

**CITY OF MARATHON, FLORIDA
RESOLUTION 2008-44**

A RESOLUTION OF THE CITY COUNCIL OF MARATHON, FLORIDA, APPROVING SUBJECT TO CONDITIONS A REQUEST TO THE CITY COUNCIL OF THE CITY OF MARATHON BY OVERSEAS VILLAGE HOA, JIGS INVESTMENT, AND THE ESTATE OF JOE ARDOLINO, TO ABANDON A PORTION OF A PUBLIC RIGHT-OF-WAY LOCATED ON OLD STATE ROAD 4A BETWEEN 35TH AND 37TH ST., DESCRIBED AS ADJACENT TO LOTS 2, 3, 4, 5, 9, 10 AND PART OF LOT 11, BLOCK 4, MARATHON BEACH SUBDIVISION, PLAT BOOK 2, PAGE 16, NEAREST MILE MARKER 49, MONROE COUNTY, FLORIDA, AS LEGALLY DESCRIBED IN EXHIBIT "A"; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there presently exists a certain public right-of-way within the City of Marathon, Florida, Located on Old State Road 4A between 35th and 37th St., Described as Lots 2, 3, 4, 5, 9, 10 and Part of Lot 11 Block 4, Marathon Beach Subdivision, Plat Book 2, Page 16; and

WHEREAS, The Overseas Village HOA, Jigs Investment, and the Estate of Joe Ardelino (the "Applicants"), have requested that the City of Marathon, Florida (the "City"), in accordance with Section 26-1 of the City Code, abandon the Right-of-Way; and

WHEREAS, the City Council finds that the Right-of-Way is not needed and may be abandoned without adversely affecting the public interest; and

WHEREAS, the Right-of-Way lies wholly within the corporate boundaries of the City; and

WHEREAS, a public hearing to vacate the Right-of-Way was held on July 08, 2008 and the City has determined that no federal, state or county rights-of-way are involved or affected, and that granting the request for abandonment of the Right-of-Way subject to conditions will not be detrimental to the public health, safety and welfare; and

WHEREAS, the City has determined the Applicant meets all of the requirements of Section 26-1 of the City Code for the abandonment of the Right-of-Way.

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

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

Section 2. Pursuant to the request by the Applicant to vacate the Right-of-Way, the City releases, vacates, abandons, discontinues, renounces and disclaims all rights of the City and the public in and to the Right-of-Way, as legally described on Exhibit "A", subject to the following conditions:

1. The applicants will convey a utility easement (in a form acceptable to the City Attorney) to the City and all utilities on and under all of the abandoned right-of-way.
2. The applicants will convey a right of access to the remaining right-of-way "in-holding" which will be created as a result of this abandonment.
3. The applicants will grant an easement recognizing the existing sewer line from the Stuffed Pig restaurant until it is replaced by city sewer.
4. If the adjacent buildings that are presently non conforming are substantially damaged or destroyed, the replacement buildings will comply with the then lawful set backs, subject of course, to the sewer easement, if applicable.

Section 3. The City Clerk shall forward a certified copy this Resolution to the Applicant, who shall be responsible for all costs incurred in recording this instrument in the public records of Monroe County, Florida. The Applicant shall provide the City evidence of the recording of this Resolution and the Easement within thirty (30) days of the effective date of this Resolution.

Section 4. The City reserves all rights to itself for the placement, operation and maintenance of all necessary City roads, structures and utilities including, but not limited to, stormwater and wastewater improvements and appurtenant facilities above and below that portion of the Right-of-Way not vacated by this Resolution.

Section 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Marathon, Florida, this 28th day of October, 2008.

THE CITY OF MARATHON, FLORIDA


Edward P. Worthington, Mayor

AYES: Bull, Vasil, Worthington
NOES: Tempest
ABSENT: Cinque
ABSTAIN: None

ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



Jimmy Morales, City Attorney

Handwritten scribbles or marks, possibly initials or a signature, located in the lower right quadrant of the page.

Exhibit A

Adjacent to Lots 2, 3, 4, 5, 9, 10 and part of Lot 11, Block 4, Marathon Beach
Subdivision, Plat Book 2, Page 16, Nearest Mile Marker 49, Monroe County, Florida

Return to and prepared by:
GREENMAN & MANZ
5800 Overseas Highway
Suite 40
Marathon, FL 33050

QUIT CLAIM DEED

This Quit Claim Deed is made this 24 day of April, 2009, by and between **CITY OF MARATHON, a Florida Municipal Corporation**, (hereinafter referred to as "Grantor"), first party, to **OVERSEAS VILLAGE HOMEOWNER'S ASSOCIATION INC., a Florida Corporation** (hereinafter referred to as "Grantee"), whose address is c/o Middle Keys Community Land Trust, 204 91st Street, #14, Marathon, FL 33050.

WITNESSETH: That the said First Party, for and in consideration of the sum of \$10.00 and other valuable consideration, receipt of which is hereby acknowledged, hereby grants, bargains, sells, remise, releases, and conveys and forever quit claim unto to the Second Party, all of the interest of the First Party, if any, in that certain land situate in Monroe County, State of Florida, to-wit:

Legal Description attached hereto and made a part hereof as Exhibit "A".

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behalf of the said second party forever.

IN WITNESS WHEREOF, the said first party has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Maria Thorby
Witness

Maria Thorby
Printed Name of Witness

Susie Thomas
Witness

Susie Thomas
Printed Name of Witness

Clyde Burnett

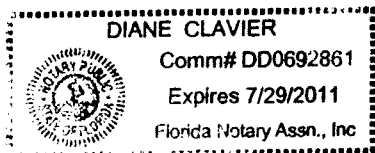
City of Marathon, by its CITY MANAGER

Date: 4/24/09

STATE OF FLORIDA
COUNTY OF MONROE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, personally appeared Clyde Burnett, who is personally known to me to be the City Manager for the City of Marathon and who did take an oath, known to be the person described in and who executed the foregoing, and he acknowledged before me that he executed the same on behalf of the corporation for the purposes set out therein.

WITNESS my hand and official seal in the County and State last aforesaid this, 24 day of April, 2009.



Diane Clavier
NOTARY PUBLIC, State of Florida
Printed Notary Signature:
Diane Clavier

Exhibit "A"

Legal Description of Old State Road 4A for the Overseas Village Homeowner's Association, Inc. A Florida Corporation.

That certain strip of land located on Old State Road 4A between 35th St, and 37th St, described as that portion of the northerly half of Old State Road 4A located between Lots 3 and 10, and adjacent and contiguous to Lot 3, all in Block 4, Marathon Beach Subdivision recorded at Plat Book 2. Page 15 of the Public Records of Monroe County, Florida.

EXHIBIT "A"

Applicant: JOSEPH ARDOLINO
W.P.L. NO.: 6116605
State Job No.: 90040-2508
State Road No.: 5(bayside)

MILE MARKER NO.: 49.0
KEY: VACA KEY
COUNTY: MONROE
F.D.O.T. PARCEL NO.:

LEGAL DESCRIPTION OF OLD STATE ROAD 4A

THAT PORTION OF OLD STATE ROAD 4-A, ADJACENT TO LOTS 9, 10, AND THE WESTERLY PORTION OF LOT 11, BLOCK 4, "MARATHON BEACH SUBDIVISION", AS RECORDED IN PLAT BOOK 2, PAGE 16, IN SECTION 10, TOWNSHIP 66 SOUTH, RANGE 32 EAST, ON KEY VACA, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:
COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 1, BLOCK 4, AS SHOWN ON SAID PLAT, BEAR SOUTH 74 DEGREES 20 MINUTES 00 SECONDS WEST(SOUTH 73 DEGREES 48 MINUTES 17 SECONDS WEST, F.D.O.T.), ALONG A LINE 116 FEET NORTHERLY OF AND PARALLEL WITH THE BASELINE OF SURVEY AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION (F.D.O.T.) RIGHT-OF-WAY MAP FOR SECTION 900040-2508, SHEET 3 OF 4, AS RECORDED IN ROAD MAP BOOK 1 AT PAGE 147, OF SAID PUBLIC RECORDS, FOR A DISTANCE OF 263 70 FEET, TO A POINT, AT THE INTERSECTION OF SAID LINE WITH THE CENTERLINE OF SAID OLD STATE ROAD NO. 4-A, SAID POINT BEING ON A CURVE HAVING A RADIUS OF 818.51 FEET, AND A DELTA ANGLE OF 10 DEGREES 57 MINUTES 47 SECONDS, SAID POINT TO BE KNOWN AS THE **POINT OF BEGINNING** OF THE PORTION OF LAND HEREINAFTER DESCRIBED; THENCE BEAR ALONG SAID CURVE, ON SAID CENTERLINE, FOR AN ARC DISTANCE OF 156.61 FEET, SAID ARC HAVING A CHORD WHICH BEARS NORTH 85 DEGREES 10 MINUTES 35 SECONDS EAST (NORTH 84 DEGREES 38 MINUTES 52 SECONDS EAST, F.D.O.T.), A DISTANCE OF 156.37 FEET, TO A POINT, WHICH LIES ON THE NORTHERLY PROJECTION OF THE EASTERLY LINE OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 186, PAGE 336, OF SAID PUBLIC RECORDS; THENCE BEAR SOUTH 15 DEGREES 39 MINUTES 15 SECONDS EAST (SOUTH 16 DEGREES 10 MINUTES 58 SECONDS EAST, F.D.O.T.), ALONG SAID NORTHERLY PROJECTION, FOR A DISTANCE OF 33.14 FEET, TO A POINT AT THE NORTHWESTERLY CORNER OF SAID LANDS, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID OLD STATE ROAD NO. 4-A, ALSO BEING ON A CURVE HAVING A RADIUS OF 851.51 FEET AND A DELTA ANGLE OF 17 DEGREES 33 MINUTES 11


SECONDS; THENCE BEAR ALONG SAID CURVE, ON SAID SOUTHERLY RIGHT-OF-WAY LINE, AND ALONG THE NORTHERLY LINE OF SAID LOTS 9, 10, AND 11, FOR AN ARC DISTANCE OF 260.87 FEET, SAID ARC HAVING A CHORD WHICH BEARS SOUTH 88 DEGREES 15 MINUTES 49 SECONDS WEST (SOUTH 87 DEGREES 44 MINUTES 06 SECONDS WEST, F.D.O.T.), A DISTANCE OF 259.85 FEET, TO A POINT AT THE INTERSECTION OF SAID LINE WITH THE WESTERLY PROJECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF SAID OLD STATE ROAD NO. 4-A, SAID LINE BEING 116 FEET NORTHERLY OF AND PARALLEL WITH SAID BASELINE OF SURVEY; THENCE BEAR NORTH 74 DEGREES 20 MINUTES 00 SECONDS EAST (NORTH 73 DEGREES 48 MINUTES 17 SECONDS EAST, F.D.O.T.), ALONG SAID LINE BEING 116 FEET NORTHERLY OF AND PARALLEL WITH SAID BASELINE OF SURVEY, FOR A DISTANCE OF 98.63 FEET, BACK TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 6968.64 SQUARE FEET, MORE OR LESS

According to attached SKETCH OF BOUNDARY SURVEY by John Paul Grimes, III, REGISTERED FLORIDA SURVEYOR AND MAPPER Number 4906, dated 08/18/97, and by this reference made a part hereof.

Prepared 07/01/98 BY:

P.O. BOX 510403
14 6th STREET
Key Colony Beach, Fl.
33051-0403
P.N. 970813B.wps


John Paul Grimes, III
Florida Registered Land Surveyor
Number 4906
PH. (305) 743-4510
FAX (305) 743-3277

THAT PORTION OF OLD STATE ROAD 4-A, ADJACENT TO LOTS 4, 8, 9 AND 10, BLOCK 4, "MARATHON BEACH", A SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 16, IN SECTION 10, TOWNSHIP 66 SOUTH, RANGE 32 EAST, ON KEY VACA, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 1, BLOCK 4, AS SHOWN ON SAID PLAT, BEAR SOUTH 74 DEGREES 20 MINUTES 00 SECONDS WEST, ALONG A LINE 116 FEET NORTHERLY OF AND PARALLEL WITH THE BASELINE OF SURVEY AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION 900040-2508, SHEET 3 OF 4, AS RECORDED IN ROAD MAP BOOK 1 AT PAGE 147, OF SAID PUBLIC RECORDS, FOR A DISTANCE OF 263.70 FEET, TO A POINT, AT THE INTERSECTION OF SAID LINE WITH THE CENTERLINE OF SAID OLD STATE ROAD NO. 4-A, SAID POINT TO BE KNOWN AS THE POINT OF BEGINNING OF THE PORTION OF LAND HEREINAFTER DESCRIBED; THENCE CONTINUE BEARING SOUTH 74 DEGREES 20 MINUTES 00 SECONDS WEST, ALONG SAID LINE 116 FEET NORTHERLY OF AND PARALLEL WITH SAID BASELINE OF SURVEY, FOR A DISTANCE OF 98.63 FEET, TO A POINT AT THE INTERSECTION OF SAID LINE WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID OLD STATE ROAD NO. 4-A, AND THE NORTHERLY LINE OF SAID LOT 9, BLOCK 4, SAID POINT BEING ON A CURVE HAVING A RADIUS OF 851.51 FEET AND A DELTA ANGLE OF 05 DEGREES 45 MINUTES 40 SECONDS; THENCE BEAR ALONG SAID CURVE, ON SAID SOUTHERLY RIGHT-OF-WAY, FOR AN ARC DISTANCE OF 85.62 FEET, SAID ARC HAVING A CHORD WHICH BEARS NORTH 80 DEGREES 04 MINUTES 46 SECONDS EAST, A DISTANCE OF 85.58 FEET, TO THE POINT OF TANGENT OF SAID SOUTHERLY RIGHT-OF-WAY LINE; THENCE BEAR NORTH 77 DEGREES 12 MINUTES 00 SECONDS WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 68.99 FEET, TO THE NORTHWESTERLY CORNER OF SAID LOT 8, BLOCK 4; THENCE BEAR NORTH 15 DEGREES 39 MINUTES 12 SECONDS WEST, ALONG THE NORTHERLY PROJECTION OF THE WESTERLY LINE OF SAID LOT 8, FOR A DISTANCE OF 37.53 FEET, TO THE CENTERLINE OF SAID OLD STATE ROAD NO. 4-A; THENCE BEAR SOUTH 77 DEGREES 12 MINUTES 00 SECONDS EAST, ALONG SAID CENTERLINE, FOR A DISTANCE OF 86.87 FEET, TO THE POINT OF CURVE OF AN ARC HAVING A RADIUS OF 818.51 FEET, AND A DELTA ANGLE OF 01 DEGREES 52 MINUTES 02 SECONDS; THENCE BEAR ALONG SAID CURVE, ON SAID CENTERLINE, FOR AN ARC DISTANCE OF 26.67 FEET, SAID ARC HAVING A CHORD WHICH BEARS SOUTH 78 DEGREES 07 MINUTES 57 SECONDS

EAST, A DISTANCE OF 26.67 FEET, TO THE POINT OF INTERSECTION OF SAID CENTERLINE WITH THE SOUTHERLY PROJECTION OF THE WESTERLY LINE OF SAID LOT 4, BLOCK 4; THENCE BEAR NORTH 15 DEGREES 39 MINUTES 13 SECONDS WEST, ALONG SAID SOUTHERLY PROJECTION, FOR A DISTANCE OF 37.10 FEET, TO A POINT AT THE SOUTHWESTERLY CORNER OF SAID LOT 4, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID OLD STATE ROAD NO. 4-A, ALSO BEING ON A CURVE HAVING A RADIUS OF 785.51 FEET AND A DELTA ANGLE OF 07 DEGREES 58 MINUTES 54 SECONDS; THENCE BEAR ALONG SAID CURVE, ON SAID NORTHERLY RIGHT-OF-WAY LINE, FOR AN ARC DISTANCE OF 109.43 FEET, SAID ARC HAVING A CHORD WHICH BEARS SOUTH 81 DEGREES 50 MINUTES 44 SECONDS EAST, A DISTANCE OF 109.34 FEET, TO THE SOUTHEASTERLY CORNER OF SAID LOT 4; THENCE BEAR SOUTH 15 DEGREES 39 MINUTES 14 SECONDS EAST, ALONG THE SOUTHERLY PROJECTION OF THE EASTERLY LINE OF SAID LOT 4, FOR A DISTANCE OF 34.99 FEET, TO A POINT, AT THE INTERSECTION OF SAID LINE WITH THE CENTERLINE OF SAID OLD STATE ROAD NO. 4-A, SAID POINT BEING ON A CURVE HAVING A RADIUS OF 818.51 FEET, AND A DELTA ANGLE OF 02 DEGREES 40 MINUTES 32 SECONDS; THENCE BEAR ALONG SAID CURVE, ON SAID CENTERLINE, FOR AN ARC DISTANCE OF 38.22 FEET, SAID ARC HAVING A CHORD WHICH BEARS SOUTH 88 DEGREES 00 MINUTES 16 SECONDS EAST, A DISTANCE OF 38.22 FEET, BACK TO THE POINT OF BEGINNING.
CONTAINING AN AREA OF 10363.41 SQUARE FEET, MORE OF LESS

According to attached SKETCH OF BOUNDARY SURVEY by John Paul Grimes, III, REGISTERED FLORIDA SURVEYOR AND MAPPER Number 4906, dated 08/18/97, and by this reference made a part hereof.

Prepared 07/01/98 BY:

P.O. BOX 510403
14 6th STREET
Key Colony Beach, Fl.
33051-0403
P.N. 970813A.wps


John Paul Grimes, III
Florida Registered Land Surveyor
Number 4906
PH. (305) 743-4510
FAX (305) 743-3277

GRANT OF EASEMENT

COMES NOW, the Overseas Village Homeowner's Association, Inc. A Florida Corporation, the owners of:

That certain strip of land located on Old State Road 4A between 35th St. and 37th St, described as that portion of the northerly ½ of Old State Road 4A located between Lots 3 and 10 and between Lots 4 and 9, all in Block 4 Marathon Beach Subdivision recorded at Plat Book 2. Page 15 of the Public Records of Monroe County, Florida.

In consideration of Ten (\$10.00) Dollars and other good and valuable consideration, receipt of which is acknowledged, hereby grant, bargain, sell and convey to The City of Marathon, Florida, a municipality under the laws of the State of Florida, of 9805 Overseas Highway, Marathon Florida 33050 an Easement on the above described property;

This Easement shall inure and benefit the City for so long as the City utilizes the subject property for the distribution and transmission of sewer facilities by the City, in perpetuity, or until the City determines that the subject property will not be required for the distribution and transmission of sewer lines. The easement described herein is to, and shall, run with the above described land, and shall be for the benefit of the use of grantee, for so long as the subject property is utilized for the distribution and transmission of sewer facilities by the City. If the City determines that it does not require the subject property for the distribution and transmission of sewer facilities by the City, or any other entity or utility, or if the City discontinues the use of the subject property for the distribution and transmission of sewer facilities by the City, or any other entity or utility, for One Hundred and Twenty (120) consecutive days, then this Easement shall be terminated, and the City agrees, upon request, and within a reasonable time, to issue to the Overseas Village Homeowners' Association, Inc., its successors or assigns, a document, suitable for recording in Public Records, terminating this easement.

It is expressly understood and agreed that the holders of this easement shall have the right of ingress and egress to and from the property for the maintenance and upkeep of the distribution and transmission of sewer facilities, the land above and adjacent, or for other similar public purpose.

Nothing in this easement shall in any way diminish or reduce the rights of the grantors, the Overseas Village Homeowners' Association, Inc., its heirs and assigns, successors in interest, for their continued use and enjoyment of the subject property as the holder of the servient estate, subject to the rights of the City as the dominant estate.

In the event that litigation is required to enforce or interpret any provision of this Easement, the prevailing party shall be entitled to recover their attorneys fees and costs. This agreement shall be construed of the laws the State of Florida.

IN WITNESS WHEREOF, we have placed our signatures this 24 day of MARCH, 2009.

Melanie Stefanidis
Witness as to Overseas HOA

[Signature] PRESIDENT
Overseas Village Homeowner's
Association, Inc., by its

[Signature]
Witness as to Overseas HOA

3/24/09
Date

[Signature]
Witness as to the City of Marathon

[Signature]
For the City of Marathon

[Signature]
Witness as to the City of Marathon

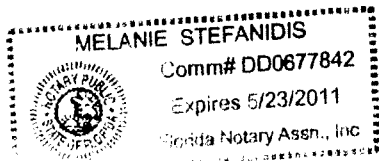
4/24/09
Date

STATE OF FLORIDA)
COUNTY OF MONROE)

BEFORE me, and office duly authorized in the State and County aforesaid, to take acknowledgments personally appeared Nerrick Johnson as President of the Overseas Village Homeowner's Association, Inc., known to me to be the _____ of the Overseas Village Homeowners' Association, Inc., the person described in, who presented Drivers license as identification, and who executed the foregoing instrument with the authority to execute the same, and acknowledged before me that this Easement was executed for the purposes described herein.

WITNESS my hand and official seal in the County and State aforesaid this 24 day of March, 2009.

Melanie Stefanidis
Notary Public, State of Florida

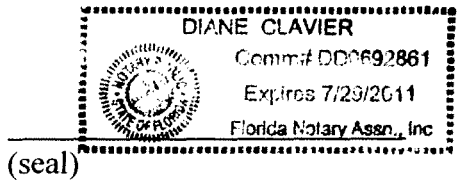


Melanie Stefanidis
Printed Notary Name
My commission expires: 5/23/11

STATE OF FLORIDA)
)
COUNTY OF MONROE)

BEFORE me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Clyde Burnett as _____ of the City of Marathon, known to me to be the City Manager of the City of Marathon, Florida, the person described herein, or who presented known to me as identification, and who executed the foregoing instrument with the authority to execute same, and acknowledged before me that this Grant of Easement was executed for the purposes described herein.

WITNESS my hand and official seal in the County and State aforesaid this 24 day of April, 2009.



Diane Clavier

NOTARY PUBLIC, State of Florida

Printed Name: Diane Clavier
My Commission Expires: 7/29/2011

Return to and prepared by:
GREENMAN & MANZ
5800 Overseas Highway
Suite 40
Marathon, FL 33050

QUIT CLAIM DEED

This Quit Claim Deed is made this 21 day of April, 2009, by and between **CITY OF MARATHON, a Florida Municipal Corporation**, (hereinafter referred to as "Grantor"), first party, to **THE ESTATE OF ARDOLINO** (hereinafter referred to as "Grantee"), whose address is c/o Richard Warner, Esq., Personal Representative of the Estate, P.O. Box 501317, Marathon, FL 33050.

WITNESSETH: That the said First Party, for and in consideration of the sum of \$10.00 and other valuable consideration, receipt of which is hereby acknowledged, hereby grants, bargains, sells, remise, releases, and conveys and forever quit claim unto to the Second Party, all of the interest of the First Party, if any, in that certain land situate in Monroe County, State of Florida, to-wit:

Legal Description attached hereto and made a part hereof as Exhibit "A".

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behalf of the said second party forever.

IN WITNESS WHEREOF, the said first party has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Sylvia King
Witness: Maria Thorley
Printed Name of Witness

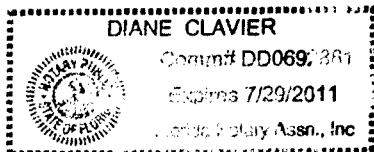
Susie Thomas
Witness: Susie Thomas
Printed Name of Witness

Clyde Burnett
City of Marathon, by its CITY MANAGER
Date: 4/24/09

STATE OF FLORIDA
COUNTY OF MONROE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, personally appeared Clyde Burnett, who is personally known to me to be the City Manager for the City of Marathon and who did take an oath, known to be the person described in and who executed the foregoing, and he acknowledged before me that he executed the same on behalf of the corporation for the purposes set out therein.

WITNESS my hand and official seal in the County and State last aforesaid this, 24 day of April, 2009.



Diane Clavier
NOTARY PUBLIC, State of Florida
Printed Notary Signature:
Diane Clavier

Exhibit "A"

Legal Description of Old State Road 4A for Estate of Ardolino

That certain strip of land located on Old State Road 4A between 35th St, and 37th St, described as that portion of Old State Road 4A located between Lots 9 and Lot 4, Block 4, the southerly half of that portion of Old State Road 4A adjacent and contiguous to Lot 10, and the southerly one half of Old State Road 4A adjacent and contiguous to the westerly one half Lot 11, all in Block 4, Marathon Beach Subdivision as recorded at Plat Book 2, Page 16 of the Public Records of Monroe County, Florida.

EXHIBIT "A"

Applicant: JOSEPH ARDOLINO
W.P.I. NO.: 6116605
State Job No.: 90040-2508
State Road No.: 5(bayside)

MILE MARKER NO.: 49.0
KEY: VACA KEY
COUNTY: MONROE
F.D.O.T. PARCEL NO.:

LEGAL DESCRIPTION OF OLD STATE ROAD 4A

THAT PORTION OF OLD STATE ROAD 4-A, ADJACENT TO LOTS 9, 10, AND THE WESTERLY PORTION OF LOT 11, BLOCK 4, "MARATHON BEACH SUBDIVISION", AS RECORDED IN PLAT BOOK 2, PAGE 16, IN SECTION 10, TOWNSHIP 66 SOUTH, RANGE 32 EAST, ON KEY VACA, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:
COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 1, BLOCK 4, AS SHOWN ON SAID PLAT, BEAR SOUTH 74 DEGREES 20 MINUTES 00 SECONDS WEST(SOUTH 73 DEGREES 48 MINUTES 17 SECONDS WEST, F.D.O.T.), ALONG A LINE 116 FEET NORTHERLY OF AND PARALLEL WITH THE BASELINE OF SURVEY AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION (F.D.O.T.) RIGHT-OF-WAY MAP FOR SECTION 900040-2508, SHEET 3 OF 4, AS RECORDED IN ROAD MAP BOOK 1 AT PAGE 147, OF SAID PUBLIC RECORDS, FOR A DISTANCE OF 263.70 FEET, TO A POINT, AT THE INTERSECTION OF SAID LINE WITH THE CENTERLINE OF SAID OLD STATE ROAD NO. 4-A, SAID POINT BEING ON A CURVE HAVING A RADIUS OF 818.51 FEET, AND A DELTA ANGLE OF 10 DEGREES 57 MINUTES 47 SECONDS, SAID POINT TO BE KNOWN AS THE **POINT OF BEGINNING** OF THE PORTION OF LAND HEREINAFTER DESCRIBED; THENCE BEAR ALONG SAID CURVE, ON SAID CENTERLINE, FOR AN ARC DISTANCE OF 156.61 FEET, SAID ARC HAVING A CHORD WHICH BEARS NORTH 85 DEGREES 10 MINUTES 35 SECONDS EAST (NORTH 84 DEGREES 38 MINUTES 52 SECONDS EAST, F.D.O.T.), A DISTANCE OF 156.37 FEET, TO A POINT, WHICH LIES ON THE NORTHERLY PROJECTION OF THE EASTERLY LINE OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 186, PAGE 336, OF SAID PUBLIC RECORDS; THENCE BEAR SOUTH 15 DEGREES 39 MINUTES 15 SECONDS EAST (SOUTH 16 DEGREES 10 MINUTES 58 SECONDS EAST, F.D.O.T.), ALONG SAID NORTHERLY PROJECTION, FOR A DISTANCE OF 33.14 FEET, TO A POINT AT THE NORTHWESTERLY CORNER OF SAID LANDS, SAID POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID OLD STATE ROAD NO. 4-A, ALSO BEING ON A CURVE HAVING A RADIUS OF 851.51 FEET AND A DELTA ANGLE OF 17 DEGREES 33 MINUTES 11


SECONDS; THENCE BEAR ALONG SAID CURVE, ON SAID SOUTHERLY RIGHT-OF-WAY LINE, AND ALONG THE NORTHERLY LINE OF SAID LOTS 9, 10, AND 11, FOR AN ARC DISTANCE OF 260.87 FEET, SAID ARC HAVING A CHORD WHICH BEARS SOUTH 88 DEGREES 15 MINUTES 49 SECONDS WEST (SOUTH 87 DEGREES 44 MINUTES 06 SECONDS WEST, F.D.O.T.), A DISTANCE OF 259.85 FEET, TO A POINT AT THE INTERSECTION OF SAID LINE WITH THE WESTERLY PROJECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF SAID OLD STATE ROAD NO. 4-A, SAID LINE BEING 116 FEET NORTHERLY OF AND PARALLEL WITH SAID BASELINE OF SURVEY; THENCE BEAR NORTH 74 DEGREES 20 MINUTES 00 SECONDS EAST (NORTH 73 DEGREES 48 MINUTES 17 SECONDS EAST, F.D.O.T.), ALONG SAID LINE BEING 116 FEET NORTHERLY OF AND PARALLEL WITH SAID BASELINE OF SURVEY, FOR A DISTANCE OF 98.63 FEET, BACK TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 6968.64 SQUARE FEET, MORE OF LESS

According to attached SKETCH OF BOUNDARY SURVEY by John Paul Grimes, III, REGISTERED FLORIDA SURVEYOR AND MAPPER Number 4906, dated 08/18/97, and by this reference made a part hereof.

Prepared 07/01/98 BY:

P.O. BOX 510403
14 6th STREET
Key Colony Beach, Fl.
33051-0403
P.N. 970813B.wps


John Paul Grimes, III
Florida Registered Land Surveyor
Number 4906
PH. (305) 743-4510
FAX (305) 743-3277

THAT PORTION OF OLD STATE ROAD 4-A, ADJACENT TO LOTS 4, 8, 9 AND 10, BLOCK 4, "MARATHON BEACH", A SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 16, IN SECTION 10, TOWNSHIP 66 SOUTH, RANGE 32 EAST, ON KEY VACA, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

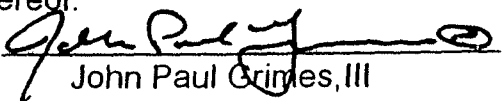
COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 1, BLOCK 4, AS SHOWN ON SAID PLAT, BEAR SOUTH 74 DEGREES 20 MINUTES 00 SECONDS WEST, ALONG A LINE 116 FEET NORTHERLY OF AND PARALLEL WITH THE BASELINE OF SURVEY AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION 900040-2508, SHEET 3 OF 4, AS RECORDED IN ROAD MAP BOOK 1 AT PAGE 147, OF SAID PUBLIC RECORDS, FOR A DISTANCE OF 263.70 FEET, TO A POINT, AT THE INTERSECTION OF SAID LINE WITH THE CENTERLINE OF SAID OLD STATE ROAD NO. 4-A, SAID POINT TO BE KNOWN AS THE POINT OF BEGINNING OF THE PORTION OF LAND HEREINAFTER DESCRIBED; THENCE CONTINUE BEARING SOUTH 74 DEGREES 20 MINUTES 00 SECONDS WEST, ALONG SAID LINE 116 FEET NORTHERLY OF AND PARALLEL WITH SAID BASELINE OF SURVEY, FOR A DISTANCE OF 98.63 FEET, TO A POINT AT THE INTERSECTION OF SAID LINE WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID OLD STATE ROAD NO. 4-A, AND THE NORTHERLY LINE OF SAID LOT 9, BLOCK 4, SAID POINT BEING ON A CURVE HAVING A RADIUS OF 851.51 FEET AND A DELTA ANGLE OF 05 DEGREES 45 MINUTES 40 SECONDS; THENCE BEAR ALONG SAID CURVE, ON SAID SOUTHERLY RIGHT-OF-WAY, FOR AN ARC DISTANCE OF 85.62 FEET, SAID ARC HAVING A CHORD WHICH BEARS NORTH 80 DEGREES 04 MINUTES 46 SECONDS EAST, A DISTANCE OF 85.58 FEET, TO THE POINT OF TANGENT OF SAID SOUTHERLY RIGHT-OF-WAY LINE; THENCE BEAR NORTH 77 DEGREES 12 MINUTES 00 SECONDS WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 68.99 FEET, TO THE NORTHWESTERLY CORNER OF SAID LOT 8, BLOCK 4; THENCE BEAR NORTH 15 DEGREES 39 MINUTES 12 SECONDS WEST, ALONG THE NORTHERLY PROJECTION OF THE WESTERLY LINE OF SAID LOT 8, FOR A DISTANCE OF 37.53 FEET, TO THE CENTERLINE OF SAID OLD STATE ROAD NO. 4-A; THENCE BEAR SOUTH 77 DEGREES 12 MINUTES 00 SECONDS EAST, ALONG SAID CENTERLINE, FOR A DISTANCE OF 86.87 FEET, TO THE POINT OF CURVE OF AN ARC HAVING A RADIUS OF 818.51 FEET, AND A DELTA ANGLE OF 01 DEGREES 52 MINUTES 02 SECONDS; THENCE BEAR ALONG SAID CURVE, ON SAID CENTERLINE, FOR AN ARC DISTANCE OF 26 67 FEET, SAID ARC HAVING A CHORD WHICH BEARS SOUTH 78 DEGREES 07 MINUTES 57 SECONDS

EAST, A DISTANCE OF 26.67 FEET, TO THE POINT OF INTERSECTION OF SAID CENTERLINE WITH THE SOUTHERLY PROJECTION OF THE WESTERLY LINE OF SAID LOT 4, BLOCK 4; THENCE BEAR NORTH 15 DEGREES 39 MINUTES 13 SECONDS WEST, ALONG SAID SOUTHERLY PROJECTION, FOR A DISTANCE OF 37.10 FEET, TO A POINT AT THE SOUTHWESTERLY CORNER OF SAID LOT 4, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID OLD STATE ROAD NO. 4-A, ALSO BEING ON A CURVE HAVING A RADIUS OF 785.51 FEET AND A DELTA ANGLE OF 07 DEGREES 58 MINUTES 54 SECONDS; THENCE BEAR ALONG SAID CURVE, ON SAID NORTHERLY RIGHT-OF-WAY LINE, FOR AN ARC DISTANCE OF 109.43 FEET, SAID ARC HAVING A CHORD WHICH BEARS SOUTH 81 DEGREES 50 MINUTES 44 SECONDS EAST, A DISTANCE OF 109.34 FEET, TO THE SOUTHEASTERLY CORNER OF SAID LOT 4; THENCE BEAR SOUTH 15 DEGREES 39 MINUTES 14 SECONDS EAST, ALONG THE SOUTHERLY PROJECTION OF THE EASTERLY LINE OF SAID LOT 4, FOR A DISTANCE OF 34.99 FEET, TO A POINT, AT THE INTERSECTION OF SAID LINE WITH THE CENTERLINE OF SAID OLD STATE ROAD NO. 4-A, SAID POINT BEING ON A CURVE HAVING A RADIUS OF 818.51 FEET, AND A DELTA ANGLE OF 02 DEGREES 40 MINUTES 32 SECONDS; THENCE BEAR ALONG SAID CURVE, ON SAID CENTERLINE, FOR AN ARC DISTANCE OF 38.22 FEET, SAID ARC HAVING A CHORD WHICH BEARS SOUTH 88 DEGREES 00 MINUTES 16 SECONDS EAST, A DISTANCE OF 38.22 FEET, BACK TO THE POINT OF BEGINNING.
CONTAINING AN AREA OF 10363.41 SQUARE FEET, MORE OF LESS

According to attached SKETCH OF BOUNDARY SURVEY by John Paul Grimes, III, REGISTERED FLORIDA SURVEYOR AND MAPPER Number 4906, dated 08/18/97, and by this reference made a part hereof.

Prepared 07/01/98 BY:

P.O. BOX 510403
14 6th STREET
Key Colony Beach, Fl.
33051-0403
P.N. 970813A.wps


John Paul Grimes, III
Florida Registered Land Surveyor
Number 4906
PH. (305) 743-4510
FAX (305) 743-3277

Prepared by and return to:
Franklin D. Greenman, Esq.
GREENMAN & MANZ
5800 Overseas Hwy – Suite 40
Marathon, FL 33050-2719

GRANT OF EASEMENT

COMES NOW, the Estate of Joseph Ardolino, II the owner of:

That certain strip of land located on Old State Road 4A between 35th Street and 37th Street in Marathon, Florida, described as that portion of Old State Road 4A located between Lots 4 and 9, between Lots 3 and 10 (the Northerly one-half (1/2) of Old State Road 4A is owned by Overseas Village Homeowners Association, Inc.), and the Southerly one-half (1/2) Old State Road 4A adjacent to the Westerly one-half (1/2) of Lot 11, all in Block 4 Marathon Beach Subdivision recorded at Plat Book 2, Page 16 of the Public Records of Monroe County, Florida.

In consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the Estate of Joseph Ardolino, II hereby grants, bargains, sells and conveys to The City of Marathon, Florida, a municipality under the laws of the State of Florida, of 9805 Overseas Highway, Marathon, Florida 33050 (the "City") an Easement on the above described property.

This Easement shall inure and benefit the City for so long as the City utilizes the subject property for the distribution and transmission of sewer facilities or other utility service by the City, in perpetuity, or until the City determines that the subject property will not be required for the distribution and transmission of sewer lines, or other utility service, or until the Estate of Joseph Ardolino, II, or its successors and assigns, obtain ownership of the 66ft of Old State Road 4A adjacent to Lot 8, Block 4 of Marathon Beach Subdivision, now owned by the City. The easement described herein is to, and shall, run with the above described land, and shall be for the benefit of the use of grantee, for so long as the subject property is utilized for the distribution and transmission of sewer facilities or other utilities or maintenance service required by the City. If the City determines that it does not require the subject property for the distribution and transmission of sewer facilities and utilities by the City, or if the City discontinues the use of the subject property for the distribution and transmission of sewer facilities, or other utility service, by the City, or any other entity or utility, for One Hundred and Twenty (120) consecutive days, then the Easement for the distribution and transmission of sewer facilities or other utility services shall be terminated, and the City agrees, upon request, and within

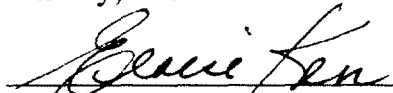
reasonable time, to issue to the Estate of Joseph Ardolino, II, its successors or assigns, a document suitable for recording in the Public Records terminating this Easement. The remaining Easement for ingress and egress for maintenance for the 66ft of Old State Road 4A adjacent to Lot 8, Block 4 of Marathon Beach Subdivision, now owned by the City, shall continue until the property is obtained by the Estate of Ardolino, II, its successors and assigns, upon the happening of which this Easement shall terminate, and the City agrees, upon request, and within a reasonable time, to issue to the Estate of Joseph Ardolino, II, its successors and assigns, a document suitable for recording in the Public Records terminating this easement.


It is expressly understood and agreed that the holders of this easement shall have the right of ingress and egress to and from the property for the maintenance and upkeep of the distribution and transmission of sewer facilities, the land above and adjacent, or for other similar public purpose.


Nothing in this easement shall in any way diminish or reduce the rights of the grantors, the Estate of Joseph Ardolino, II, its heirs and assigns and/or successors in interest, from their continued use and enjoyment of the subject property as the holder of the servient estate, subject to the rights of the City as the dominant estate.

In the event that litigation is required to enforce or interpret any provision of this Easement, the prevailing party shall be entitled to recover their attorneys fees and costs. This agreement shall be governed and construed by the laws of the State of Florida.

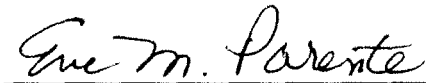
IN WITNESS WHEREOF, we have placed our signatures this 19 day of January, 2009.

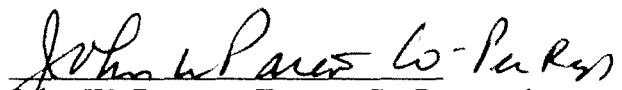

Witness #1 as to Estate of Ardolino


 *Co-Sentinel*
Richard E. Warner, Esq. as Co-Personal Representative of the Estate of Ardolino


Witness #2 as to Estate of Ardolino

1/17/09
Date


Witness #1 as to Estate of Ardolino


John W. Parente, Esq. as Co-Personal Representative of the Estate of Ardolino


Witness #2 as to Estate of Ardolino

1/19/09
Date

Maia Long
Witness #1 as to the City of Marathon

Alyce Burnett
For the City of Marathon

Ann Rogers
Witness #2 as to the City of Marathon

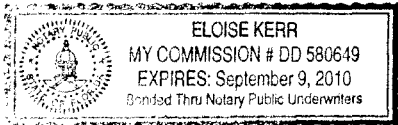
4/24/09
Date

STATE OF FLORIDA)
)
COUNTY OF MONROE)

BEFORE me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Richard E. Warner, Esq., as Co-Personal Representative of the Estate of Joseph Ardolino, II, who is known to me as the person described herein OR who presented _____ as identification, and who executed the foregoing instrument with the authority to execute the same, and acknowledged before me that this Easement was executed for the purposes described herein.

WITNESS my hand and official seal in the County and State aforesaid this 17th day of January, 2009.

(Seal)

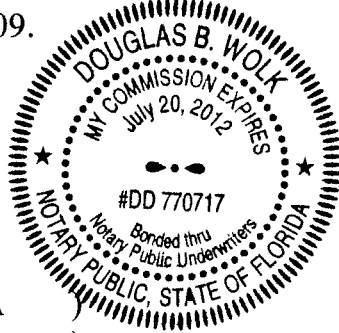


Eloise Kerr
Notary Public, State of Florida
ELOISE KERR
Printed Notary Name
My commission expires: 9/9/10

STATE OF FLORIDA)
)
COUNTY OF MONROE)

BEFORE me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared John W. Parente, Esq. as Co-Personal Representative of the Estate of Joseph Ardolino, II, who is known to me as the person described herein OR who presented _____ as identification, and who executed the foregoing instrument with the authority to execute the same, and acknowledged before me that this Easement was executed for the purposes described herein.

WITNESS my hand and official seal in the County and State aforesaid this 19th day of January, 2009.
(Seal)



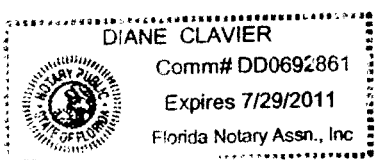
Douglas B. Wolk
Notary Public, State of Florida
Printed Notary Name Douglas B. Wolk
My commission expires: 7/20/2012

STATE OF FLORIDA)
)
COUNTY OF MONROE)

BEFORE me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Clyde Burnett as City Manager of the City of Marathon, known to me to be the City Manager of the City of Marathon, Florida, the person described herein, who presented is known to me as identification, and who executed the foregoing instrument with the authority to execute the same, and acknowledged before me that this Easement was executed for the purposes described herein.

WITNESS my hand and official seal in the County and State aforesaid this 24 day of April, 2009.

(Seal)



Diane Clavier
Notary Public, State of Florida
Printed Notary Name Diane clavier
My commission expires: 7-29-2011

