

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2006-008**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A DEVELOPMENT AGREEMENT FOR SEAVIEW COMMONS, LLC, FOR THE REDEVELOPMENT OF PROPERTY LOCATED AT COCO PLUM DRIVE AND AVENUE D, WHICH IS LEGALLY DESCRIBED AS LOTS 9, 10, AND 11, BLOCK 7, COCO PLUM BEACH SUBDIVISION, FAT DEER KEY, HAVING REAL ESTATE NUMBER 00363700-000000, 00363710-000000, AND 00363720-000000, PROVIDING FOR CONDITIONS AND REQUIREMENTS OF DEVELOPMENT, INCLUDING, BUT NOT LIMITED TO, BUFFERS, BUILDING HEIGHTS, SETBACKS, AND OTHER REQUIREMENTS**

**WHEREAS**, Seaview Commons, LLC (the "Owner") owns approximately 2.52 acres of upland property and 0.83 acres of baybottom (the "Property") in the corporate limits of the City of Marathon, Florida; and

**WHEREAS**, the Property is a fully developed site with four multi-unit structures consisting of fifteen (15) total dwelling units; and

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

**WHEREAS**, the City has determined that the redevelopment will not adversely affect hurricane evacuation clearance time because the number of units on the redeveloped Property will not increase beyond the number of 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 owners 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 December 19, 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 January 10, 2006 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.

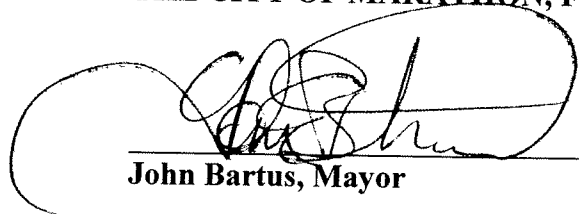
**Section 2.** The Development Agreement between the City and Seaview Commons, LLC, in substantially the form as the attached Exhibit "A," together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is hereby approved.

**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 24<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

This instrument prepared by:

BRIAN SCHMITT  
1100 Overseas Hwy  
Marathon, FL 33050  
Telephone: (305) \_\_\_\_\_

Doc# 1565613  
Bk# 2185 Pg# 2151

Parcel I.D. Nos.:

RE# 00363700-000000

RE# 00363710-000000

RE# 00363720-000000

RE# \_\_\_\_\_ (Bay Bottom and  
unexcavated portion of canal bottom)

*(Space reserved for recording)*

**DEVELOPMENT AGREEMENT FOR  
SEAVIEW COMMONS AND  
ADJACENT RESIDENTIAL PROPERTY  
MARATHON, FLORIDA**

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the CITY OF MARATHON, FLORIDA, a Florida municipal corporation (herein referred to as "City"), and SEAVIEW COMMONS LLC, Brian C. Schmitt Managing Member, the owner of the property made the subject of this Development Agreement pursuant to Sections 9.5-101 and 9.5-102 of the Code of Ordinances for the City of Marathon, 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**, Seaview Commons LLC is the owner of real property in Monroe County, located in the corporate limits of the City of Marathon, Florida, on the Atlantic side of Highway US 1. The property is more particularly described in Exhibit "A" (boundary survey), attached hereto and incorporated herein by reference with a legal description as follows: Lot 9, Block 7, and adjacent Bay Bottom COCO PLUM BEACH SUBDIVISION, as recorded in Plat Book 4, Page 166, of the Public Records of Monroe County, Florida (the "Property"). Lot 9 is presently zoned Urban Residential (UR) and designated as Residential High (RH) on the Future Land Use Map and

**WHEREAS**, Seaview Commons LLC is the owner of real property in Monroe County, located in the corporate limits of the City of Marathon, Florida on the Atlantic side of Highway

US 1, The property is more particularly described in Exhibit "A" (boundary survey), attached hereto and incorporated herein by reference ("Apartment Property") with a legal description as follows: Lots 10 and 11, Block 7, COCO PLUM BEACH SUBDIVISION, as recorded in Plat Book 4, Page 166, of the Public Records of Monroe County, Florida. The property is presently zoned Suburban Residential (SR) and designated as Residential High (RH) pursuant to the City's Comprehensive Plan; and

**WHEREAS**, the above-described properties comprise 2.573 acres of upland and .628 acres of bay bottom, and

**WHEREAS**, on November 3, 2005 Schmitt filed with the Clerk of the Court for Monroe County a Unity of Title combining Lots 9, 10, and 11, Block 7 Coco Plum Beach Subdivision, as more particularly described in Exhibit "F" and filed of record in the public records of Monroe County in Book 2162, Pages 1923 and 1929, Document #1549223, 1549224 and 1549225; and

**WHEREAS**, Seaview Commons LLC desires to construct fifteen (15) ROGO exempt market rate residential dwelling units on the Property, as shown on the Conceptual Site Plan more particularly described in Exhibit "B" and incorporated herein by reference ("Site Plan"); and

**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:

**I. RECITALS.**

The foregoing Recitals are a part of this Agreement on which the parties have relied and are incorporated into this Agreement by reference.

**II. DEFINITIONS.**

For the purposes of this Agreement the following terms shall have the following definitions. 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.

**"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.

**"City Code"**, shall refer to the Code of Ordinances of the City of Marathon in existence on the Effective Date of this Agreement.

**"Comprehensive Plan"** shall refer to the City's Comprehensive Plan effective on July 7, 2005, as expressly provided herein.

**“Development”** shall refer to the development of the Property for uses permitted by the Future Land Use Map in the Plan, subject to the conditions, obligations, restrictions and terms contained in this Agreement.

**“Effective Date”** shall refer to the date this Agreement becomes effective, as set forth herein.

**“Condominium Association”** means the condominium association created pursuant to Chapter 718, Florida Statutes, for the operation and management of the condominium to be created on the Property.

**“Homeowners Association”** means the homeowners association created pursuant to Chapter 720, Florida Statutes, for the operation and management of the houses to be created on the Property.

**“Land Development Regulations”** shall mean Chapter 9.5 of the city Code in existence on the Effective Date of this Agreement.

**“Property”** shall refer to the parcel of real property located in the City that is the subject of this Agreement as set forth in Section III.a.1 of this Agreement.

**“Public Facilities”** shall refer to those facilities that are specifically described in Section 163.3221, Florida Statutes, and as set forth in this Agreement.

**“ROGO”** shall refer to Rate of Growth Ordinance set forth in the Land Development Regulations.

**“State land planning agency”** shall refer to the State of Florida Department of Community Affairs (DCA), or any successor State agency.

### **III. TERMS OF AGREEMENT.**

#### **A. Legal Description and-Ownership.**

1. **Ownership.** The Owner of the Property as of the date of the execution of this Agreement is Seaview Commons LLC, 11100 Overseas Highway, Marathon, Florida 33050. The Owner shall provide an Opinion of Title in a form acceptable to the City contemporaneous with the execution of this Development Agreement.

2. **Legal Description.** The legal description of the Property subject to this Agreement is included in the Survey attached hereto as Exhibit “A”. The term “Property” as used in this Agreement shall mean and refer to the property described in Exhibit “A”.

#### **B. Duration of Agreement.**

1. **Duration of Agreement.** This Agreement shall remain in effect for ten (10) years from its Effective Date as defined herein.

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

1. **Existing Development.** The following development exists on the Property: fifteen (15) residential dwelling units and fifteen (15) dock slips.

2. **Redevelopment Preparation.** The property will be prepared for redevelopment by permitted demolition and appropriate removal of the existing dwelling units.

**D. Plan Approval, including Densities and Intensities.**

1. **Approval of Conceptual Site Plan; Minor Revisions; Final Site Plan.**

The Property shall be redeveloped with fifteen (15) detached single family residential dwelling units which may be developed together with total of 22 dock slips as described in this Agreement and depicted on the Conceptual Site Plan for Seaview, dated August 18, 2005, which was prepared by MBI-K2M Architecture, located in Key West, Florida, and is attached hereto as Exhibit "B". The Conceptual Site Plan is hereby approved by the City, and any subsequent site plans, site plan approvals and building permits shall substantially comply with this Conceptual Site Plan; provided, however, that the final site plan may deviate from the Conceptual Site Plan to accommodate: (1) refinements to the development plan including minor shifts in location of five (5) feet or less in the structures, roadways, pathways, and swimming pool configurations; (2) changes to the building type or number of residential units, so long as the density set forth in this Agreement is not exceeded; or (3) modifications that are necessary to meet regulatory requirements imposed by any other governmental entity. The site plan meets all applicable setback, open space, landscape bufferyard, parking and building height requirements established in City Code and such requirements shall not be varied unless Owner obtains a variance pursuant to applicable provisions of the City Code.

2. **Form of Ownership.** 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 residential dwelling units therein shall not be prohibited or violative of the terms and provisions of this agreement. There will be a minimum of fifteen (15) boat slips on the Property as shown on Exhibit "B" hereto. Each Unit will have use of one (1) boat slip on the Property, which use shall be accessory to and appurtenant to and part of the Unit. Any additional boat slip shall be accessory to and appurtenant and part of the Unit.

3. **Exempt Dwelling Units under this Agreement.** Pursuant to Section 9.5-123(f)(1) of the City Code, the fifteen (15) detached single family residential dwelling units on the Property are exempt from the requirements of the City's residential ROGO.

4. **Density under this Agreement.** Pursuant to Section 9.5-262 and Section 9.5-267 of the City Code applicable to the Urban Residential (UR) and Suburban Residential

(SR) districts, and applicable provisions in the Comprehensive Plan, Owner is entitled to redevelop and will redevelop fifteen (15) dwelling units on the Property (shown on the Table of Densities and Intensities, Exhibit "D").

5. **Conceptual Site Plan.** The redevelopment of the fifteen (15) residential dwelling units as depicted on the Conceptual Site Plan, is approved by this Agreement.

6. **Marina Operation Prohibited.** The dock slips will not be operated as a commercial marina. No liveaboards will be permitted. The Owner shall record in the public records of Monroe County, in a form acceptable to the City, a restrictive covenant prohibiting the use of liveaboards on the Property.

7. **Accessory Uses.** The accessory uses as depicted on the conceptual site plan and listed below are approved by this agreement:

Table of Accessory Uses
Docks – 22 (total)
Swimming Pools – 15 (total)
Carports – 15 (total)
Decks – 15 (total)

E. **Development Conditions.** The following 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:

1. **Building Height.** Buildings may be constructed to the maximum height of thirty seven (37) feet allowed under the City's Comprehensive Plan.

2. **Setbacks.** The City acknowledges that there is no undisturbed or unaltered shoreline on the Property. Pursuant to City Code Section 9.5-286, a twenty (20) foot setback from the land-ward edge of the mangrove fringe or the mean high water line ("MHWL") shall be required for all principal structures. City Code Section 9.5-289 establishes provisions for a limited amount of non-enclosed detached outdoor recreational accessory structures that may be developed within the shoreline setback. Pursuant to City Code Section 9.5-281, the UR district requires a minimum fifteen (15) foot front yard setback, ten (10) foot side adjacent to street, ten (10) side yard setback on one side property line with a combined total of fifteen (15) feet for both side yards. The SR district requires a minimum twenty-five (25) foot front yard setback, ten (10) side yard setback on one side property line with a combined total of fifteen (15) feet for both side yards. Owner shall comply with the applicable setbacks. Internal setbacks are not required other than for fire safety.

3. **Utilities, and Lighting.** Utilities, and lighting shall comply with all applicable requirements of the City Code, including the waterfront lighting criteria in City Code Section 9.5-395. The Owner shall install all utilities underground where practicable and shall screen all utility facilities. The Owner shall utilize shaded light sources to illuminate all facades,



buildings, and parking areas, and shall arrange such lighting to eliminate glare to parcels lying outside the Property. No intermittent or flashing lights shall be allowed.

**4. Landscaping.** The Owner shall utilize best installation and maintenance practices for landscaping throughout the Property, and shall guarantee one hundred percent (100%) survival of all owner-installed plants for one (1) year after receipt of a final certificate of occupancy. Seventy percent (70%) of all required plants installed shall be Florida Keys native plants that are suitable for the site conditions and are a species typical of the Middle Keys. The Owner shall remove all Category I invasive exotic plants on the Property. The Owner shall provide a Class "B" District Boundary Buffer in accordance with Section 9.5-378 of the City Code. The Owner shall provide, where applicable Class "C" landscaping for all parking areas in accordance with Section 9.5-361 of the City Code. The Owner shall provide a Class "H" landscape district boundary buffer where the UR district abuts the CFSD district on the western property line.

**5. Parking.** The redevelopment shall comply with the parking criteria as required by Section 9.5-351 of the City Code. The Owner shall provide two (2) parking spaces per detached single family dwelling unit for a minimum of thirty (30) parking spaces.

**6. Internal Infrastructure.** The underground infrastructure, water and sewer serving the detached single family residential dwelling units shall be completed before a certificate of occupancy may be issued for the unit.

**7. Fire Safety.** The Owner shall provide fire wells and other such fire protection facilities as required by the Life Safety Code administered by the City Fire Department. Fire sprinklers will be installed as required by City Code for any detached single family dwelling unit that may be used as a vacation rental unit in the future.

**8. Open Space Ratio.** Pursuant to City Code Sections 9.5-343, 9.5-262, and 9.5-267, a minimum of 20% open space is required. The Owner will maintain a minimum of 20% open space on the Property.

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

**10. Energy Efficiency.** The Owner shall construct all residential and commercial structures in conformance with the specifications of the State of Florida Energy Efficiency Code for Building Construction (State Energy Code).

**11. Permits from Other Regulatory Entities.** Other agency permits may be required as provided by applicable law prior to the City's issuance of building permits for redevelopment of the Property. The Owner shall obtain all necessary permits from other local, regional, State and federal regulatory entities and provide copies of each to the City within a reasonable time after such permits are issued.

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

**13. Affordable/Workforce Dwelling Units.** The Owner is required to provide three affordable workforce housing units as part of this development agreement. The Owner has provided two (2) affordable/workforce housing units off-site as part of a Development Agreement approved by Resolution 2005-162 which are credited against the above requirement. The dwelling units are required to have a certificate of occupancy prior to or concurrent with the issuance of a certificate of occupancy for the residential dwelling units. The Owner is required to provide the remaining unit on or off site or via a cash payment in lieu of fee of \$100,000 to be paid concurrent with or prior to the issuance of a certificate of occupancy for the residential dwelling units. The Owner shall place a Restrictive Covenant on the off-site property, in a form acceptable to the City, which shall be recorded in the public records of Monroe County and shall be effective for fifty (50) years from the date of the certificate of occupancy and shall automatically renew for two (2) 50-year periods. Owner will enter into an agreement with a qualified entity 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 these units.

**13. Additional Conditions by Mutual Agreement.** Nothing in this Agreement shall preclude the parties from applying additional conditions, by mutual written consent, during the final permitting approval process.

**F. Unity of Title.** The Owner shall execute a binding instrument in the form attached hereto combining the upland parcels described in Exhibit "A" for the purposes of redevelopment authorized in this Agreement. The Owner shall provide the proposed binding instrument, and accompanying Opinion of Title in a form acceptable to the City within twenty-eight (28) days after the execution of the Development Agreement. Within fifteen (15) days thereafter the City shall advise the Owner if the proposed Unity of Title and accompanying Opinion of Title are acceptable as to form and substance. Subsequently Owner shall revise the Unity of Title and Opinion of Title (if necessary) and shall record the instrument in the public records of Monroe County, Florida, at its sole expense, within twenty-eight (28) days after the effective date thereof. 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.

1. The following documents are attached hereto and incorporated by reference, showing property boundary and existing and proposed uses:

- a. Exhibit "A": Improvement Location and Boundary Survey of the Property
- b. Exhibit "B": Conceptual Site Plan of the Property
- c. Exhibit "C": Sewage Treatment Plant Agreement
- c. Exhibit "D": Table of Densities and Intensities
- d. Exhibit "E": Log of Permits Required by Other Agencies
- e. Exhibit "F": Unity of Title filed in the Official Records

**G. Public Utilities; Concurrency, Impact Fees.** The following identifies the public facilities that are required and that will service the development authorized by this Agreement; who shall provide the facilities; what new facilities, if any, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of development.

1. **Potable Water.** The Florida Keys Aqueduct Authority provides domestic potable water.

2. **Electric Service.** Electric service is provided by the Florida Keys Electric Co-Op.

3. **Solid Waste.** Solid waste service is provided by Marathon Garbage Service or its successors and assigns, as determined by the City Council.

4. **Fire Service.** Fire Service Is provided by the Marathon Fire Department.

5. **Wastewater.** The Sewage Treatment Plant at Bonefish Towers shall provide wastewater and sewage collection and disposal via the existing plant and shall be approved by the Florida Department of Environmental Protection at the time of building permit application.

Owner shall be responsible for the design, installation, inspection and testing of the complete wastewater collection system serving the Properties. The term "complete wastewater collection system" shall include all component parts of the wastewater collection system including all collection mains, laterals, force mains, lift or pumping stations, vacuum pits and treatment facility plant including the site for same and all other appurtenances as shown on the approved design for the installation of such wastewater collection system.

Prior to interconnection with the City's wastewater utility system, Owner shall convey such component parts of the wastewater collection system the City deems necessary to properly operate the City's wastewater utility system. Owner shall convey the component parts by bill of sale in a form acceptable to the City, together with such evidence as may be required by the City that the component parts proposed to be transferred to the City are free of all liens and encumbrances. Furthermore, Owner shall convey any and all necessary on-site and off-site easements that may be required in order to carry out the terms, conditions and intent hereof, at Owner's expense, and shall convey same to City. Mortgagees, if any, holding prior liens on the proposed easements shall be required to release such liens, subordinate their positions or join in the grant or dedication of the easements.

City shall not be required to accept title to any component part of the wastewater collection system located outside a dedicated or conveyed public right-of-way or easement located on the Properties. Such component parts of the wastewater collection system shall remain the maintenance responsibility of the Owner or subsequent consumers. Additionally, the City shall not be required to accept title to any component parts of the wastewater collection system as constructed by the Owner, and shall only do so if the City has approved the construction of such component parts, and accepted the tests to determine that such construction is in accordance with the criteria established by the City. The Owner shall warrant all component parts transferred to the City against faulty workmanship and defective materials for a period of one (1) year from the date of City's final letter of acceptance.

Owner shall maintain accurate cost records establishing the construction costs of the wastewater collection system constructed by the Owner. Such cost information shall be furnished to the City concurrently with the bill of sale, and such cost information shall be a prerequisite for the acceptance by the City of any component parts of the wastewater collection system constructed by the Owner.

**6. Educational Facilities.** The Property is currently served by the following schools operated by the Monroe County School Board: Marathon High School, Marathon Middle School and Stanley Switlik Elementary School.

**7. Recreational Facilities.** Public recreational facilities shall be addressed through impact fees, if any.

**8. Impact Fees.** 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 applicable City impact fees required by Ordinance then in effect, as well as by payment by Owner of any applicable utility system development fees. In addition, Owner agrees to be subject to any impact fee ordinance adopted by the City within twenty-four (24) months after the Effective Date of this Agreement if such ordinance applies equally and uniformly to all redevelopment in Marathon. 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 that are the subject of said impact fee ordinances.

**9. Concurrency.** All public facilities identified above are available as of the date of this Agreement, and capacity for each is projected to be available concurrent with the impacts of development.

**10. 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). Such reservations or dedications may include, by way of example, easements necessary for the provision of stormwater, utility, and wastewater services to the Property.

**H. All Local Development Permits Approved or Needed.**

1. The following is a list of all development permits approved or needed to be approved for the development of the Property as specified and requested in this Agreement:

a. **This Development Agreement;**

b. **Site Plan.** Final site plan application and approval by the City building official, fire marshal, and planning staff confirming compliance with this Agreement and applicable City Code requirements.

c. **Building Permits.** As of right building permits will be issued, as provided pursuant to the City Code, for each single family residential dwelling unit as well as for the boat dock, pool facilities, and other individual structures. An overall site permit will address landscaping, parking, paths, setback, open space and other associated items.

d. **Future Applications.** In addition to the required development permit approvals, Owner may seek a rezoning of the Suburban Residential (SR) portion of the Property to Urban Residential (UR) land use district in order to bring the Property into greater compliance with Marathon's overall land development regulations and Comprehensive Plan.

2. **Review.** 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.

3. **Compliance.** Nothing in this Agreement shall be deemed to obviate the Owner's compliance with terms and provisions of each such identified approval.

4. **Completeness.** The parties acknowledge that the Owner has submitted all information necessary for review under the City Code.

5. **Mutual Cooperation.** The City agrees to cooperate with the Owner in a timely manner in 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.

6. **Development to Comply with Permits and City Comprehensive Plan and Code Provisions.** The development described in and authorized by this Agreement shall be constructed in accordance with all specified permit conditions, and in accordance with all applicable provisions of the City's Comprehensive Plan and City Code, as applicable. No certificate of occupancy for an individual building shall be issued until the City approves all plans for that building and the Owner has complied with all conditions in the permit issued by the City and other regulatory entities for that building.

**7. 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, as applicable.

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

**I. Laws Governing.**

**1. Controlling Regulations.** For the duration of this Agreement, all approved development of the Property shall comply with and be controlled by this Agreement and provisions of the Comprehensive Plan and City Code, as applicable. 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.

**2. Subsequently Adopted Laws and Policies.** Pursuant to Section 163.3233, Florida Statutes (2004), 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 City 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 Property.

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

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

**1. Amendments.** As provided in Section 163.3237, Florida Statutes (2004), this 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.

**2. Renewal.** As provided in Section 163.3229, Florida Statutes (2004), this Agreement may be renewed by the mutual consent of the parties, subject to the public hearing requirements in Section 163.3225, Florida Statutes and applicable LDR. 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 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 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 Agreement can be obtained.

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

**4. Revocation by City.** Pursuant to Section 163.3235, Florida Statutes (2004), this Agreement may be revoked by the City if, on the basis of competent substantial evidence, there has been a failure by Schmitt to comply with the terms of this Agreement.

**5. Termination by Mutual Consent.** This Agreement may be terminated by mutual consent of the parties.

**K. Breach of Agreement and Cure Provisions.**

**1. Written Notice On Owner.** 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 Schmitt with ninety (90) days from the date of receipt of the notice to cure the breach or negotiate an amendment to this Agreement. Each of the following events, unless caused by fire, storm, flood, other Act of God, or events beyond the control of Schmitt, 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 or other regulatory entity for the development authorized by this Agreement.

**2. Written Notice on the City.** If the Owner concludes that there has been a material breach in the terms and conditions of this Agreement by the City, 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.

**3. Option to Terminate.** If a material breach in this Agreement 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.

**4. Waiver of Breach.** If either party waives a material breach in this Agreement, such a waiver shall not be deemed a waiver of any subsequent breach.

**M. Notices.** All notices, demands, requests, or replies provided for or permitted by this Agreement, including notification of a change of address, shall be in writing to the addressees identified below, and may be delivered by anyone 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 SCHMITT:

Seaview Commons LLC  
Mr. Brian C. Schmitt  
Managing Member  
11100 Overseas Highway  
Marathon, Florida 33050  
Telephone: (305) 743-5181

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

Mr. Thomas D Wright, Esquire  
9711 Overseas Highway, Suite 5  
Marathon, Florida 33050  
Telephone: (305) 743-8118

TO THE CITY:

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

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

**O. Annual Report.** On the anniversary date of the Effective Date of this Agreement, Owner 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.

**P. 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 Agreement or to challenge the compliance of this Agreement with the provisions of Sections 163.3220-163.3243, Florida Statutes (2004).

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

**R. Assignment.** This Agreement may be assigned to entities controlled by Schmitt without the written consent of the parties, or to other third parties with written consent, which shall not be unreasonably withheld.

**S. Drafting of Agreement.** The parties acknowledge that they jointly participated in the drafting of this 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.

**T. 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.

**U. 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.

**V. 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.

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

**X. Duplicate Originals; Counterparts.** This 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.

**Y. 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.

**Z. Entirety of Agreement.** This 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 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 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.

**AA. 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. Schmitt 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.

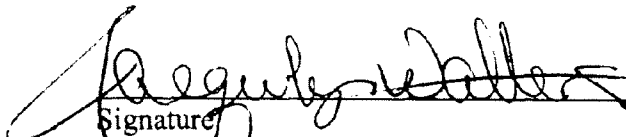
**BB. Date of Agreement.** The date of this Agreement is the date the last party signs and acknowledges this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year below written. Signed, sealed, and delivered in the presence of:

WITNESS:

SEAVIEW COMMONS LLC

By:

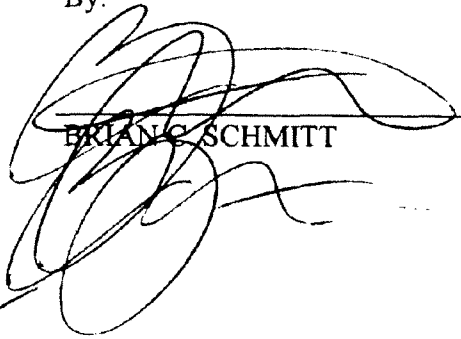
  
Signature

Name of Witness (printed or typed)

Jacquelyn Walters


Signature

Name of Witness (printed or typed) Kertye Parker

  
BRIANE SCHMITT

STATE OF FLORIDA COUNTY OF MONROE

The foregoing Agreement was acknowledged before me on this 26 day of January 2008, by Brian C. Schmitt, and the respective witnesses, Jacquelyn Walters and Kertye Parker either personally known to me or produced Florida drivers licenses as identification.

  
Notary Public

(SEAL)

Name (typed, printed or stamped)

My commission expires:

On the 26 day of Jan, 2008

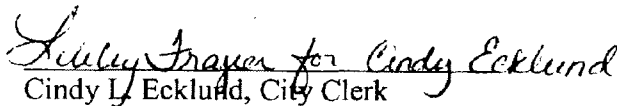


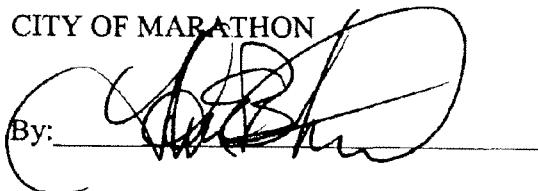
Gail A. Covington  
My Commission DD304114  
Expires March 25, 2008

On the \_\_\_\_\_ day of \_\_\_\_\_, 2005, the City Council of the City of Marathon approved this Agreement by **Resolution 2006-008**.

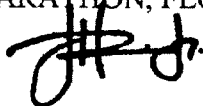
ATTEST:

CITY OF MARATHON

  
Cindy L. Ecklund, City Clerk

By: 

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

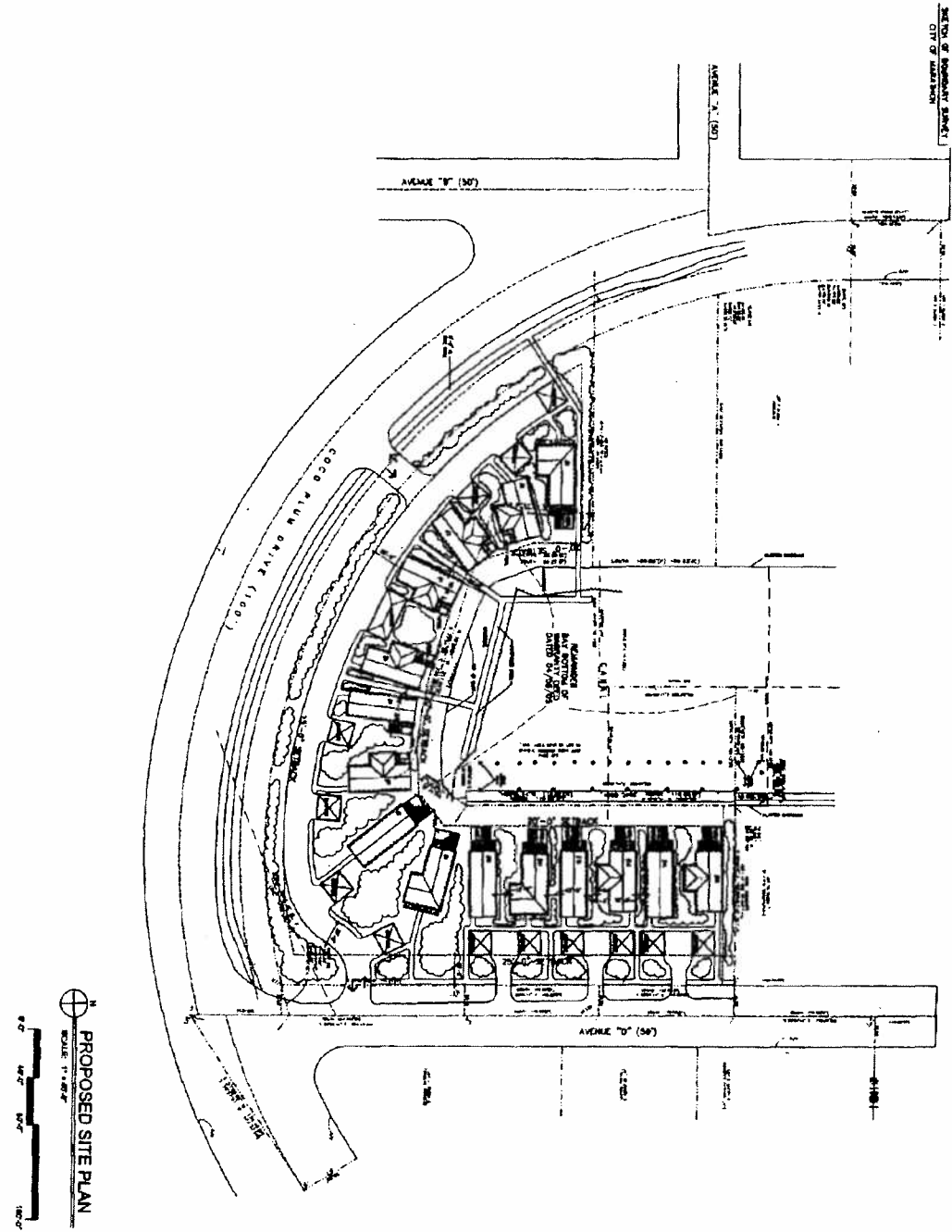


CITY ATTORNEY



Exhibit "B"

Doc# 1565613  
Bk# 2185 Pg# 2168



PROPOSED SITE PLAN  
SCALE: 1" = 40'-0"

0'-0" 40'-0" 80'-0" 120'-0"

<p>AS1.01</p> <p>PROPOSED SITE PLAN</p> <p>DATE: 08/14/2018</p>	<h1>SEAVIEW</h1> <p>COCO PLUM DRIVE SEAFORTH, FLORIDA OWNER: L.R. BISHOP SCHWARTZ</p>	<p><b>mbi   k2m</b> ARCHITECTS</p> <p>1000 W. UNIVERSITY AVENUE SUITE 100 SEASIDE, FLORIDA 32082 TEL: 904.241.1234 WWW.MBIK2M.COM</p> <p><b>GRAND COMPANY</b> GENERAL CONTRACTOR</p> <p>1000 W. UNIVERSITY AVENUE SUITE 100 SEASIDE, FLORIDA 32082 TEL: 904.241.1234 WWW.GRANDCOMPANY.COM</p>
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## SEWAGE TREATMENT PLANT AGREEMENT

THIS AGREEMENT entered into this 23<sup>RD</sup> day of DECEMBER, 2003, by and between COCO PLUM, L.L.C., a Florida Limited Liability Company, by and through its managing member, (hereinafter referred to "COCO PLUM"), and SEAVIEW COMMONS, L.L.C., a Florida Limited Liability Company, (hereinafter referred to as "SEAVIEW"), and;

**WHEREAS**, COCO PLUM owns a sewage treatment plant located in Coco Plum, Marathon, Monroe County, Florida, and;

**WHEREAS**, SEAVIEW has entered into a development agreement with the City of Marathon to construct a housing project containing both affordable housing and market rate housing, and;

**WHEREAS**, the parties wish to formalize their agreement regarding the use by SEAVIEW, of the said sewage treatment plant;

**WHEREAS**, Glen Boe and Associates, P.A. has determined that the said sewage treatment plant has adequate capacity to handle the wastewater flows from the SEAVIEW development.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein in the sum of TEN AND NO/100 DOLLARS (\$10.00), as well as other good and valuable consideration, the sufficiency of which is acknowledged by both parties, it is hereby covenanted and agreed:

1. SEAVIEW shall be permitted to connect to COCO PLUM'S sewage treatment plant for the following initial hook-up fees: Thirty-five (35) - two bedroom, two bath, and three bedroom, two bath affordable housing units, at \$2,500.00 each. The said hook-up fee shall be due and payable upon the issuance of the Certificate of Occupancy for the units connected pursuant to this Agreement.

2. All costs of connections to the said sewage treatment plant shall be borne by SEAVIEW, and the work shall be performed by SEAVIEW'S builders and contractors with all applicable permits being procured in advance by SEAVIEW.

3. COCO PLUM hereby agrees to cooperate in obtaining, at SEAVIEW'S expense, any necessary permits for the connection of the units as contemplated herein.

4. COCO PLUM hereby agrees to maintain all necessary permits on the sewage treatment plant during the term of this Agreement and to keep the said plant in proper operation so as to handle the sewage load introduced into the plant by SEAVIEW.

5. SEAVIEW shall pay promptly within fifteen (15) days of receiving an invoice from time to time from COCO PLUM, for the prorata costs of operating the sewage treatment plant. The costs shall be determined by dividing the total costs of the plant by the number of users connected to the plant and multiplying times the number of units connected to the sewage treatment plant pursuant to this Agreement.

6. This Agreement may be terminated by SEAVIEW, at such time as municipal central sewage system facilities are available.

7. In the event of litigation over interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover reasonable legal fees, court costs and appellate legal fees.

8. The venue of any litigation under this Agreement shall be in Marathon, Monroe County, Florida and this Agreement shall be governed by the Laws of the State of Florida.

DATED: 12/23/09

COCO PLUM, L.L.C.

By: 

Brian C. Schmitt, Managing Member

DATED: 12/23/09

SEAVIEW COMMONS, L.L.C.

By: 

EXHIBIT D  
TABLE OF DENSITIES AND INTENSITIES

Currently Lots 9, 10 & 11 have a Future Land Use designation of Residential High. The zoning designation is Urban Residential for Lot 9 and Suburban Residential for Lots 10 & 11. The following table is based upon the Residential High Future Land Use Map designation.

Use	Allocated <sup>1</sup> Density	Total Acreage	Total Units per Use	Total Units Proposed	% of Site Utility
Permanent Residential Dwelling Unit	8 units per acre	2.573 acres	20.6	15	72.8%
Total					72.8%

---

<sup>1</sup> Density is based on Residential High, Market Rate Density and consistent with the City of Marathon's Comprehensive Plan, Table 1-1 Future Land Use Densities and Intensities.



EXHIBIT E

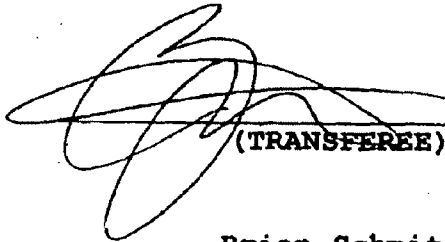
Doc# 1565613  
Bk# 2185 P# 2172

DEPARTMENT OF THE ARMY PERMIT TRANSFER REQUEST

PERMIT NUMBER: 200306794

When the structures or work authorized by this permit are still in existence at the time of the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property.

To validate the transfer of this permit, the associated liabilities and the associated compliance with its terms and conditions, the transferee should sign and date below:



(TRANSFEREE)

11/3/05

(DATE)

Brian Schmitt  
(Name - Printed)

11100 Overseas Highway  
(Street - Address)

L. 9 B. 7 COCO PLUM BEACH  
(Lot / Block #)

Marathon, FL 33050  
(City, State, and Zip Code)

Doc# 1565613  
Bk# 2185 P# 2173



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
MARATHON REGULATORY OFFICE  
2786 OVERSEAS HIGHWAY, SUITE 234  
MARATHON, FLORIDA 33050

Regulatory Division  
South Permits Branch

Schwitalla Corporation  
c/o Sean Kirwan, President  
Glen Boe & Associates, Inc.  
5800 Overseas Highway, Rm 4  
Marathon, FL 33050

February 10, 2005

Gentlemen:

This is in reference to your request for a permit to perform work in or affecting navigable waters of the United States.

NOTIFICATION OF APPLICANT OPTIONS (NAO)

You are hereby advised that you have certain options available to you in your evaluation of this Letter of Permission (LOP). These are outlined in the enclosed "Notification of Administrative Appeal Options and Process and Request for Appeal" form. It is very important that you read and understand the options provided. Acceptance of this authorization and commencement of the authorized activity indicates that you accept the permit in its entirety, and waive all rights to appeal the permit, or its terms and conditions. If you choose to appeal the permit you must follow the instructions provided for the appeal process as noted in Part B of the enclosed form. The completed form must be mailed to the following address:

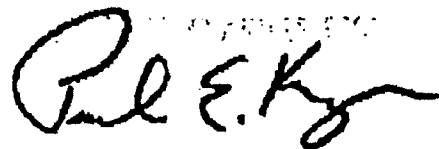
Commander, South Atlantic Division  
U.S. Army Corps of Engineers  
ATTN: Appeals Review Officer  
CESAD-CM-CO-R, Room 9M15  
60 Forsyth St., SW.  
Atlanta, Georgia 30303-8801

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Bk# 2185 P# 2174

-3-

If the work authorized is not completed on or before February 10, 2010, authorization, if not previously revoked or specifically extended, shall cease and be null and void.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:



Robert M. Carpenter  
Colonel, U.S. Army  
District Engineer

Enclosures  
Copy Furnished: (w/o encls)  
FKERTF  
CESAJ-RD-E  
NMFS Miami

Doc# 1565613  
Bk# 2185 P# 2175

-5-

The proposed work may be subject to local building restrictions. You should contact the local office in your area that issues building permits to determine if your site is located in a flood-prone or floodway area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program. If your local office cannot provide you the necessary information, you may request a flood hazard evaluation of the site by providing this office with a letter and a small scale map showing the location of the site. The request should be addressed to the Chief, Flood Control and Floodplain Management Branch, Jacksonville District, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232-0019. Phone inquiries may be made at 904-232-2515.

Doc# 1565613  
BKN 2185 Pg# 2176SPECIAL CONDITIONS

Permit number 2003-6794 (LP-RPM)

a. Turbidity screens shall be installed to completely surround and isolate the work from adjacent waters until turbidity has settled.

b. The permittee shall compensate for 160 square feet of shoreline impacts and square feet of impacts to wetland resources by sponsoring mitigation.

Shoreline Fringe Value	\$ 260.12
Land Acquisition Value	\$ 78.04
Administrative/Maintenance Value	\$ 50.72
Total Mitigation Fee	\$ 388.88

Within 90 days from the permit authorization date, the permittee will submit \$388.88 to the Florida Keys Environmental Restoration Trust Fund, 11400 Overseas Highway, Suite 204, Marathon, Florida 33050-3600, telephone 305-289-9988, for the acquisition, enhancement, preservation and management of wetland resources within Monroe County. Please write your Department of the Army permit number on your check or money order. Proof of payment will be made to the U.S. Army Corps of Engineers, Regulatory Division, Enforcement Branch, Attention: Ms. Ivette McGraw, Post Office Box 4970, Jacksonville, Florida 32232-0019, fax 904-232-1684, telephone 904-232-3526.

c. Standard manatee construction guidelines will be followed.

d. The permittee agrees to preserve in perpetuity the remaining 272 feet of mangrove shoreline located on either side of the authorized pier as shown on the attached plan view drawing. The permittee is advised that all mangrove trimming or alteration activities must be in conformance with Sections 403.9321-403.9334 of the Florida Statutes, otherwise known as the Mangrove Trimming Act (1996). A copy of the Act may be viewed at <http://www.dep.state.fl.us/water/wetlands/mangroves/mangrove.htm>. Contact the local FDEP office in Marathon, (305/289-2310), for specific requirements.

(1) In no case shall trimming be conducted that results in mangrove heights less than 6 feet as measured from the substrate at the base of the mangroves being trimmed.

(2) Any existing mangroves and buttonwoods greater than 15 feet in height that are to be trimmed shall be "window trimmed" to provide a view while maintaining the pre-trimmed height of the mangrove/buttonwood. Window trimming shall consist of the trimming of lateral branches only to provide a view

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Bk# 2185 Pg# 2177

owner must be committed to holding the deed-restricted property exclusively for conservation purposes in perpetuity. The Corps requires notification, in writing, of any intention to reassign the deed restriction to a new property owner. The new owner must accept the deed restriction in writing and a copy of this acceptance delivered to the Corps. The deed restriction must then be re-recorded and indexed in the same manner as any other instrument affecting title to real property and a copy of the recorded deed restriction furnished to the Corps.

k. The permittee shall inform all future potential property owners of all permit requirement(s) to maintain this area in its natural state. Native vegetation shall be maintained in its natural state with the exception of the trimming guidelines as described above. will have a legally sufficient deed restriction prepared to ensure that the wetland areas will remain in their natural state in perpetuity. The deed restriction will encompass approximately 13,000 square feet of mangrove shoreline and wetlands. There will be no disturbance to these natural preserve areas by any dredging, filling, land clearing, agricultural activities, planting, or other construction work whatsoever. The preservation area will also be maintained free of Category I pest plants as listed by the Florida Exotic Pest Plant Council (FLEPPCC), as modified from time to time. This list can be found at <http://www.fleppcc.org> The permittee agrees that the only future utilization of the preserved areas in question will be as a purely natural area.

l. You must take the actions required to record this permit with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property. Provide written evidence of compliance with this requirement within 90 days after signing the permit to U.S. Army Corps of Engineers, Enforcement Section, ATTN: Lisa Abernathy, P.O. Box 4970, Jacksonville, Florida, 32232-0019.

m. If future operations by the United States require the removal, relocation or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee shall be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

n. Within 60 days of the authorized work and mitigation,

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Bk# 2185 Pg# 2178

Permission to address all of your concerns, or (b) modify the Letter of Permission to address some of your objections, or (c) not modify the Letter of Permission. In any of these three cases, the District Engineer will send you a final Letter of Permission for your reconsideration, as well as a notification of appeal (NAP) form and a request for appeal (RFA) form.

Should you decline the final Letter of Permission, you can appeal the declined Letter of Permission under the Corps of Engineers Administrative Appeal Process by submitting the completed RFA form to the Division Engineer. The Division Engineer must receive the RFA within 60 days of the date of the NAP that was transmitted with the second Letter of Permission.

If you have any questions regarding this permit authorization, please contact Rick Milloy at the letterhead address or by telephone at 305-289-8928.

Doc# 1565613  
BKN 2185 PGM 2179

**SELF-CERTIFICATION STATEMENT OF COMPLIANCE**

Permit Number: \_\_\_\_\_

Permittee's Name & Address (please print or type): \_\_\_\_\_  
\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Location of the Work: \_\_\_\_\_

Date Work Started: \_\_\_\_\_ Date Work Completed: \_\_\_\_\_

Description of the Work (e.g. bank stabilization, residential or commercial filling, docks, dredging, etc.): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Acreage or Square Feet of Impacts to Waters of the United States: \_\_\_\_\_  
\_\_\_\_\_

Describe Mitigation completed (if applicable): \_\_\_\_\_  
\_\_\_\_\_



Doc# 1565613  
Bk# 2185 Pg# 2180

Applicant:		File Number: (LP-*)	Date:
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
X	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

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Bk# 2185 Pg# 2181

appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

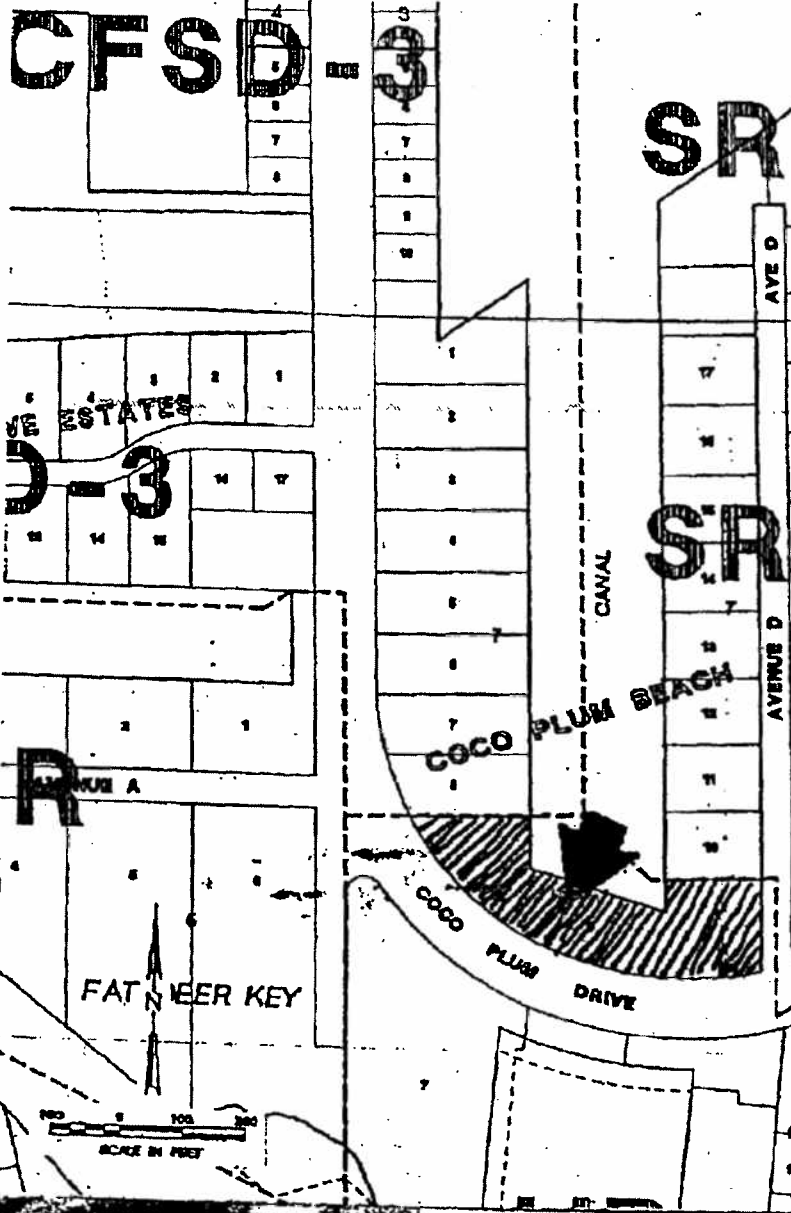
**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

If you have questions regarding this decision and/or the appeal process you may contact:  
Paul Kruger  
305-526-7185

If you only have questions regarding the appeal process you may also contact:  
Stuart Santos  
904-232-2018

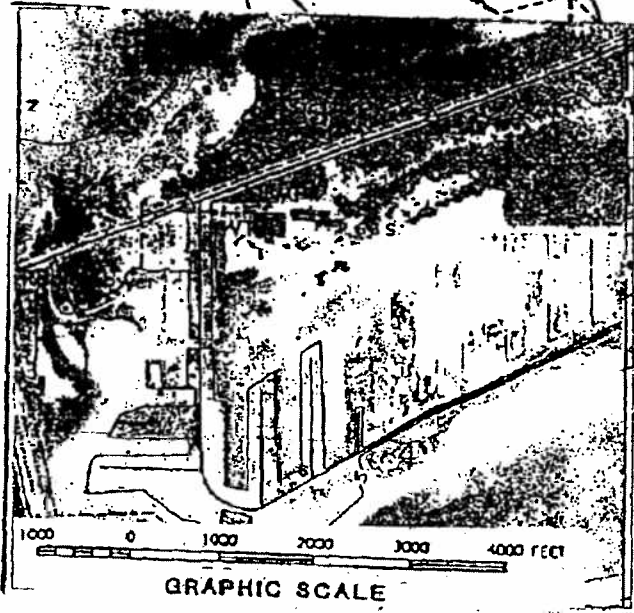
**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.	Date:	Telephone number:
----------------------------------	-------	-------------------



Doc# 1565613  
Bk# 2185 Pg# 2182

DOCK FOR  
THE SCHWITALLA CORPORATION  
COCO PLUM BEACH MARATHON FL



**PROJECT LOCATION**  
 USC&GS MARATHON QUAD  
 SCALE 1:24,000  
 LOT 8, COCO PLUM BEACH  
 P.B. 4, PAGE 166  
 SEC. 5, TWP. 66S, RGE. 33E  
 LAT.: 24°43'34"N LONG.: 81°00'41" W

**DIRECTIONS:**  
 U.S. HIGHWAY NO. 1 SOUTH TO MM 54.2±.  
 RIGHT ● COCO PLUM DRIVE. RIGHT ●  
 ANGLERS DR. RIGHT ● ANGLERS DR NORTH  
 PROJECT SITE: VACANT LOT LEFT SIDE OF  
 AVENUE D.

**ADJOINING OWNERS**  
 HENRY & NILDA TORRES  
 (LOT 7)  
 7850 NW RIVER DRIVE  
 MEDLY, FL 33168

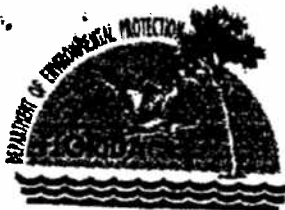
GEORGE & JEAN AMATO (TRUSTEE)  
 (LOT 10)  
 1018 EAST 75TH STREET  
 MARATHON, FL 33050

ACOE 2003-6734 (LP-2003)  
1 FC1

GLEN BOE AND ASSOCIATES, INC. # 4081  
8807 OVERSEAS HIGHWAY, MARATHON, FL 33060

DATE 03/0





Jeb Bush  
Governor

# Department of Environmental Protection

South District, Marathon Branch Office  
2796 Overseas Highway, Suite 221  
Marathon, Florida 33050-4276  
Telephone 305/289-2310

David B. Struhs  
Secretary

July 15, 2003

Doc# 1565613  
Bk# 2185 Pg# 2184

A. M. Schwitalla  
c/o Sean Kirwan  
Glen Boe & Associates, Inc.  
5800 Overseas Highway, Suite 4  
Marathon, FL 33050

Re: Monroe County - ERP  
File No. 44-0215940-001  
Florida Keys Ecosystem Management Area

Dear Mr. Schwitalla:

Thank you for your application received on June 6, 2003, (copy enclosed) to install an approximately 1285 sq. ft. docking facility with seven (7) boat slips within an unnamed canal.

The Department has reviewed the submitted information, and based solely upon this information has determined that the project qualifies as an activity which is exempt from the need for an Environmental Resource Permit pursuant to Florida Administrative Code (F.A.C.) Rule 40E-4.051(3)(c). **For your information, the upland development on this site may require a stormwater permit from the South Florida Water Management District.**

This determination is applicable only pursuant to the statutes and rules in effect at the time the application was submitted. This determination may not be valid in the event subsequent changes occur in the applicable statutes and rules of the Department. Projects which qualify for this exemption must be constructed and operated using appropriate best management practices and in a manner which does not cause water quality violations, pursuant to Chapter 62-302, F.A.C.

In addition, the Title and Lands Records Section of the Department of Environmental Protection has reviewed the location of the proposed project and has determined that the project, as described, does not involve the use of sovereign submerged lands. Accordingly, no authorization will be required from the Submerged Lands and Environmental Resources Program, designated agent to the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Section 253.77, Florida Statutes (F.S.).

The determination that your project qualifies as an exempt activity pursuant to F.A.C. Rules 40E-4.051(3)(c), may be revoked if the installation is substantially modified, or if the basis for the exemption is determined to be materially incorrect, or if the installation results in

*"More Protection, Less Process"*

*Printed on recycled paper.*

A. M. Schwitalla  
File No. 44-0215940-001  
Page 2

water quality violations. Any changes made in the construction plans or location of the project may necessitate a permit or certification from the Department. Therefore, you are advised to contact the Department before beginning the project and before undertaking any work in waters or wetlands which is not specifically described in your submittal.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Mediation is not available.

If a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Intervention will be permitted only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

In accordance with rules 28-106.111(2) and 62-110.106(3)(a)(4), petitions for an administrative hearing must be filed within 21 days of publication of the notice or receipt of written notice, whichever occurs first. Under rule 62-110.106(4) of the Florida Administrative Code, a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000 prior to the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. Upon motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect, the Department may also grant the requested extension of time.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that right.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service

purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;

- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action; and
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action;
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301. Under section 120.569(2)(c) and (d) of the Florida Statutes, a petition for administrative hearing shall be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

Complete copies of all documents relating to this determination of exemption are available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, at the Department of Environmental Protection, 2796 Overseas Highway, Suite 221, Marathon, FL 33050.

This notice does not relieve you from the responsibility of obtaining other permits (federal, state, or local) which may be required for this project.

If you have any questions, please contact me at the letterhead address or by telephone at (305) 289-2310.

Sincerely,



Beth Bergh  
Environmental Specialist II  
Submerged Lands and  
Environmental Resources Program

EAB/jm  
Enclosure: Copy of Application

cc: U.S. Army Corps of Engineers, Miami  
Gemechu Debbo, Office of Park Planning

SECTION A



00)

**PART 1**

Are any of the activities described in this application proposed to occur in, on, or over wetlands or other surface waters?  
 Yes  No

Is this application being filed by or on behalf of a government entity or drainage district?  Yes  No

A. Type of Environmental Resource Permit Requested (check at least one). See Attachment 2 for thresholds and descriptions.

- Noticed General - include information requested in Section B.
- Standard General (Single Family Dwelling) - include information requested in Sections C and D.
- Standard General (all other Standard General projects) - include information requested in Sections C and E.
- Individual (Single Family Dwelling) - include information requested in Sections C and D.
- Individual (all other Individual projects) - include information requested in Sections C and E.
- Conceptual - include information requested in Sections C and E.
- Mitigation Bank Permit (construction) - include information requested in Section C and F.  
(If the proposed mitigation bank involves the construction of a surface water management system requiring another permit defined above, check the appropriate box and submit the information requested by the applicable section.)
- Mitigation Bank (conceptual) - include information requested in Sections C and F.

B. Type of activity for which you are applying (check at least one)

- Construction or operation of a new system, other than a solid waste facility, including dredging or filling in, on or over wetlands and other surface waters.
- Construction, expansion or modification of a solid waste facility.
- Alteration or operation of an existing system which was not previously permitted by a WMD or DEP.
- Modification of a system previously permitted by a WMD or DEP.  
Provide previous permit numbers:
  - Alteration of a system
  - Abandonment of a system
  - Removal of a system
  - Extension of permit duration
  - Construction or additional phased of a system

C. Are you requesting authorization to use Sovereign Submerged Lands?

Yes  No

(See Section G and Attachment 5 for more information before answering this question.)

D. For activities in, on, or over wetlands or other surface waters, check type of federal dredge and fill permit requested:

- Individual
- Nationwide
- Programmatic General
- Not Applicable
- General

E. Are you claiming to qualify for an exemption?  Yes  No

If yes, provide rule number if known. \_\_\_\_\_

RECEIVED  
JUN 12 2003  
D.E.P. Marathon



**PART 5:**

Project location (use additional sheets if needed):

County (ies)	<u>MONROE</u>				
Section(s)	<u>5</u>	Township	<u>66</u>	Range	<u>33</u>
Section(s)	_____	Township	_____	Range	_____
Section(s)	_____	Township	_____	Range	_____

Land Grant name, if applicable: \_\_\_\_\_

Tax Parcel Identification Number: 00363700-000000

Street Address Road or other location: COCO PLUM DRIVE

City, Zip Code, if applicable: MARATHON, FL 33050

**PART 6: Describe in general terms the proposed project, system, or activity.**

The applicant owns a waterfront parcel adjacent to a canal in Marathon. Thirty five affordable housing units are proposed to be constructed on the uplands. The applicant wishes to construct an offshore docking facility to provide 7 boat slips and water access for the affordable housing complex.

The dock has been designed to accommodate boats ranging from 16' - 27' long. All boats moored at the docking facility will be owned by the residents. No liveaboard vessels will be moored at the site. A pumpout facility will not be required at the facility.

The docking facility is located within a "No Wake" zone. There is adequate water depth from the docking facility to open water. Manatee Construction Guidelines will be observed during construction. Manatee signs will be posted as required by DEP and the ACOB.

The dock will be built by installing the required concrete piles. These will be placed in augered holes and driven into firm rock. Bents and stringers will be attached to the dock support piles.

Prior to the start of construction, turbidity control screens will be deployed to isolate the construction site from ambient waters. These will remain in place until all construction induced turbidity has subsided and water clarity has returned to preconstruction conditions.

All work with the exception of the pile work can be performed from land with the aid of a work boat. All construction materials will be brought on site over the applicant's property or by barge.

RECEIVED  
JUN 06 2003  
D.E.P. Marathon

Part 8:

A. By signing this application form, I am applying, or I am applying on behalf of the applicant, for the permit and any proprietary authorizations identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application and represent that such information is true, complete and accurate. I understand this is an application and not a permit, and that work prior to approval is a violation. I understand that this application and any permit issued or proprietary authorization issued pursuant thereto, does not relieve me of any obligation for obtaining any other required federal, state, water management district or local permitted system unless the permitting agency authorizes transfer of the permit to a responsible operation entity. I understand that knowingly making any false statement or representation in this application is a violation of Section 373.430, F.S. and 18 U.S.C. Section 1001.

SEAN KIRWAN

Typed/Printed Name of Applicant (If no Agent is used) or Agent (If one is so authorized below)

Sean Kirwan  
Signature of Applicant/Agent

3/4/2003  
Date

PRESIDENT

(Corporate Title if applicable)

AN AGENT MAY SIGN ABOVE ONLY IF THE APPLICANT COMPLETES THE FOLLOWING:

B. I hereby designate and authorize the agent listed above to act on my behalf, or on behalf of my corporation, as the agent in the processing of this application for the permit and/or proprietary authorization indicated above; and to furnish, on request, supplemental information in support of the application. In addition, I authorize the above-listed agent to bind me, or my corporation, to perform any requirements which may be necessary to procure the permit or authorization indicated above. I understand that knowingly making any false statement or representation in this application is a violation of Section 373.430, F.S. and 18 U.S.C. Section 1001.

by THE SCHWITALLA CORPORATION  
A. M. SCHWITALLA PRES.  
Typed/Printed Name of Applicant

A.M. Schwitalla  
Signature of Applicant

JUNE 3, 2003  
Date

PRESIDENT  
(Corporate Title if applicable)

Please note: The applicant's original signature (not a copy) is required above.

PERSON AUTHORIZING ACCESS TO THE PROPERTY MUST COMPLETE THE FOLLOWING:

c. I either own the property described in this application or I have legal authority to allow access to the property, and I consent, after receiving prior notification, to any site visit on the property by agents or personnel from the Department of Environmental Protection, the Water Management District and the U.S. Army Corps of Engineers necessary for the review and inspection of the proposed project specified in the application. I authorize these agents or personnel to enter the property as many times as may be necessary to make such review and inspection. Further, I agree to provide entry to the project site for such agents or personnel to monitor permitted work if a permit is granted.

A. M. SCHWITALLA  
Typed/Printed Name of Applicant

A.M. Schwitalla  
Signature of Applicant

JUNE 3, '03  
Date

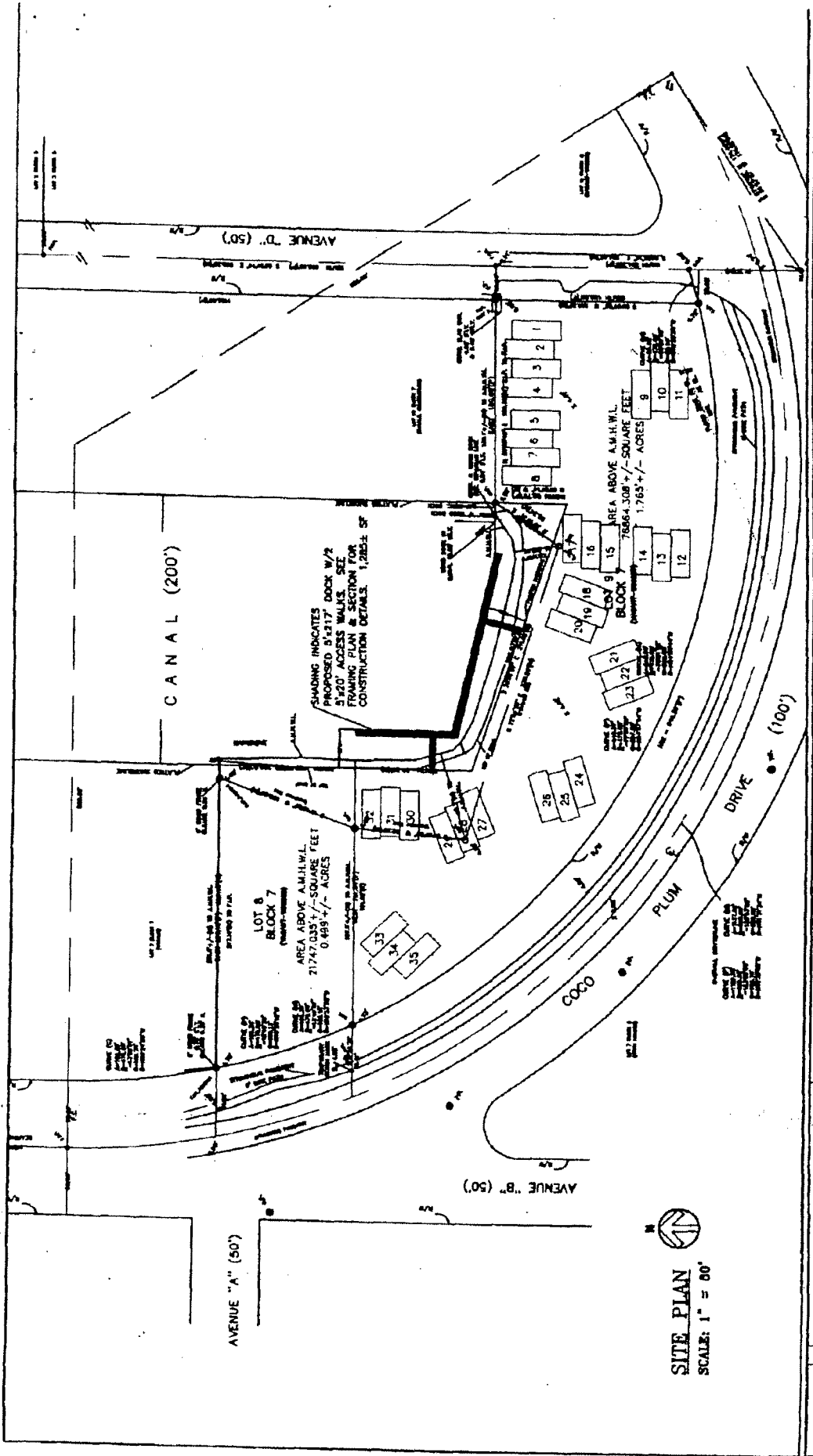
PRESIDENT OF THE SCHWITALLA CORPORATION  
(Corporate Title if applicable)

RECEIVED

JUN 06 2003

D.E.P. Marathon





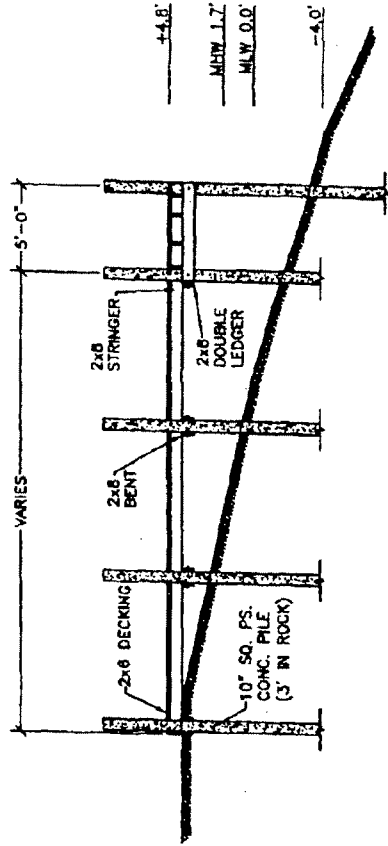
**SITE PLAN**  
 SCALE: 1" = 80'

GLEN BOE AND ASSOCIATES, INC. # 4061  
 4811 Overseas Highway, Marathon, FL 33850  
 Telephone (888) 484-9181 Fax (888) 484-9182

DOCK FOR  
 THE SCHWITALLA CORPORATION  
 LOT 9, BLOCK 7, COCO PLUM BEACH, MARATHON, FL

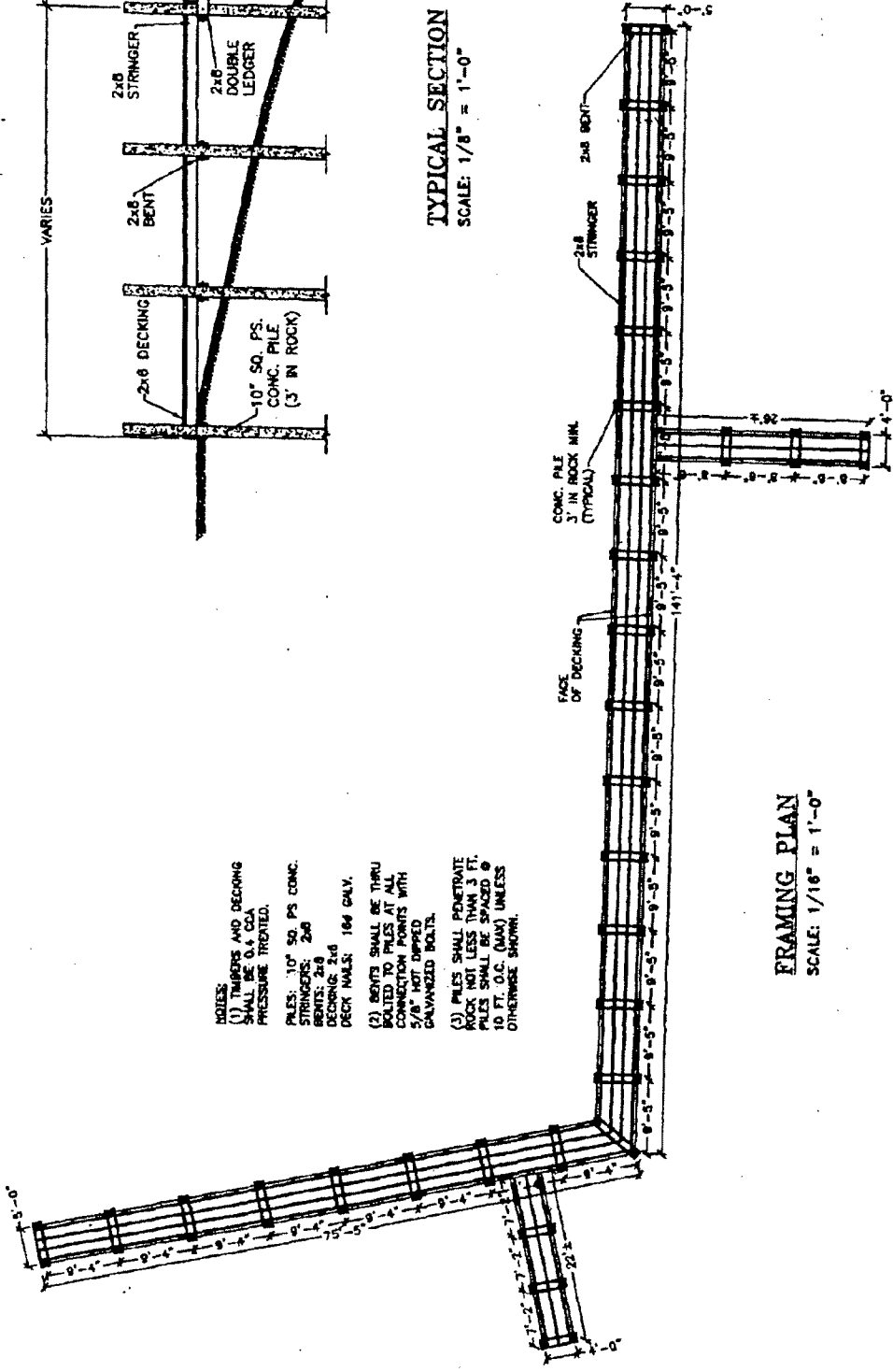
Certified by:  
 [Signature]  
 [Name]

RECEIVED  
 JUN 14 2003  
 DEP. Marathon



TYPICAL SECTION  
 SCALE: 1/8" = 1'-0"

- NOTES:
- (1) ALL WALKS AND DECKING SHALL BE TREATED WITH PRESURE TREATED.
  - (2) BOLTS SHALL BE THRU BOLTED TO PILES AT ALL CONNECTION POINTS WITH 5/8" HOT DIPPED GALVANIZED BOLTS.
  - (3) PILES SHALL PENETRATE ROCK NOT LESS THAN 3 FT. PILES SHALL BE SPACED @ 10 FT. O.C. (MAX) UNLESS OTHERWISE SHOWN.



FRAMING PLAN  
 SCALE: 1/16" = 1'-0"

GLEN BOE AND ASSOCIATES, INC. # 4001  
 1000 OCEAN DRIVE, MARATHON, FL 33986  
 Telephone (888) 763-9121 Fax (888) 763-9127

WOOD DOCK W/ ACCESS WALK FOR  
 THE SCHWITALLA CORPORATION  
 LOT 9, BLOCK 7, COCO PLUM DRIVE, MARATHON, FL

DATE: 5/15/03  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]

EXHIBIT 'F'

Doc# 1565613  
Bk# 2185 Pg# 2193

Receipt# 49372

DANNY L. KOLHAGE  
CLERK OF THE CIRCUIT COURT  
MONROE COUNTY  
536 WHITEHEAD STREET  
KEY WEST, FL  
33040-

Doc# 1519223	Pgs: 2		
Doc Type: MD			
Book 2142	Page 1923-1924		
RECORDING		\$	18.50
DEED DOC STAMP		\$	0.70

Doc# 1519224	Pgs: 2		
Doc Type: MD			
Book 2152	Page 1925-1926		
RECORDING		\$	18.50
DEED DOC STAMP		\$	0.70

Doc# 1549225	Pgs: 3		
Doc Type: MS			
Book 2162	Page 1927-1929		
RECORDING		\$	27.00

Total	\$	65.40
Escrow	\$	65.40
Change Due	\$	0.00
Balance	\$	0.00

Total Documents: 3  
Total Fees: 0

Client Name TOM WRIGHT/FLORIDA KEYS TITL  
E CO  
Escrow Credit: 45,997.50

11/07/2005 03:56:29 PM

Cashier: LINDAR

Doc# 1565613  
Bk# 2185 Pg# 2194

This instrument prepared by:  
John R. Herin, Jr., Esq.  
Weiss Serota Helfman  
Pastoriza & Guedes, P.A.  
2665 South Bayshore Drive  
Suite 420  
Miami, Florida 33133  
Telephone: (305) 854-0800

After recording return to:

City of Marathon  
10045-55 Overseas Highway  
Marathon, Florida 33050  
Telephone: (305) 743-0033

UNITY OF TITLE

SEAVIEW COMMONS, LLC, a Florida llc

WHEREAS, the undersigned are the Owners (the "Owner") of the Property described as:

SEE LEGAL DESCRIPTION ATTACHED AS EXHIBIT "A"

also known as Block \_\_\_ Lot \_\_\_ of the \_\_\_\_\_ Subdivision and Block \_\_\_  
Lot \_\_\_ of the Subdivision \_\_\_\_\_ in Monroe County, Florida (the  
"Property").

Owner recognizes and acknowledges that for the public health, welfare, safety or morals, the Property should not be divided into separate parcels owned by several owners as long as the same is put to the hereinafter use; and

In considerations of the right to develop the Property for accessory uses, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner hereby agrees to restrict the use of the subject property in the following manner:

That said property shall be considered as one plot and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised or assigned separately, except in its entirety as one plot or parcel of land.

Owner further agrees that this condition, restriction and limitation shall be deemed a covenant running with the land and shall be recorded, at Owner's expense, in the Public Records of Monroe County, Florida and shall remain in full force and effect and be binding upon the Owner, his/her/its heirs, successors, personal representatives and assigns and upon all mortgagees or lessees until such time as the same may be released in writing by the City Manager or designee.

City Use Only

Verified by: \_\_\_\_\_  
Accepted by: \_\_\_\_\_

ACKNOWLEDGEMENT  
CORPORATION

Signed, witnessed, executed and acknowledged on this 30<sup>th</sup> day of Sept., 2005

WITNESSES:

OWNER

Michele Brossard  
Signature  
MICHELE BROSSARD

Brian C. Schmitt  
Print Name: Brian C. Schmitt  
Its: \_\_\_\_\_  
Address: \_\_\_\_\_

Print Name

Catherine Baumeister  
Signature  
Catherine Baumeister  
Print Name

STATE OF Florida )  
COUNTY Manatee )SS

The foregoing instrument was acknowledged before me by Brian C. Schmitt  
as Managing Member of Seaview Commons, a LLC  
corporation. He/She is personally known to me or has produced \_\_\_\_\_ as  
identification.

Witness my signature and official seal this 30<sup>th</sup> day of Sept., 2005 in the  
County and State aforesaid.

Michele Brossard  
NOTARY PUBLIC, State of Florida  
Print Name: MICHELE BROSSARD  
Commission No.: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_





Lots 10 and 11, Block 7, COCO PLUM BEACH SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 4, Page 166 of the Public Records of Monroe County, Florida.

AND

All land and improvements lying between the Westerly lot line of Lot 11, Block 7, COCO PLUM BEACH SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 4, Page 166 of the Public Records of Monroe County, Florida.

AND

That area lying West of Lot 10 in Block 7, to include an area of fill, a concrete dock and a timber dock as referred to in that certain Deed recorded in Official Records 724, Pages 134-135 of the Public Records of Monroe County, Florida.

ALSO

Lot 9, Block 7, of COCO PLUM BEACH, according to the Plat thereof, as recorded in Plat Book 4, Page 166 of the Public Records of Monroe County, Florida, together with all unplatted upland portion(s) thereof, as well as the Southerly 200 plus feet of the whole sidth of the canal bottom of Canal 7 in Block 7 of COCO PLUM BEACH Subdivision, as recorded in Plat book 6, Page 144 of the Public Records of Monroe County, Florida, measuring in a southerly direction from the Northeast corner of Lot 8, Block 7 proceeding southerly to the end of the canal, LESS the 100 foot by 100 foot portion of said canal bottom contiguous, adjacent and to the East of Lot 8, Block 7 of COCO PLUM BEACH, extending 100 feet to the center of the canal.

**ACKNOWLEDGEMENT  
CORPORATION**

Signed, witnessed, executed and acknowledged on this 30<sup>th</sup> day of Sept., 2005

**WITNESSES:**

**OWNER**

Michele Brossard  
Signature  
MICHELE BROSSARD

[Signature]  
Print Name: Brian C. Schmitt  
Its: \_\_\_\_\_  
Address: \_\_\_\_\_

\_\_\_\_\_  
Print Name  
Catherine Baumeister  
Signature  
Catherine Baumeister  
Print Name

STATE OF Florida  
COUNTY Manroe )SS

The foregoing instrument was acknowledged before me by Brian C. Schmitt as Managing Member of Seaview Commons, a LLC corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

Witness my signature and official seal this 30<sup>th</sup> day of Sept., 2005 in the County and State aforesaid.

Michele Brossard  
NOTARY PUBLIC, State of Florida  
Print Name: MICHELE BROSSARD  
Commission No.: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_



Prepared By and to be Returned To:  
Thomas D. Wright, Esquire  
Law Offices of Thomas D. Wright, Chartered  
P.O. Box 500309  
Marathon, FL 33050-0309  
Telephone: 305-743-8118

Parcel ID Number:  
Grantee #1 TIN:  
Grantee #2 TIN:

# Warranty Deed

This Indenture, Made this 30<sup>th</sup> day of September, 2005 A.D., Between  
KEY VACA, LLC, a Florida limited liability company

of the County of \_\_\_\_\_, State of Florida, grantors, and  
SEAVIEW COMMONS, LLC, a Florida limited liability company

whose address is: 11100 Overseas Highway, Marathon, Florida 33050

of the County of \_\_\_\_\_, State of Florida, grantees.

Witnesseth that the GRANTORS, for and in consideration of the sum of

-----TEN DOLLARS (\$10)----- DOLLARS,  
and other good and valuable consideration to GRANTORS in hand paid by GRANTEES, the receipt whereof is hereby acknowledged, have  
granted, bargained and sold to the said GRANTEES and GRANTEES' heirs, successors and assigns forever, the following described land, situate,  
lying and being in the County of Monroe State of Florida to wit  
**SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A" AND INCORPORATED  
HEREIN REFERENCE**

This instrument was prepared without the benefit of title  
examination.

and the grantors do hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantors have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in our presence:

Key Vaca, LLC, a Florida limited  
liability company

Michele Brossard  
Printed Name: MICHELE BROSSARD  
Witness

By: Brian C. Schmitt (Seal)  
Printed Name: Brian C. Schmitt, Managing Member  
P.O. Address: \_\_\_\_\_

Catherine Baumeister  
Printed Name: Catherine Baumeister  
Witness

STATE OF Florida  
COUNTY OF Monroe

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of September, 2005 by  
BRIAN C. SCHMITT, Managing Member of Key Vaca, LLC, a Florida limited  
liability company

who are personally known to me or who have produced their  
as identification.



Michele Brossard  
Printed Name: \_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

Lot 9, Block 7, of COCO PLUM BEACH, according to the Plat thereof, as recorded in Plat Book 4, Page 166 of the Public Records of Monroe County, Florida, together with all unplatted upland portion(s) thereof, as well as the Southerly 200 plus feet of the whole sidth of the canal bottom of Canal 7 in Block 7 of COCO PLUM BEACH Subdivision, as recorded in Plat book 6, Page 144 of the Public Records of Monroe County, Florida, measuring in a southerly direction from the Northeast corner of Lot 8, Block 7 proceeding southerly to the end of the canal, LESS the 100 foot by 100 foot portion of said canal bottom contiguous, adjacent and to the East of Lot 8, Block 7 of COCO PLUM BEACH, extending 100 feet to the center of the canal.

**Doc# 1565613**  
**Bk# 2185 Pg# 2199**

Prepared By and to be Returned To:  
Thomas D. Wright, Esquire  
Law Offices of Thomas D. Wright, Chartered  
P.O. Box 500309  
Marathon, FL 33050-0309  
Telephone: 305-743-8118

Parcel ID Number:  
Grantee #1 TIN:  
Grantee #2 TIN:

# Warranty Deed

This Indenture, Made this 30<sup>th</sup> day of September, 2005 A.D., Between  
Brian C. Schmitt, a married man

of the County of \_\_\_\_\_, State of Florida, grantor, and  
SEAVIEW COMMONS, LLC, a Florida limited liability company

whose address is: 11100 Overseas Highway, Marathon, Florida 33050

of the County of \_\_\_\_\_, State of Florida, grantees.

Witnesseth that the GRANTOR, for and in consideration of the sum of

-----TEN DOLLARS (\$10)----- DOLLARS,  
and other good and valuable consideration to GRANTOR in hand paid by GRANTEES, the receipt whereof is hereby acknowledged, has  
granted, bargained and sold to the said GRANTEES and GRANTEES' heirs, successors and assigns forever, the following described land, situate,  
lying and being in the County of Monroe State of Florida to wit:  
SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A" AND INCORPORATED  
HEREIN REFERENCE

The Grantor herein warrants and represents that neither he nor any  
member of his family resides upon said property and said property is  
not homestead property as defined under the Florida Constitution.

This instrument was prepared without the benefit of title  
examination.

and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantor has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Michele Grossard  
Printed Name: MICHELE GROSSARD  
Witness

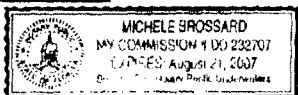
Brian C Schmitt (Seal)  
P.O. Address

Catherine Baumeister  
Printed Name: Catherine Baumeister  
Witness

STATE OF Florida  
COUNTY OF Monroe

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of September, 2005 by  
Brian C. Schmitt, a married man

who is personally known to me or who has produced \_\_\_\_\_  
as identification.



Michele Grossard  
Printed Name: \_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

Lots 10 and 11, Block 7, COCO PLUM BEACH SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 4, Page 166 of the Public Records of Monroe County, Florida.

AND

All land and improvements lying between the Westerly lot line of Lot 11, Block 7, COCO PLUM BEACH SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 4, Page 166 of the Public Records of Monroe County, Florida.

AND

That area lying West of Lot 10 in Block 7, to include an area of fill, a concrete dock and a timber dock as referred to in that certain Deed recorded in Official Records 724, Pages 134-135 of the Public Records of Monroe County, Florida.

---