

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2006-003**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A DEVELOPMENT AGREEMENT FOR BOAT HOUSE ASSOCIATES, INC., FOR THE REDEVELOPMENT OF PROPERTY LOCATED AT 12399 AND 12411 OVERSEAS HIGHWAY, WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 3, SECTION 5, TOWNSHIP 66 SOUTH, RANGE 33 EAST, FAT DEER KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00100360-000000, 00100370-000000, 00100370-000100, 00100380-000000, 00100390-000000, 00100400-000000, 00100410-000000, 00100420-000000, AND 00100430-000000, PROVIDING FOR CONDITIONS AND REQUIREMENTS OF DEVELOPMENT, INCLUDING BUT NOT LIMITED TO, BUFFERS, BUILDING HEIGHTS, SETBACKS, AND OTHER REQUIREMENTS**

**WHEREAS**, The Boat House Associates, Inc. (the "Owner") owns approximately 282,042 square feet (6.47 acres) of upland property (the "Property") in the corporate limits of the City of Marathon, Florida; and

**WHEREAS**, the Property is a fully developed site with hotel units, amenities, and marina facilities; and

**WHEREAS**, the City Comprehensive Plan encourages redevelopment that results in the removal of cesspits, the replacement of substandard dwelling/transient units, the replacement of substandard on-site wastewater treatment, and the implementation of effective stormwater management plans; and

**WHEREAS**, the City Comprehensive Plan encourages redevelopment that results in the economic stability of the City and its residents; and

**WHEREAS**, the City needs redevelopment to protect the environment, its residents, its infrastructure and economy by redeveloping structures that are highly vulnerable in storm events, are below the required base flood elevations and are uninsurable; and

**WHEREAS**, the redevelopment contemplated by the Owners will remove all existing structures and reconstruct structures in compliance with all applicable Federal Emergency Management Agency (FEMA) regulations, the Florida Department of Health (DOH) regulations, the Florida Department of Environmental Protection ("DEP") regulations, South Florida Water Management District ("SFWMD") regulations, applicable building codes and the City Code, including setback, open space, stormwater, and landscape bufferyard criteria; and

**WHEREAS**, the Property offers the attractions of swimming, boating, and fishing that families enjoy, and Property redevelopment provides an opportunity for the type of development that will provide facilities to serve and attract family oriented tourism to the City; and

**WHEREAS**, the Property redevelopment will encourage owners of other properties to renovate or upgrade their sites, producing greater aesthetic and economic benefits to the City, and providing enhanced environmental and storm hazard protection; and

**WHEREAS**, the City has determined that the redevelopment will not adversely affect hurricane evacuation clearance time because the number of transient units on the redeveloped Property will not increase beyond the number of transient units previously existing on the Property; and

**WHEREAS**, the Property is a highly disturbed, fully developed upland site which does not contain wetlands, listed species habitat, or other environmentally sensitive habitat, and therefore is an appropriate and preferred site to support redevelopment; and

**WHEREAS**, the City has held public hearings to accept and encourage public input with respect to the proposal by the Owner contained in the proposed Development Agreement (the "Agreement"), and has considered such public input; and

**WHEREAS**, the Agreement is consistent with the Principles for Guiding Development for the Florida Keys Area of Critical State Concern; and

**WHEREAS**, the Owner has provided public notice of the parties' intent to consider entering into the 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 Owner of property lying within 300 feet of the boundaries of the Property subject to the Agreement; and

**WHEREAS**, the City Planning Commission has held a public hearing on November 21, 2005, to consider the Agreement and recommended that the City Council conditionally approve the Agreement, and the City Council of the City has held a public hearing on December 13, 2005 to consider the Agreement; and

**WHEREAS**, the City has determined that the Agreement is consistent with the City's Comprehensive Plan and Land Development Regulations, is in the public interest, and will further the health, safety, welfare, and goals of the residents of the City of Marathon.

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

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

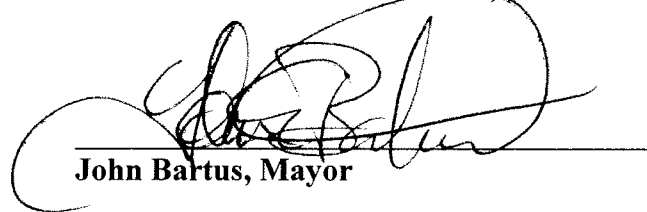
**Section 2.** The Development Agreement between the City and The Boat House Associates, Inc., in substantially the form as the attached Exhibit "A," together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is hereby approved.

**Section 3.** The City Manager is authorized to execute the Development Agreement on behalf of the City.

**Section 4.** This resolution shall become effective immediately upon its adoption.

**PASSED AND APPROVED** by the City Council of the City of Marathon, Florida, this 10<sup>th</sup> day of January, 2006.

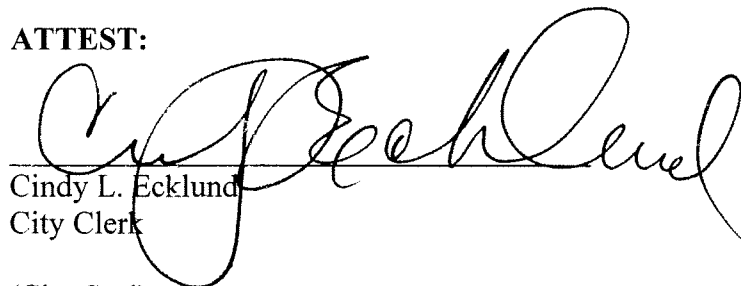
**THE CITY OF MARATHON, FLORIDA**



\_\_\_\_\_  
**John Bartus, Mayor**

AYES: Bull, Mearns, Miller, Pinkus, Bartus  
NOES: None  
ABSENT: None  
ABSTAIN: None

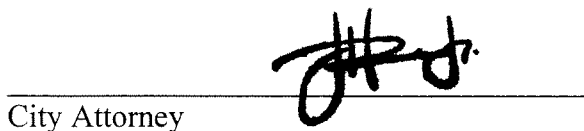
**ATTEST:**



\_\_\_\_\_  
Cindy L. Ecklund  
City Clerk

(City Seal)

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



\_\_\_\_\_  
City Attorney

Prepared by and, after recording,  
return to:

Sherry A. Spiers, Esq.  
Greenberg Traurig, P.A.  
101 East College Avenue  
Tallahassee, FL 32301  
Telephone: (850) 222-6891

Doc# 1565410  
Bk# 2185 Pg# 1448

Parcel ID Numbers 00100380-000000;  
00100410-000000; 000100420-000000;  
00100430-000000; 00100370-000000;  
00100360-000000; 00100390-000000.

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**DEVELOPMENT AGREEMENT FOR  
THE BOAT HOUSE AND CORAL LAGOON RESORT**

**THIS DEVELOPMENT AGREEMENT** is entered into by and between BOAT HOUSE ASSOCIATES, INC., a Florida corporation (herein the "Owner"), and the CITY OF MARATHON, a Florida municipal corporation (herein the "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 (2004), and is binding on the "Effective Date" set forth herein.

**WITNESSETH:**

**WHEREAS**, Boat House Associates, Inc., is the owner of three (3) contiguous properties consisting of a total of 6.9433 +/- upland acres plus submerged land in the corporate limits of the City, now known as The Boat House, the Coral Lagoon Motel, and the Dive Site, on U.S. 1 (Overseas Highway) at Mile Marker 53.5 on Crawl Key, more particularly described in the legal description attached hereto as Exhibit "A" (the "Property" or "Properties"); and

**WHEREAS**, the Properties are currently developed with the following: two (2) boat dry storage buildings and outdoor boat storage containing 200 dry slips, sixty-nine (69) wet slips in three (3) marinas (one marina on the Boat House property with 45 wet slips, one marina on the Dive Site property with 3 wet slips, and one marina on the Coral Lagoon Motel property with 21 wet slips), a fuel dock, two (2) fuel tanks, a boat ramp, a retail boat sales building, a boat rental office, a bait shop/fish cleaning station, a swimming pool, a dive shop, parking throughout, a motel reception building, various accessory structures, and a wastewater treatment plant. Additionally the properties are currently developed with 18 existing transient dwelling units and two (2) residential dwelling units. Furthermore, twelve (12) previously existing motel units are credited to the site by Monroe County Planning Commission Resolution P82-98, all as more fully described in this Agreement; 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, by providing larger hotel units that will accommodate families for longer stays; and

**WHEREAS**, in recognition of the need to enhance its tourist base and ensure the provision of affordable housing, the City's regulations require the development of affordable/work force housing when such redevelopment occurs; and

**WHEREAS**, redevelopment of the Properties provides the opportunity to upgrade the existing boat dry storage and marina facilities, contribute to the provision of affordable housing, upgrade and enhance the existing motel facility and amenities, provide on-site wastewater treatment that meets 2010 standards, and meet current stormwater retention standards to contribute to the protection of the nearshore waters in the City; and

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

**WHEREAS**, Owner has 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 Properties 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 Properties subject to this Agreement; and

**WHEREAS**, the City Planning Commission held a public hearing on November 21, 2005, and the City Council of the City held a public hearing on December 13, 2005, to consider the Development 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 Comprehensive Plan that became effective on July 7, 2005.
4. "Owner" shall refer to Boat House Associates, Inc., its successors or assigns.
5. "Development" shall refer to the development of the Properties for the uses permitted by this Agreement, subject to the conditions, obligations, restrictions and terms contained herein.
6. "Effective Date" shall refer to the date this Agreement becomes effective, as set forth in this Agreement.
7. "Hotel room," "hotel unit," or "resort unit" shall refer to a hotel room not exceeding 1,500 square feet and consisting of no more than two and one-half (2-1/2) bath rooms and three (3) bedrooms and one (1) other living area, as defined in City Ordinance No. 2004-17 (Section 9.5-4(R-17)(a) of the City Code).
8. "Properties" or the "site" shall refer to the properties described in Exhibit "A" that are subject to this Agreement.
9. "Public facilities" means those facilities identified in Section 163.3221, Florida Statutes (2004), and as set forth in this Agreement.
10. "Transient" means the use of a unit for a tenancy of 28 days or less (*see* Future Land Use Element Policy 1-3.2.6 in the City's Comprehensive Plan).

11. "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 Properties.**

The legal descriptions of the Properties subject to this Development Agreement are attached hereto as Exhibit "A" and incorporated herein by reference. The owner of the Properties as of the date of execution of this Development Agreement is Boat House Associates, Inc., a Florida corporation. There are no other legal or equitable owners of the Properties known to the parties to this Development Agreement.

**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 herein.

**3. Existing Development; Preparation for Redevelopment.**

a. Existing Development. The following development exists on the Properties:

1. The Boat House property. The Boat House property is developed with 44,593 square feet of commercial space, including 200 dry slips, and is developed with a boat ramp, fuel dock, two (2) fuel tanks, and a marina for forty-five (45) wet slips.

2. The Dive Site property. The Dive Site property is developed with 1,892 square feet of commercial space and a marina with three (3) wet slips.



3. The Coral Lagoon Motel property. The Coral Lagoon property is developed with eighteen (18) transient residential dwelling units, two non-transient residential dwelling units and a marina with twenty-one (21) wet slips.

b. Replacement Motel Units. Pursuant to Policy 1-3.4.3 of the Future Land Use Element of the City's Comprehensive Plan, Owner may redevelop the demolished twelve (12) transient residential dwelling units previously comprising the resort facility known as the Sandalwood Lodge.

c. Redevelopment/Demolition. The Properties will be prepared for redevelopment by demolition of most existing structures.

4. **Plan Approval, Including Densities And Intensities.**

a. Approval of Conceptual Site Plan: Minor Revisions. The Properties shall be redeveloped as transient residential dwelling units, affordable/workforce housing residential dwelling units, resort amenities including but not limited to office/reception area(s), garden, swimming pool, and resort storage and maintenance facilities, and also a boat rental facility, dry boat storage for 200 boats, a boat ramp, fuel dock, two (2) fuel tanks, fish cleaning station, commercial retail uses, and seventy-eight (78) wet slips, as follows:

Use	Square Feet	Number
Dry boat storage building for 200 boats	47,316 s.f.	
Marina Store/dockmaster/boat rental	1,200 s.f.	
Bar/fish cleaning station	100 s.f.	
Resort office/reception	800 s.f.	
Swimming pool	1,100 s.f.	
Resort storage/maintenance		
Wet slips		78 (35 - 50 feet in length)
Boat ramp		1
Fuel dock		1
Fuel tanks		2
On-site wastewater treatment plant	420 s.f.	1

that meets 2010 standards		
Transient residential	34,040 s.f.	25
Affordable work force housing	1,440 s.f.	3 (as described herein)

The redevelopment approved by this Agreement is depicted on the Conceptual Site Plan for The Boat House and Coral Lagoon Resort, dated December 13, 2005, prepared by The Weiler Engineering Corporation of Port Charlotte, Florida, attached hereto as Exhibit "B" 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 Owner, including minor shifts of five (5) feet or less in the structures, roadways, pathways, and swimming pool configuration; (2) to change the type and number of transient residential dwelling 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 shoreline setback requirements in Section 9.5-286 of the City Code shall not be varied. The setback, open space, landscape bufferyard, parking, building height, and other bulk regulation requirements established in the City Code shall not be varied.

b. Form of Ownership of Properties.

Condominium, cooperative, or similar form of ownership of all or a portion of the Properties, and the submission of the Properties to the condominium, cooperative, or similar form of ownership (and recordation of a corresponding declaration of condominium or similar instrument), or the sale of individual transient residential dwelling units therein shall not be prohibited or violative of the terms and provisions of this Agreement.

c. Dwelling Units Authorized Under this Agreement; ROGO Exemption.

Pursuant to Section 9.5-123(f)(1), the City Code, the redevelopment of thirty (30) transient residential dwelling units and two (2) affordable/workforce housing dwelling units on the Properties is exempt from the requirements of the City's Residential Rate of Growth Ordinance (ROGO).

The Owner shall execute and record in the public records of Monroe County a Declaration of Covenant and Restrictions in a form acceptable to the City ensuring that it shall not seek and has no legal right to file for homestead exemption for the transient residential dwelling units redeveloped on the Properties; and which shall require the occupants of all transient residential dwelling units on the Properties to comply with the hurricane evacuation requirements set forth in Policy 1-2.2.1 of the Future Land Use Element of the City's Comprehensive Plan.

d. Approved Density and Intensity. The following residential density and commercial intensity as depicted on the Conceptual Site Plan, is approved by this Development Agreement:

1. Maximum transient residential and residential densities.

The Properties are in the Mixed Use Commercial (MUC) future land use category. This category allows a density of 5-25 hotel rooms an acre. The Properties are in the Suburban Commercial (SC) Land Use District under the City's zoning map which allows ten (10) hotel rooms/acre and three (3) dwelling units per acre.

2. Resort Development Authorized; Conversion Ratio for Hotel Units. The Owner's proposed redevelopment of the Properties as a hotel resort facility with related amenities, office, reception area(s), housekeeping/laundry facilities, resort storage, maintenance facilities, engineering facilities, and associated marina operations, as depicted on

the Conceptual Site Plan, is approved by this Agreement. Pursuant to City Ordinance No. 2004-17, the Owner may redevelop twenty-five (25) 3-bedroom resort transient units on the Properties based on the following conversion rate:

Existing and Vested 1-Bedroom Transient Units	Conversion Rate to Redevelop as 3-bedroom transient units	Number of proposed and authorized 3-bedroom transient units	Conditional Redevelopment Units
30	.85 (85%)	25	5

3. Conditional Redevelopment Units. This Agreement shall constitute the mechanism by which the City shall track the five (5) Conditional Redevelopment Units created through the conversion of the existing one-bedroom transient residential dwellings units on the Properties into three-bedroom transient residential dwelling units, so they may be developed in the future if the City adopts an ordinance amending the land development regulations to authorize development of tracked Conditional Redevelopment Units, as provided in City Ordinance No. 2004-017.

4. Redevelopment of Affordable/Workforce Residential Dwelling Units. The two (2) non-transient residential dwelling units on the Property will be demolished and rebuilt on site as affordable/workforce residential dwelling units of no less than six hundred (600) square feet each.

5. Non-residential Commercial Floor Area. The following redevelopment of non-residential commercial floor area, as depicted on the Conceptual Site Plan, is approved by this Agreement. Any additional non-residential commercial floor area shall be required to obtain an allocation in accordance with the City's NROGO regulations.

Type of Use	Amount	Square Feet of Land Required	Site Utility
Commercial Retail – low intensity (boat storage building)	47,316 sf	135,188.6 sf	47.9%
Commercial Retail – medium intensity (Marina Store)	1200 sf	4,800 sf	1.7%
<b>Total</b>	<b>48,516 sf</b>	<b>139,988.6 sf</b>	<b>48.6 %</b>

- (a) Dry boat storage building for two hundred (200) boats (redeveloped): 47,316 square feet.
- (b) Marina Store/Dockmaster/Boat Rental: 1,200 square feet.
- (c) 78 wet slips (35 – 50 feet in size).
- (d) one (1) boat ramp.
- (e) fuel dock and fuel tanks
- (f) bait/fish cleaning station: 100 square feet.
- (g) new on-site wastewater treatment plant that meets 2010 standards.

6. Prior to construction of more than 46,485 square feet of commercial floor area, Owner shall apply for an NROGO allocation for the excess commercial square footage.

e. Affordable/Work Force Housing; Timing of Development; Deed Restriction.

1. Affordable/Work Force Housing Required. The City Comprehensive Plan requires that when a hotel or motel is redeveloped, the owner or developer shall provide affordable/work force housing in a number equal to ten percent (10%) of the number of hotel/motel units to be developed. Further, the owner or developer is required to either construct the units, or pay the City the sum of One Hundred Thousand Dollars (\$100,000)

for each required unit to enable the City to develop the units. Under the City policy, the Owner is responsible for three (3) affordable/work force housing units in order to redevelop the twenty-five (25) resort units authorized by this Agreement. The Owner shall develop two (2) affordable/workforce housing units on site. The Owner shall either build the third required affordable/workforce housing unit off-site or pay the City the sum of One Hundred Thousand Dollars (\$100,000) for the City to build such unit within its jurisdiction.

2. Timing of Development of Affordable/Work Force Housing. The affordable/workforce housing required by this Agreement may be developed under either of the following options:

a. The affordable/work force housing shall be constructed, and any required payment therefor shall be made to the City, concurrent with or prior to the issuance of a certificate of occupancy for the last transient residential dwelling unit authorized by this agreement, or

b. If the Owner wishes to develop the affordable/work force housing on an alternate schedule, the Owner may elect to provide the City a performance guarantee in the form of a cash payment or bond in the amount of Three Hundred Thousand Dollars (\$300,000). Payment or posting of the performance guarantee shall occur concurrent with or prior to issuance of a certificate of occupancy for the first transient residential dwelling unit authorized by this Agreement. If such a performance guarantee is provided to the City, the affordable/workforce housing required under this Agreement shall be completed, and any required payment therefor shall be made to the City, concurrent with or prior to issuance of a certificate of occupancy for the last transient residential unit developed on the Property. The Owner shall be entitled to the full return of its performance guarantee no later than ten (10) days

after issuance of a certificate of occupancy and/or receipt of payment for the affordable/work force housing required by this Agreement.

3. **Deed Restriction.** The Owner shall place a restrictive covenant, in a form acceptable to the City, on the affordable/work force housing units which shall restrict the use of the units to affordable housing as defined in the City Code for fifty (50) years from the date of recordation, and which shall automatically renew for two (2) 50-year periods. The restrictive covenant shall be recorded in the public records of Monroe County, Florida. The Owner will enter into an agreement with the Middle Keys Community Land Trust ("MKCLT") or a like entity found by the City to demonstrate expertise and capability; at the Owner's discretion, to perform income qualification evaluation for renters of units on an annual basis and for purchasers of the units at the time of sale of a unit. Such agreement must be approved by the City Attorney and executed by the parties prior to issuance of certificates of occupancy for the affordable/work force residential dwelling units.

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 the following buffers:

Front Yard: Class C Major street buffer is required to be no less than 20 feet in width.

Rear Yard: An SC-IS Class "B" district boundary buffer is required at the rear of the Property.

b. **Building Heights.** Pursuant to Future Land Use Element Policy 1-3.2.5, buildings shall not exceed a maximum of thirty-seven (37) feet in height, measured from the centerline crown of U.S. 1 adjacent to the Properties or from the existing grade, whichever is higher.

c. **Floor area Ratios .** The following floor area ratios (FAR) shall apply to the Property:

Commercial Retail – Low Intensity (Boat Storage)	0.35 FAR
Commercial Retail – Medium Intensity (Marina Store)	0.25 FAR
Light Industry	0.30 FAR

d. **Setbacks.** The City acknowledges that there is no undisturbed or unaltered shoreline on the Properties. Pursuant to Sections 9.5-281 and 9.5-286 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/fifteen (10/15) feet.
4. Required setbacks between on site structures: with the recordation of the required Unity of Title as set forth herein, internal setbacks are not required other than for fire safety as determined by the City's Fire Marshal.

e. **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 Owner shall install all utilities underground where practical and shall screen all utility facilities. The Owner 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.

f. **Landscaping.** The Owner 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 from the date of installation. Seventy percent (70%) of all plants installed shall be native plants and of a species diversity typical of a Middle Keys hardwood hammock. The Owner shall remove all invasive exotic plants in each area of the Properties at the time plants are installed in such area. The Owner shall provide Class "A" landscaping for all parking areas in accordance with Section 9.5-361 of the City Code.

**g. Parking.** The Owner shall provide a total of 131 parking spaces for the commercial, residential and transient residential dwelling units as depicted on the Conceptual Site Plan, and in accordance with the City Code.

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

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

**j. Open Space Ratio.** Pursuant to Sections 9.5-269 and 9.5-343 of the City Code, the Owner shall maintain a minimum twenty percent (20%) open space ratio on the combined Properties.

**k. Wind Load.** The Owner shall construct all structures on the Properties, including doors, windows, and cladding, to withstand the mile an hour peak winds as specified in the Florida Building Code, 2004 Edition.

**l. Energy Efficiency.** The Owner shall construct all 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 Properties shall adhere to one of the architectural styles and one of the representative floor plans depicted in the schematics attached as Composite Exhibit "C" and incorporated herein by reference.

**n. Permits From Other Regulatory Entities.** The Owner 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. Stormwater Management.** The development shall comply with the stormwater management criteria in City Code Section 9.5-293 and as approved by the SFWMD. The development will meet all applicable federal, state, regional, and local stormwater management requirements, including any applicable requirements pursuant to the National Pollutant Discharge Elimination System (NPDES) permit issued by the Florida Department of Environmental Protection for the City of Marathon in February 2005 prohibiting direct discharges into Outstanding Florida Waters.

**p. Unity of Title.** The Owner shall execute a Unity of Title in the form attached hereto combining the upland parcels described in Exhibit A for the purposes of redevelopment authorized in this Agreement and shall record same in the public records of Monroe County, Florida, within twenty-eight (28) days after the effective date of this Agreement. The Owner 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. Prior to recordation, the Owner shall additionally provide the City an Opinion of Title in a form acceptable to the City Attorney.

q. **Cost Recovery Fees.** The Owner shall pay any outstanding cost recovery fees within sixty (60) days of receipt of final invoice from the City.

r. **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 treatment shall be provided by the construction of a new advanced wastewater treatment ("AWT") plant approved by DEP and which shall be owned by the Owner. The treatment plant shall meet the AWT nutrient removal standards as specified by DEP and shall be completed before a certificate of occupancy may be issued for any residential or transient residential dwelling unit. The Owner shall be responsible for the design, installation, inspection and testing of the complete wastewater collection system serving the Properties which shall include all component parts of the wastewater collection system.

- e. Fire service will be provided by the Marathon Fire Department.
- f. 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.
- g. Schools: not applicable.
- h. Recreational facilities: addressed through impact fees, if any.

Any increased impacts on public facilities or public services attributable to each residential and transient unit and commercial use, 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, of any City impact fees required by ordinance then in effect, as well as by payment by the Owner of any applicable utility system development fees. Owner agrees to pay impact fees pursuant to any applicable impact fee ordinances adopted within twenty-four (24) months of the effective date of this Agreement. Any impact fees required to be paid by Owner pursuant to any such impact fee ordinances will be offset by the dollar amount paid by Owner toward the provision of any improvements which are subject of said impact fee ordinances.

**7. Reservations or Dedications of Land for Public Purposes.** The parties anticipate that the Owner 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 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 Properties.

**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.** An application for final site approval shall be made for final site plan approval by City planning staff confirming compliance with this Agreement and applicable City Code requirements.

2. **Major Conditional Use.** Major conditional use approval (or modification of existing approvals) for the development authorized by this Agreement.

3. **Building Permits.** Building permits (including necessary ROGO and NROGO allocations, if any).

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 Owner's compliance with terms and provisions of each such identified approval.

9. **Mutual Cooperation.** The City agrees to cooperate with the Owner in timely providing and/or granting all permits, licenses, approvals, or consents necessary or appropriate to fully implement this Agreement. The City and the Owner 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 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.

11. **Finding of Consistency.** The City of Marathon finds that the development authorized herein is consistent with the City's 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 Owner 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 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 Properties.

b. Pursuant to Section 163.3233, Florida Statutes (2004), the City may apply subsequently adopted laws and policies to the Properties 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 Owner. However, nothing in this Agreement shall prohibit the parties from mutually agreeing to apply subsequently adopted laws to the Properties.

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 (2004), 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 (2004), 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 (2004): 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 Properties, 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 Owner or its 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 (2004), 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 Owner, 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 OWNER:**

Pritam Singh, President  
Boat House Associates, Inc.  
6805 Overseas Highway  
Marathon, FL 33050  
Telephone: (305) 743-2810

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

Sherry A. Spiers, Esquire  
Greenberg Traurig, P.A.  
101 East College Avenue  
Tallahassee, FL 32301  
Telephone: (850) 222-6891

**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  
Stearns, Weaver, Miller, Weissler, Alhadeff & Sitterson, P.A.  
150 West Flagler Street, Suite 2200  
Miami, Florida 33133  
Telephone: (305) 789-3427

17. **Enforcement.** In accordance with Section 163.3243, Florida Statutes (2004), any party to this Agreement, any aggrieved or adversely affected person as defined in Section 163.3215(2), Florida Statutes (2004), 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 (2004).

18. **Conflicts.** In the event of a conflict between the provisions of this Agreement and City ordinances, the more restrictive shall control.

19. **Annual Report.** On the anniversary of the Effective Date of this Agreement, the Owner shall provide to the City 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.

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

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

22. **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.

23. **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.

24. **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.

25. **Litigation; Attorney's Fees; Venue; Waiver of Right to Jury Trial.** As between the City and Owner, 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.

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

**27. 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.

**28. 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.

**29. 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.

**30. Recording; Effective Date.** The Owner 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 Owner 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.

31. **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.

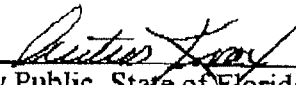
BOAT HOUSE ASSOCIATES, INC.,  
a Florida corporation,

1/20, 2006  
Date

By   
PRITAM SINGH, ~~PRESIDENT~~

STATE OF FLORIDA  
COUNTY OF MONROE

The foregoing instrument was acknowledged before me on this 20 day of JANUARY, 2006, by Pritam Singh, as President of Boat House Associates, Inc., who is ~~personally known to~~ me or who produced \_\_\_\_\_ as identification, and who did/did not take an oath.

  
Notary Public, State of Florida At Large

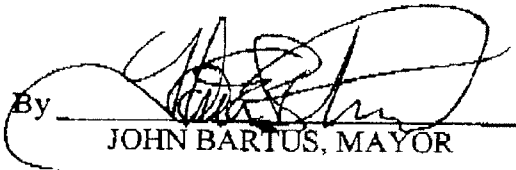
My commission expires:



AUTUS KNOX  
MY COMMISSION # DD 188534  
EXPIRES: May 19, 2007  
Bonded Thru Budget Notary Services

CITY OF MARATHON

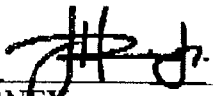
Date 01/27, 2006

By   
JOHN BARTUS, MAYOR

ATTEST:

  
CITY CLERK

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

  
CITY ATTORNEY

**EXHIBITS TO DEVELOPMENT AGREEMENT  
FOR THE BOAT HOUSE AND CORAL LAGOON RESORT**

- EXHIBIT "A":                   LEGAL DESCRIPTION
- EXHIBIT "B":                   CONCEPTUAL SITE PLAN
- EXHIBIT "C":                   SCHEMATICS FOR BUILDINGS

Doc# 1565410  
Bk# 2185 Pg# 1476

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**



DESCRIPTION OF SURVEY:

TRACT 1: (O.R. 1988, PG. 1098)

JOB: BOATHOUSE 1

A tract of land in part of Government Lot 3, Section 5, Township 68 South, Range 33 East, on Crowl Key No. 1 including all fixtures and improvements thereon, and adjacent submerged lands and all being more particularly described by metes and bounds as follows: Commencing at the intersection of the West line of Section 5 and the centerline of U.S. Highway No. 1, bear North 77°51' East along said centerline, 1936.53 feet; thence bear South 12°09' East for a distance of 50 feet to the Point of Beginning of the tract of land and submerged lands hereinafter described: from said Point of Beginning continue bearing South 12°09' East, 685 feet; thence bear North 82°20' East for a distance of 200.82 feet; thence bear North 12°09' West for a distance of 640.08 feet to the Southerly right of way line of U.S. Highway No. 1; thence bear South 77°51' West along the Southerly right of way line of U.S. Highway No. 1 for a distance of 200 feet, back to the Point of Beginning. LESS AND EXCEPT HEREFROM the parcel of land referred to as the "Dive Shop Tract" and being more particularly described as follows: A tract of land in a part of Government Lot 3, Section 5, Township 68 South, Range 33 East on Crowl Key No. 1, Monroe County, Florida and being more particularly described by metes and bounds as follows: Commencing at the intersection of the West line of Section 5 and the centerline of U.S. Highway No. 1, bear North 77°51' East, 293.08 feet; thence bear North 78°38' East 200.02 feet; thence bear North 12°09' West, 295.81 feet to the Southerly right of way line of U.S. Highway No. 1; thence bear South 77°51' West, 200 feet to the Point of Beginning.

(TRACT 2 - O.R. 1988, PG. 1098-1099)

A tract of land in part of Government Lot 3, Section 5, Township 68 South, Range 33 East, on Crowl Key No. 1, including all fixtures and improvements thereon and adjacent submerged lands and all being more particularly described by metes and bounds as follows: Commencing at the intersection of the West line of Section 5 and the centerline of U.S. Highway No. 1, bear North 77°51' East along said centerline, 1936.53 feet; thence bear South 12°09' East, 50 feet to a point on the Southerly right of way line of U.S. Highway No. 1; thence bear North 77°51' East along Southerly right of way line of U.S. Highway No. 1, 200 feet to the Point of Beginning of the tract of land and submerged lands hereinafter described: from said Point of Beginning, bear South 12°09' East, 680.88 feet; thence bear North 82°20' East for a distance of 100.31 feet to a point; thence bear North 12°09' West for a distance of 688.52 feet to a point on the Southerly right of way line of U.S. Highway No. 1; thence bear South 77°51' West for a distance of 100.31 feet to a point; thence bear North 77°51' West for a distance of 100 feet along the Southerly right of way line of U.S. Highway No. 1, back to the Point of Beginning. LESS AND EXCEPT HEREFROM the parcel of land referred to as the "Channel Parcel" and being more particularly described as follows: Commencing at the intersection of the West line of Section 5 and the centerline of U.S. Highway No. 1, Monroe County, Florida and being more particularly described by metes and bounds as follows: A tract of land in a part of Government Lot 3, Section 5, Township 68 South, Range 33 East, on Crowl Key No. 1, Monroe County, Florida and being more particularly described by metes and bounds as follows: Commencing at the intersection of the West line of Section 5 and the centerline of U.S. Highway No. 1, bear North 77°51' East along said centerline, 1936.53 feet; thence bear South 12°09' East, 50 feet to the Point of Beginning of this parcel; thence North 75 feet to a point; thence bear South 78°38' West, 120 feet; thence bear South 12°09' East, 50 feet to a point on the edge of the channel; which is the Point of Beginning of this parcel; thence North 75 feet to a point; thence bear South 78°38' West, 120 feet; thence bear South 12°09' East 50 feet more or less to a point on the edge of the channel; thence meander the shore of the said channel in a Southeasterly direction for a distance of 130 feet more or less to the Point of Beginning.

TOGETHER WITH a perpetual easement for the purpose of parking, ingress and egress, and general access, the driveway and parking area of the "Dive Shop Tract" such are being described as follows: A 20 foot easement in a part of Government Lot 3, Section 5, Township 68 South, Range 33 East on Crowl Key No. 1, Monroe County, Florida and being more particularly described by metes and bounds as follows: A 20 foot Southerly right of way line of U.S. Highway No. 1; thence bear North 77°51' East along said centerline, 1936.53 feet; thence bear South 12°09' East, 50 feet to the Point of Beginning; thence bear North 12°09' West, 20.00 feet; thence N78°38'E, 180.02 feet; thence N78°38'E, 275.81 feet to the Southerly right of way line of U.S. Highway No. 1; thence bear North 77°51' East, 20 feet back to the Point of Beginning.

SUBJECT TO a perpetual easement of access to the above stated Channel Parcel more particularly described as follows: A tract of land in part of Government Lot 3, Section 5, Township 68 South, Range 33 East on Crowl Key No. 1, Monroe County, Florida and being more particularly described by metes and bounds as follows: Commencing at the intersection of the West line of Section 5 and the centerline of U.S. Highway No. 1, bear North 77°51' East along said centerline, 1936.53 feet; thence bear South 12°09' East, 50 feet to the Point of Beginning of the tract of land and submerged lands hereinafter described: from said Point of Beginning continue bearing South 12°09' East, 295.81 feet to the Point of Beginning of the tract of land and submerged lands hereinafter described; thence bear North 77°51' East along the Southerly right of way line of U.S. Highway No. 1, 200 feet to the Point of Beginning of this parcel; thence bear North 77°51' East, 303 feet more or less to the Southerly boundary of the aforesaid Channel Parcel; thence bear South 78°38' West along the Northerly boundary of the said Channel Parcel for 20 feet; thence bear North 12°09' West for 303 feet to the Southerly boundary of the aforesaid Channel Parcel; thence bear North 78°09' West for 303 feet more or less to the Southerly boundary of the aforesaid Channel Parcel; thence bear North 77°51' East, 20 feet back to the Point of Beginning.

PARCEL 1

The Eastern 1/4 of the total parcel of land conveyed to Hoag-Marathon Corp., by Edward R. Neff and Pearl Brown Neff by Warranty Deed, dated June 27, 1957, recorded in Official Records Book 103, Page 527, of the Public Records of Monroe County, Florida, and more particularly described as follows:

Commencing at the intersection of the W. Line of Section 5, T68S, R36E, at Crowl Key No. 1, Monroe County, Florida, and the centerline of U.S. Highway No. 1, thence bear No. 77°51' E. for a distance of 2136.53 feet to a point; thence bear S. 12°09' E. for a distance of 50 feet to the Southerly right-of-way line of U.S. Highway No. 1, hereinafter called the point of beginning; from said point of beginning continue bearing S. 12°09' E. for a distance of 500 feet to a point, said point being on the shoreline of Bonfish Bay; thence meander the shoreline in a Wly direction to a point that lies 100.38 feet Wly of the preceding course; thence bear N. 12°09' W. for a distance of 500 feet, more or less to the Southerly right-of-way line of U.S. Highway No. 1, thence bear N. 77°51' E. along the Southerly right-of-way line of U.S. Highway No. 1, a distance of 100 feet back to the Point of Beginning, lying and being in the County of Monroe, State of Florida.

ALSO

PARCEL 2

The parcel of bay bottom lying in Bonefish Bay S. of and adjacent to a part of Gov't Lot 3, Sec. 5, T. 88 S., R. 33 E., at Crowl Key No. 1, Monroe County, Florida and being a part of bay bottom lands purchased from the Internal Improvement Fund of the State of Florida by deed numbered 22288 (454-44), dated October 30, 1959, and recorded in CR 168, Page 388 of the Public Records of Monroe County, Florida, and more particularly described as follows:

Commencing at the intersection of the West Line of Sec. 5, T. 88S., R. 33E., at Crowl Key No. 1, Monroe County, Florida and the centerline of U.S. Highway No. 1, thence bear N.77°51'E for a distance of 2338.59 ft. to a point, thence bear S. 12°09' E. for a distance of 550 ft., more or less to a point on the shoreline of Bonefish Bay, hereinafter called the Point of Beginning, from said point of beginning continue bearing S. 12°09' E. for a distance of 210 ft. more or less, to a point; thence bear S. 82°20' W. for a distance of 100.38 feet to a point; thence bear N. 12°19' W. for a distance of 200 ft., more or less, to a point on the shoreline of Bonefish Bay; thence meander the shoreline in an Easterly direction back to the point of beginning.

AND ALSO

PARCEL 3

Beginning at a concrete monument marking the Easterly line of the Thompson Enterprises, Inc., property on the Westerly end of Government Lot 3, Section 5, Township 86 South, Range 33 East, all of the lands herein described lying and being in said Government Lot, Section, Township and Range and said monument being 176 feet Northerly from, measured at right angles to the Center Line of U.S. Highway No. 1, also known as the Overseas Highway; thence Easterly along a line parallel to the said centerline of the said U.S. Highway No. 1, 1,200 feet to a point; thence Southerly perpendicular to the last said course 166 feet to a point, said point lying and being in the Southerly right-of-way line of the said U.S. Highway No. 1 and being the POINT OF BEGINNING of the property herein identified; thence continuing Southerly along the last said course for a distance of 536 feet, more or less, to a point on the high water mark of Bonefish Bay; thence meander the high waterline of said Bonefish Bay in an Easterly direction to a point that is 100 feet Easterly from the last mentioned course, measured at right angles; thence Northerly for a distance of 480 feet, more or less, parallel to the last mentioned Southerly course to a point on the Southerly right-of-way line of U.S. Highway No. 1; thence at right angles and Westerly along the Southerly right-of-way line of U.S. Highway No. 1 for a distance of 100 feet to the POINT OF BEGINNING.

AND ALSO

PARCEL 4

Commencing at the intersection of the West line of Section 5, Township 86 South, Range 33 East, and the center line of U.S. Highway No. 1; thence North 77 degrees, 51 minutes East along said center line, 2,336.78 feet; thence South 12 degrees, 9 minutes East, 50 feet to the Southerly right-of-way line of said U.S. Highway No. 1, thence continuing South 12 degrees, 9 minutes East, 524 feet, more or less, to the Mean High Water line of Bonefish Bay; thence continuing South 12 degrees, 9 minutes East along said line, extended, into the waters of Bonefish Bay, 210 feet, more or less, to the Northern Boundary of baybottom lands owned by F. P. Szobski; thence meandering said Northerly line of said Szobski submerged lands and Northwesterly therefrom, 128 feet, more or less, to the Mean High Water line, and measured at right angles to the preceding course; thence North 12 degrees, 9 minutes West, 220 feet, more or less, to the Mean High Water line of said Bonefish Bay; thence meandering said Northerly line in a Southwesterly direction 120 feet, more or less, to the POINT OF BEGINNING; the said tract of land containing 0.8 acres, more or less, together with any and all improvements thereon and herein.

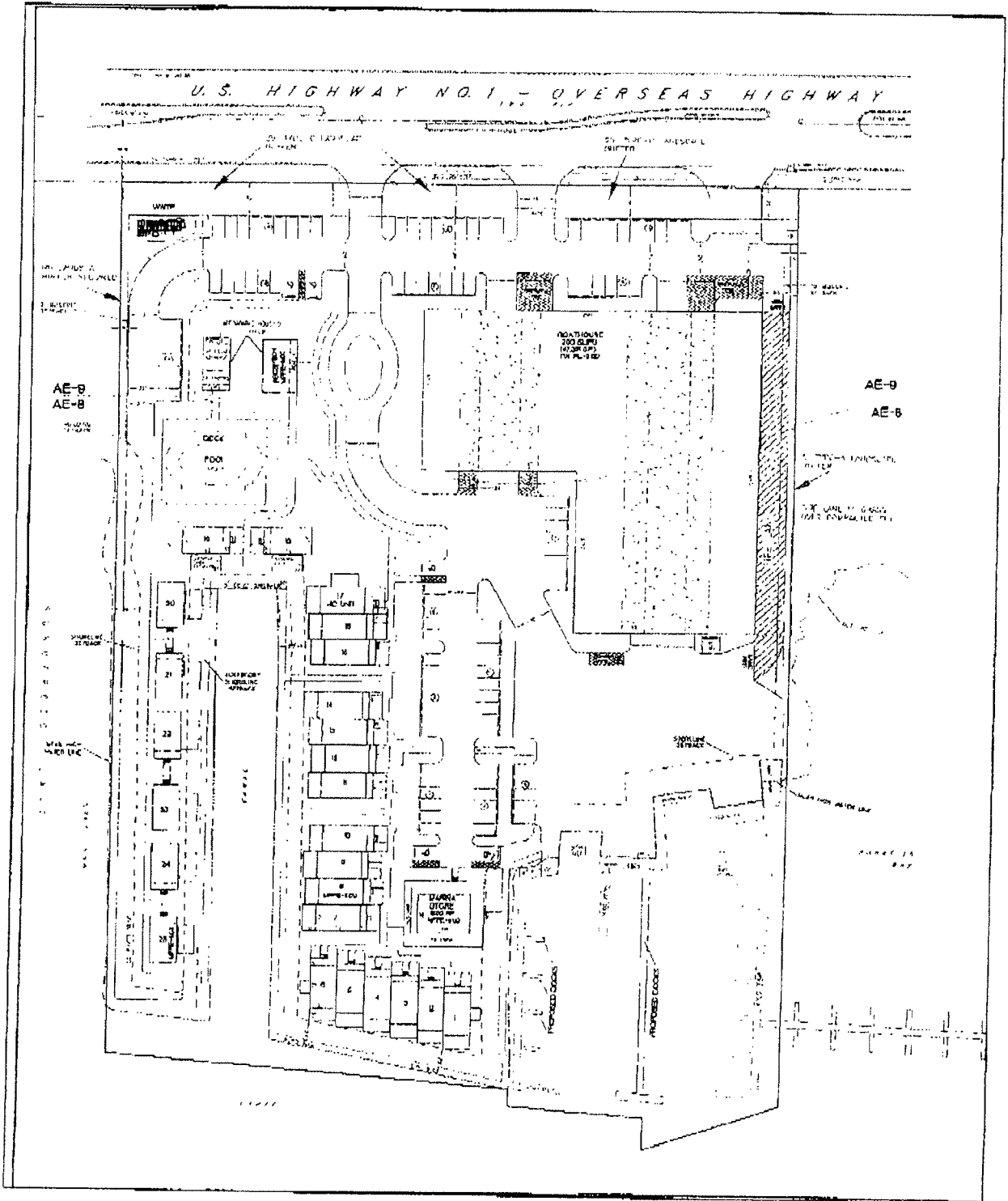
AND ALSO "DIVE SHOP TRACT"

A tract of land in part of Government Lot 3, Section 5, Township 86 South, Range 33 East, on Crowl Key No. 1 Monroe County, Florida and being more particularly described by metes and bounds as follows: Commencing at the intersection of the West line of Section 5 and the centerline of U.S. Highway No. 1, bear North 77°51' East along said centerline, 1936.53 feet; thence bear South 12°09' East for a distance of 50 feet to the Point of Beginning of the tract of land hereinafter described: from said Point of Beginning continue bearing South 12°09' East, 293.06 feet; thence bear North 78°38' East 200.02 feet; thence bear North 12°09' West for a distance of 295.81 feet to the Southerly right of way line of U.S. Highway No. 1; thence bear South 77°51' West 200 feet back to the Point of Beginning along the Southerly right of way line of U.S. Highway No. 1 for a distance of 200 feet, back to the Point of Beginning.

AND ALSO "CHANNEL PARCEL" - O.R. 1988, P.C. 1098-1099

A tract of land in part of Government Lot 3, Section 5, Township 86 South, Range 33 East, on Crowl Key No. 1, Monroe County, Florida and being more particularly described by metes and bounds as follows: Commencing at the intersection of the West line of Section 5 and the centerline of U.S. Highway No. 1, bear North 77°51' East along said centerline, 1936.53 feet; thence bear South 12°09' East, 50 feet to the Southerly right of way line of U.S. Highway No. 1; thence bear South 12°09' East, 885 feet more or less to a point on the edge of the channel; which is the Point of Beginning of this parcel; thence North 12°09' West, 75 feet to a point; thence bear South 78°38' West, 120 feet; thence bear South 12°09' East 50 feet more or less to a point on the edge of the said channel; thence meander the shore of the said channel in a Southwesterly direction for a distance of 130 feet more or less to the Point of Beginning.

### EXHIBIT "B" CONCEPTUAL SITE PLAN



### EXHIBIT "C" SCHEMATICS FOR BUILDINGS

