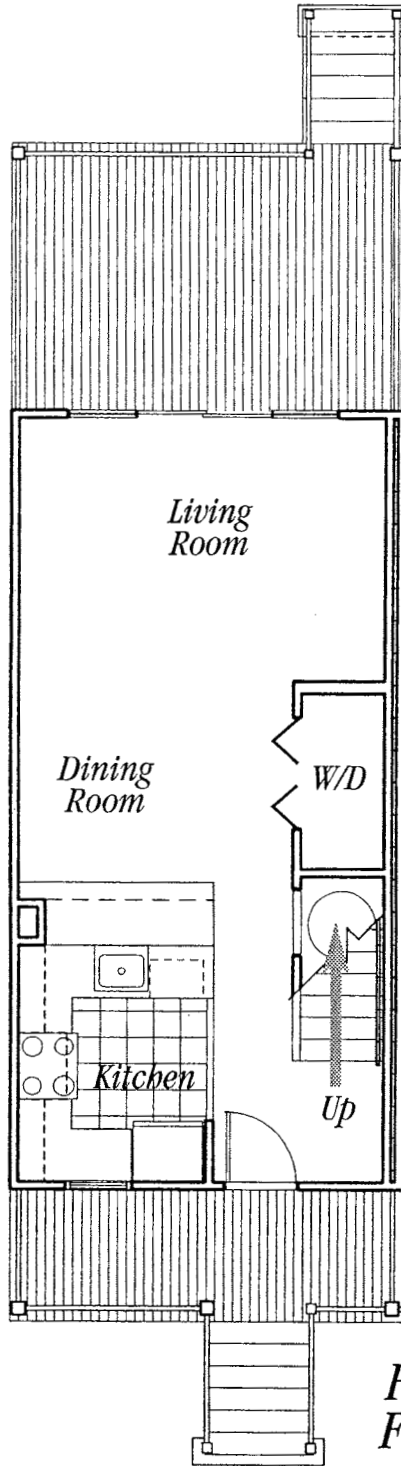
Cottage

**Roof lines, front decorative windows, porch columns &*

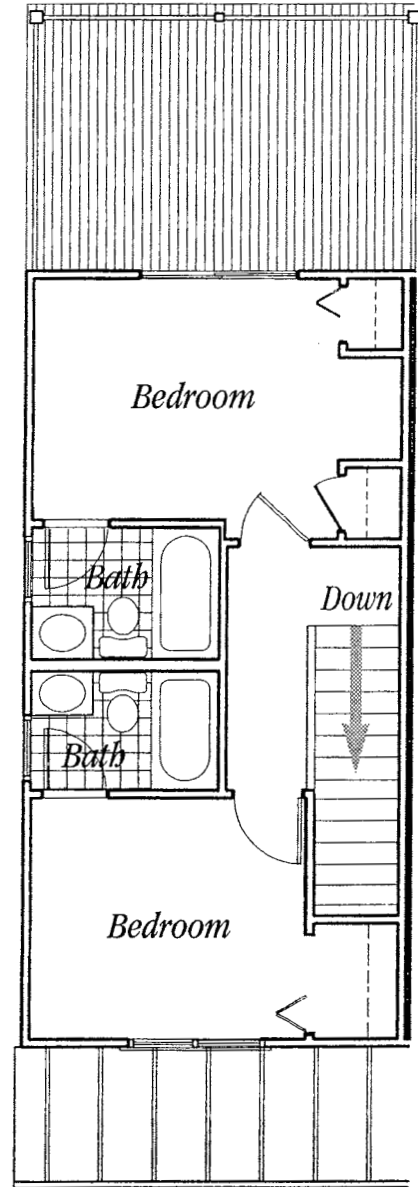
it doors subject to change.. Washer/dryer is optional.

Marathon Resort Development

2600 Overseas Highway, Marathon, Florida



First Floor



Second Floor

Conch

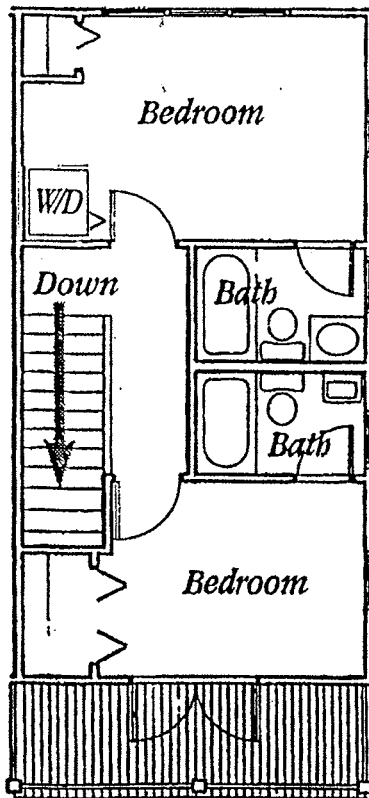
**Roof lines, front decorative windows, porch columns & front doors subject to change. Washer/dryer is optional.*

Marathon Resort Development

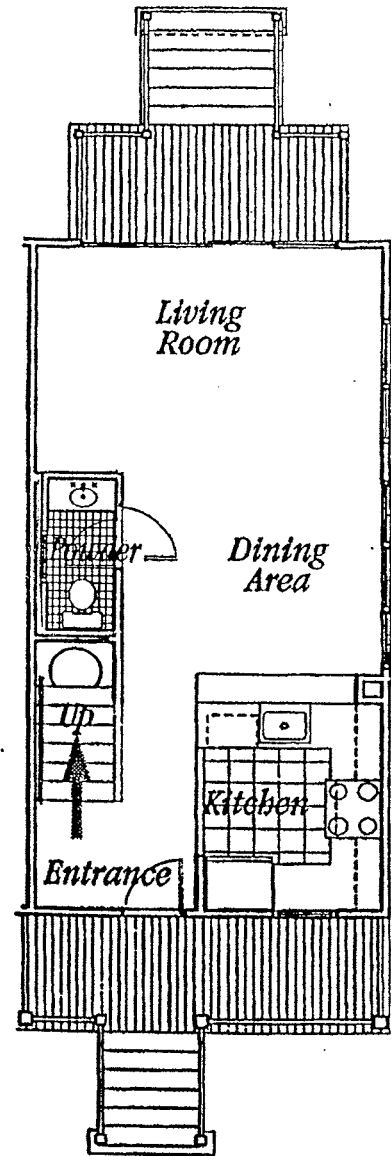
2600 Overseas Highway, Marathon, Florida



Front
Elevation



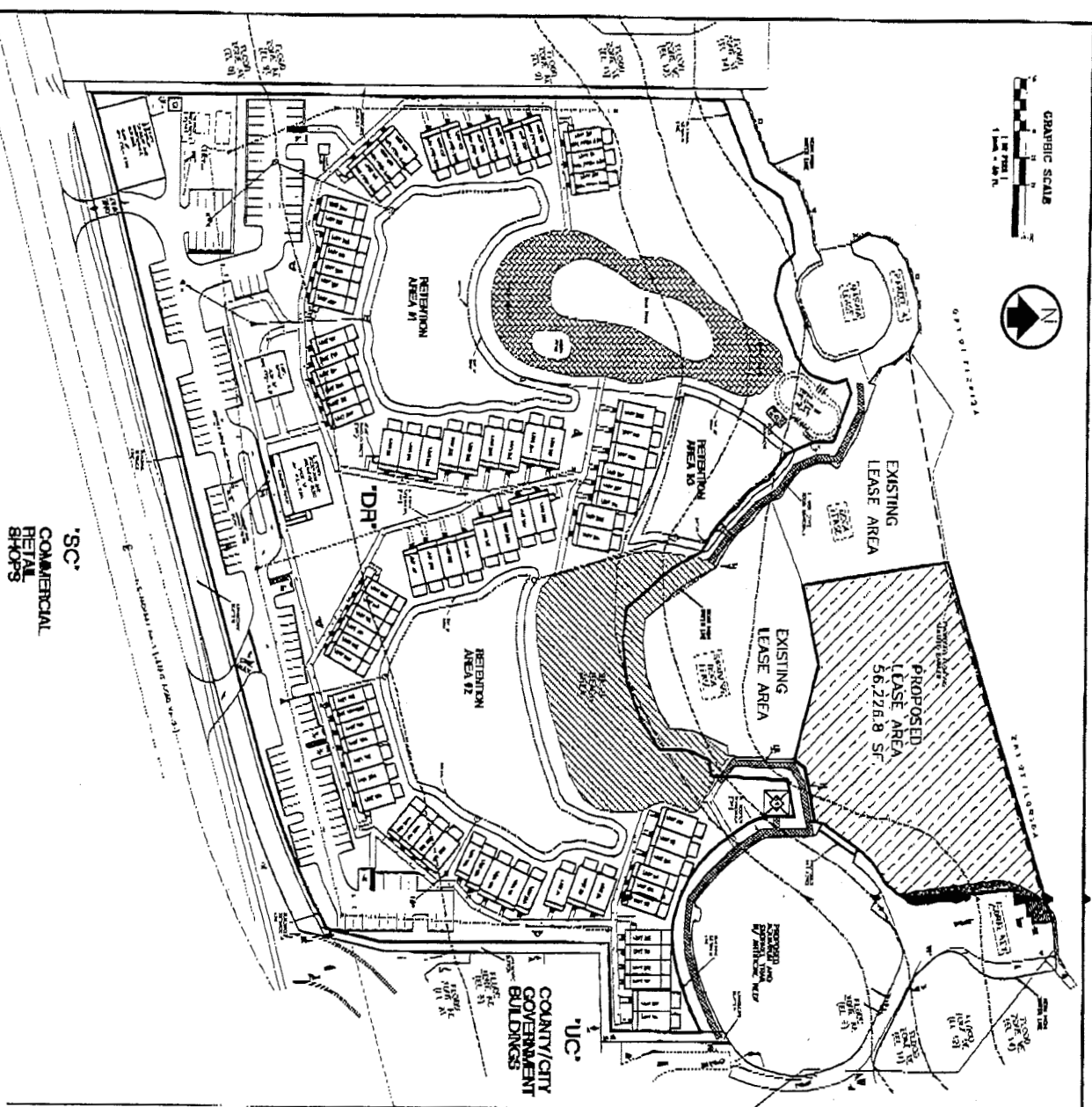
Second
Floor



First
Floor

Conch Style

*Roof lines, front decorative kitchen windows and front doors subject to change. Washer/Dryer is an upgrade.



.SC.
COMMERCIAL
RETAIL
GROUPS

- SITE DEVELOPMENT DATA**
- PROJECT:** THE BUCCANEER RESORT
 - LOCATION:** THE SITE IS LOCATED IN THE SOUTH-EAST CORNER OF THE BLOCK BOUND BY VETERANS BOULEVARD, STATE ROAD 1, AND THE BAYVIEW DRIVE AND THE BAYVIEW DRIVE AND THE BAYVIEW DRIVE.
 - OWNER/DEVELOPER:** THE BUCCANEER RESORT DEVELOPMENT, INC.
 - ARCHITECT:** WETTER ENGINEERING, INC.
 - DATE:** 11/27/2000
 - PROJECT NO.:** 00130.001
 - DATE ISSUED:** 12-18-00
- GENERAL NOTES:**
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SITE PLAN FOR THE BUCCANEER RESORT

WETTER ENGINEERING
20020 VETERANS BOULEVARD
SUITE 2
PORT CHARLOTTE, FLORIDA 33654

Approved by:	KW	Drawn by:	WJH
Scale:	1" = 100'	Checked by:	WJH
Job No.:	00130.001	Date:	12-18-00
Date Issued:	12-18-00		