

**CITY OF MARATHON, FLORIDA
RESOLUTION 2011-44**

A RESOLUTION OF THE CITY COUNCIL OF MARATHON, FLORIDA, APPROVING WITH CONDITIONS THE REQUEST BY WATERS EDGE MARINA, LLC TO ABANDON A 171 FOOT PORTION OF PUBLIC RIGHT-OF-WAY LOCATED AT THE SOUTHERN TERMINUS OF 11TH STREET (A.K.A. PENINSULA STREET) CONTIGUOUS WITH PROPERTIES HAVING REAL ESTATE NOS. 00104110-000000, 00320010-000000, AND 00320130-000000); A PART OF RIGGS SUBDIVISION, HOGG KEY; NEAREST MILE MARKER 48, MONROE COUNTY, FLORIDA, AS LEGALLY DESCRIBED IN EXHIBIT "A"; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, there presently exists public right-of-way (R-O-W) within the City of Marathon, Florida, known as 11th Street, Ocean (a/k/a Peninsula Street), within the bounds of Riggs Subdivision, Hogg Key, nearest mile marker 48; and

WHEREAS, Water's Edge Marina is the owner of property contiguous to the terminus of the R-O-W (the "Applicant"), and has requested that the City of Marathon, Florida (the "City"), in accordance with Section 26-1 of the City Code, abandon a 171 foot portion of R-O-W at its southern terminus; and

WHEREAS, the City Council finds that the R-O-W is not needed and may be abandoned without adversely affecting the public interest; and

WHEREAS, a public hearing to vacate the R-O-Way was held on August 10, 2010, and continued to September 14, 2010, and the City has determined that no federal, state or county rights-of-way are involved or affected, that the Applicant meets all of the requirements of the City Code for the abandonment of the R-O-W, and that granting the request for abandonment of the R-O-W, subject to conditions, will not be detrimental to the public health, safety and welfare of the City's residents and property owners.

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 R-O-W contiguous to its property, the City releases, vacates, abandons, discontinues, renounces and disclaims all rights of the City and the public to the R-O-W, as legally described on Exhibit "A", subject to the following condition:

- a. The Applicant shall convey and record a perpetual non-exclusive ingress/egress and utility easement to the City and all utility providers on and

under all of the abandoned R-O-W. The form and content of the easement shall be approved by the City Attorney before recording.

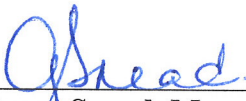
Section 3. The City Clerk shall forward a certified copy this Resolution to the Applicant, who shall be responsible for all costs incurred in recording this instrument and the aforementioned easement in the public records of Monroe County, Florida. The Applicant shall provide the City evidence of the recording of this Resolution and the easement within thirty (30) days of the effective date of this Resolution or the abandonment shall be null and void with no further action required by the City.

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 R-O-Way not vacated by this Resolution.

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

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 14TH DAY OF JUNE, 2011.

THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

AYES: Ramsay, Worthington, Cinque, Keating, Snead
NOES: None
ABSENT: None
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:**

City Attorney

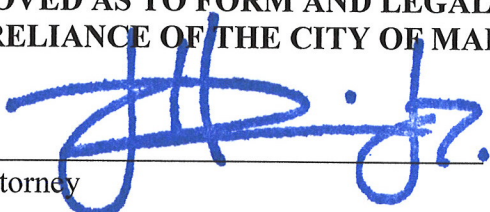


EXHIBIT A

Prepared by & Return to:
David P. Kirwan
David P. Kirwan, P.A.
Attorney at Law
5800 Overseas Hwy, Ste.4
Marathon, FL 33050

AFFIDAVIT

State of Florida
County of Monroe

Before me, the undersigned authority, personally appeared DIANE CLAVIER, who being first duly sworn, deposes and says:

1. My name is Diane Clavier. I am the duly appointed Clerk for the City of Marathon, Florida.
2. On July 6, 2011 I issued a certified copy of the CITY OF MARATHON, FLORIDA RESOLUTION 2011-44, which certified copy has been recorded on July 6, 2011 in Official Records Book 2524, Page 2055 of the Public Records of Monroe County, Florida. That resolution abandoned the southerly 171 feet of the terminus of Peninsula Street (also known as 11th Street) according to the Plat of Riggs Subdivision as recorded in Plat Book 2, at Page 68 of the Public Records of Monroe County, Florida.
3. The previously issued and recorded certified copy erroneously included an attachment containing an incorrect legal description.
4. I have attached to this affidavit a certified copy of RESOLUTION 2011-44 which includes an attachment containing the **correct legal description of the property abandoned by the City of Marathon** for recordation with this affidavit in the Public Records of Monroe County, Florida.

In witness whereof, I have hereunto set my hand and seal this 4th day of Aug, 2011.

Ann Hogan

Witness

Printed Name: Ann Hogan

Diane Clavier

Diane Clavier, City Clerk

City of Marathon, Florida

Donna M. Cofano

Witness

Printed Name: Donna M. Cofano

Sworn to and subscribed before me this 4 day of ^{Aug.} ~~July~~, 2011 by Diane Clavier, City Clerk, City of Marathon, Florida, who is personally known to me and who did take an oath.

Donna M. Cofano
Notary Public

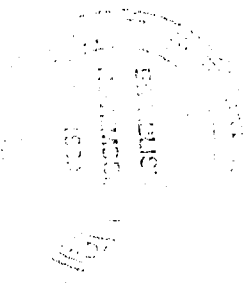
My commission expires



Doc# 1846374
Bk# 2529 Pg# 218

EXHIBIT A

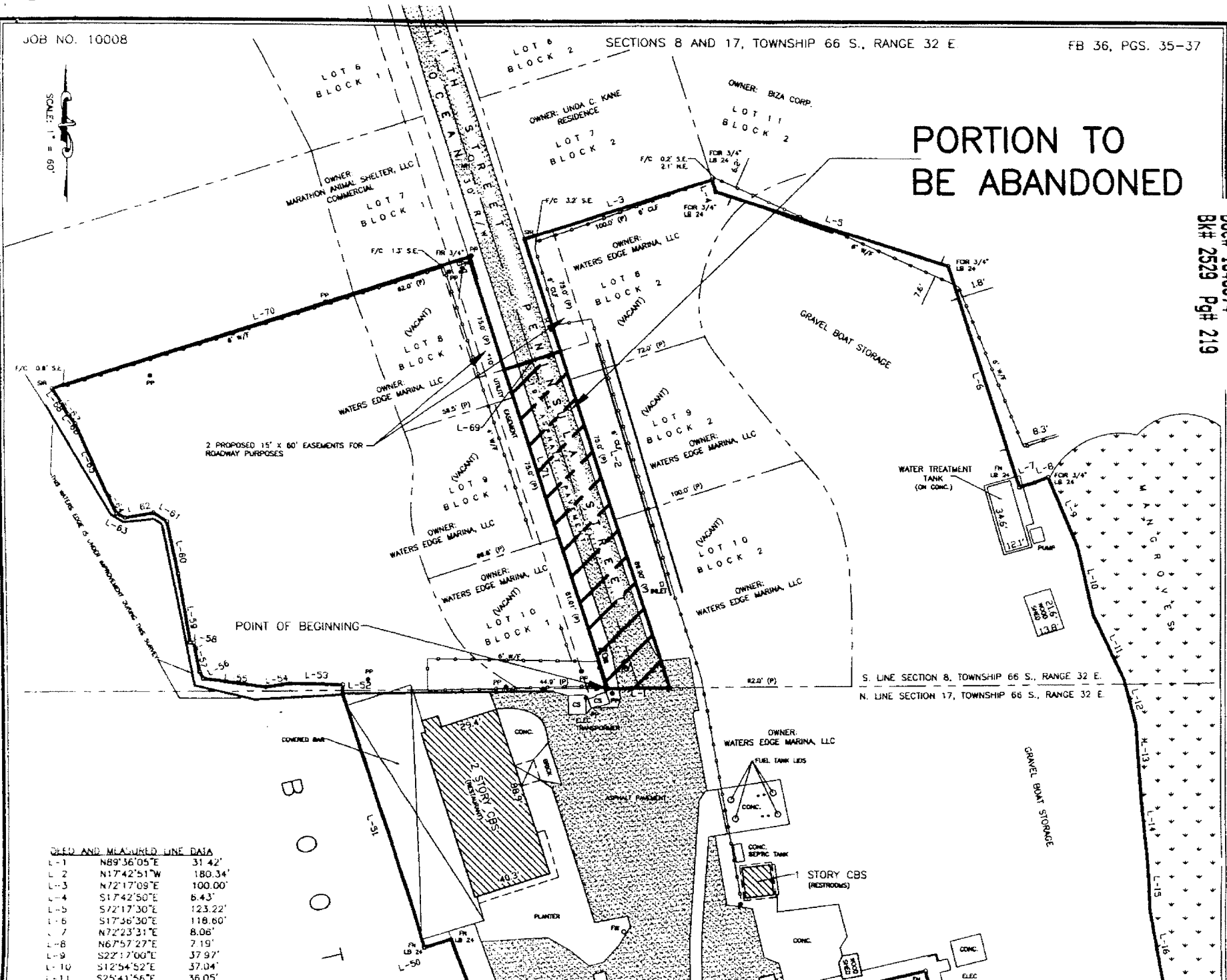
Doc# 1846374
Bk# 2529 Pg# 218





PORTION TO BE ABANDONED

Doc# 1846374
BK# 2529 Pg# 219



2 PROPOSED 15' X 60' EASEMENTS FOR ROADWAY PURPOSES

POINT OF BEGINNING

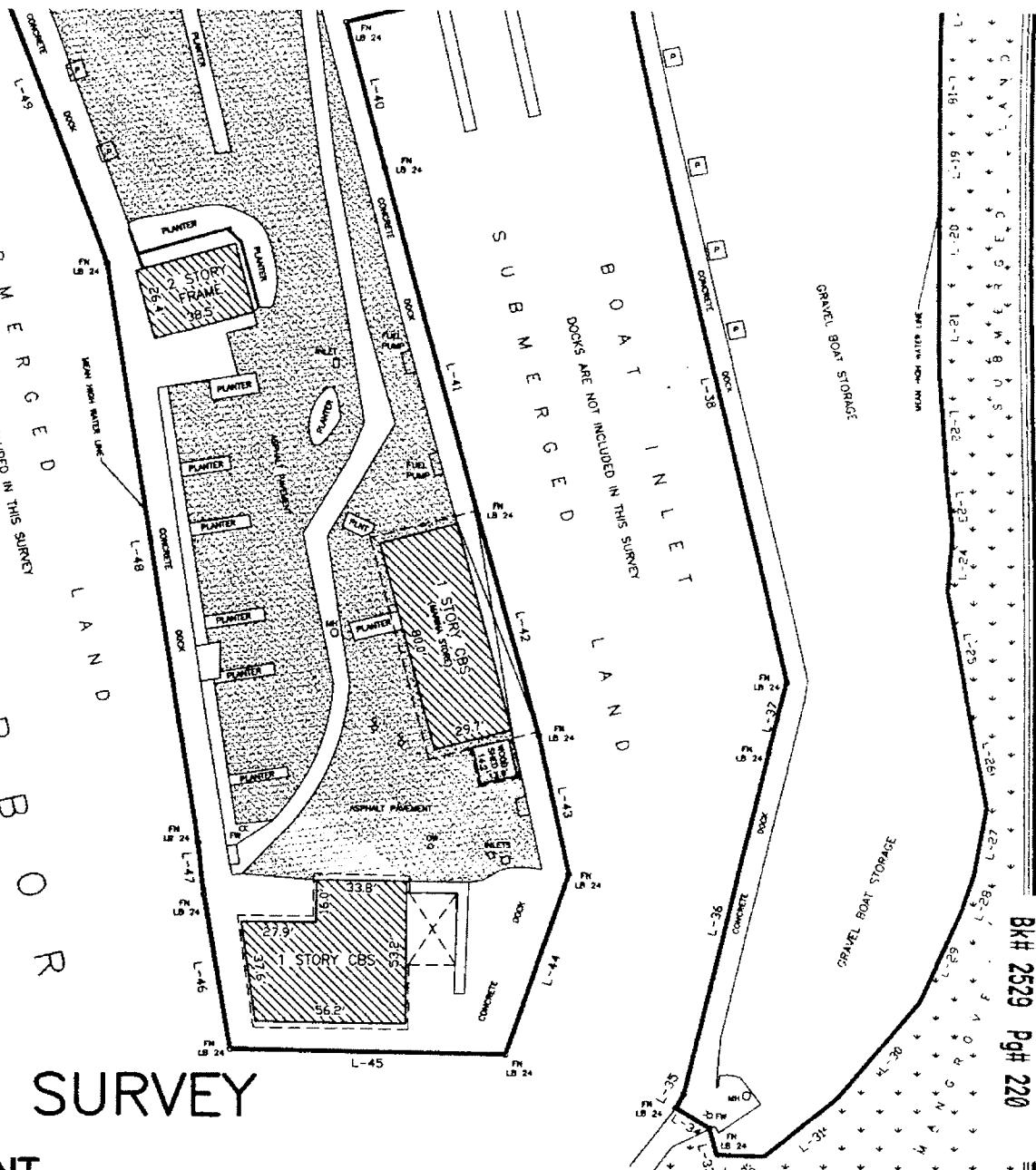
S. LINE SECTION 8, TOWNSHIP 66 S., RANGE 32 E.
N. LINE SECTION 17, TOWNSHIP 66 S., RANGE 32 E.

BEAR AND MEASURED LINE DATA

L-1	N89°36'05"E	31.42'
L-2	N17°42'51"W	180.34'
L-3	N72°17'09"E	100.00'
L-4	S17°42'50"E	6.43'
L-5	S72°17'30"E	123.22'
L-6	S17°36'30"E	118.60'
L-7	N72°23'31"E	8.06'
L-8	N67°57'27"E	7.19'
L-9	S22°17'00"E	37.97'
L-10	S12°54'52"E	37.04'
L-11	S25°41'56"E	36.05'

L-14	S05°31'41"E	43.04'
L-15	S02°17'53"E	23.62'
L-16	S10°13'59"E	37.36'
L-17	S00°20'41"W	26.45'
L-18	S00°35'12"E	32.64'
L-19	S00°28'27"E	23.47'
L-20	S00°43'28"W	32.46'
L-21	S00°15'16"W	33.22'
L-22	S02°54'59"E	41.76'
L-23	S05°33'47"E	20.06'
L-24	S04°58'18"W	21.97'
L-25	S10°08'12"E	44.52'
L-26	S10°11'30"E	38.10'
L-27	S10°23'28"W	25.83'
L-28	S19°08'50"W	14.76'
L-29	S24°49'49"W	36.56'
L-30	S40°33'36"W	47.72'
L-31	S50°43'31"W	35.49'
L-32	N88°17'57"W	17.79'
L-33	N15°16'20"W	10.35'
L-34	N58°16'29"W	12.52'
L-35	N29°23'51"E	5.83'
L-36	N13°52'25"E	132.35'
L-37	N13°57'48"E	27.26'
L-38	N12°52'38"W	278.80'
L-39	S76°32'34"W	104.89'
L-40	S14°48'35"E	56.54'
L-41	S14°55'30"E	134.19'
L-42	S15°23'33"E	86.40'
L-43	S11°55'03"E	53.67'
L-44	S19°15'17"W	71.66'
L-45	N89°00'35"W	102.89'
L-46	N09°48'48"W	58.93'
L-47	N06°14'41"W	19.69'
L-48	N08°50'18"W	220.57'
L-49	N20°41'32"W	140.25'
L-50	S71°57'51"W	14.23'
L-51	N17°46'11"W	137.53'
L-52	N00°44'24"E	4.75'
L-53	N88°43'37"W	27.01'
L-54	S81°58'51"W	12.84'
L-55	N82°13'13"W	31.76'
L-56	N29°16'57"W	3.74'
L-57	N11°08'15"W	14.87'
L-58	N82°23'05"W	1.81'
L-59	N09°11'52"W	35.43'
L-60	N11°16'04"W	27.36'
L-61	N56°39'22"W	7.86'
L-62	S79°39'13"W	14.49'
L-63	N63°19'24"W	4.76'
L-64	N25°52'51"W	14.58'
L-65	N23°39'34"W	35.46'
L-66	N38°22'20"W	6.01'
L-67	N27°32'42"W	6.90'
L-68	N34°34'33"W	8.60'
L-69	S72°17'09"E	30.00'
L-70	N72°17'09"E	222.01'
L-71	S17°42'51"E	171.01'

KEY
 SUBMERGED
 DOCKS ARE NOT INCLUDED IN THIS SURVEY
 LAND
 HARBOR



PAGE 1 OF 2
 NOT COMPLETE WITHOUT PAGE 2 OF 2

SPECIFIC PURPOSE SURVEY

FOR THE

ROAD ABANDONEMENT

OF PENINSULA STREET (11TH STREET-OCEAN)

TYPE OF SURVEY	DATE	WILLIAM M. HINCKLEY PROFESSIONAL SURVEYOR AND MAPPER P.O. BOX 1567 ISLAMORADA, FLORIDA 33036 PHONE (305) 853-7034 EMAIL: bill_hinckley@yahoo.com
SPECIFIC PURPOSE	9/24/10	

Doc# 1846374
 BK# 2529 Pg# 220

SPECIFIC PURPOSE SURVEY

FOR THE

ROAD ABANDONEMENT OF PENINSULA STREET (11TH STREET-OCEAN)

 Doc# 1846374
 Bk# 2529 Pg# 221

LEGAL DESCRIPTION OF PROPERTY ADJACENT TO PORTION TO BE ABANDONED:

ALL THOSE LOTS, PIECES OR PARCELS OR LAND SITUATE, LYING AND BEING IN SECTIONS 8 AND 17 IN TOWNSHIP 66 SOUTH, RANGE 32 EAST CITY OF MARATHON MONROE COUNTY, FLORIDA, COMPRISING OF LOTS 8, 9 AND 10 IN BLOCK 1 AND LOTS 8, 9 AND 10 IN BLOCK 2, THE SAME AS SHOWN ON THE PLAT OF "RIGGS' SUBDIVISION," ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2 AT PAGE 68 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, TOGETHER WITH THE FILLED IN AREAS ABUTTING THE AFORESAID PROPERTIES THERETO AND TOGETHER WITH THE ARE INDICATED AS "NOT INCLUDED IN THIS SUBDIVISION", IN SAID SECTION 17 AND SHOWS ON THE AFOREMENTIONED PLAT OF "RIGGS' SUBDIVISION," ALL OF WHICH IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOW, VIZ.:

BEGIN AT THE SOUTHEAST CORNER OF LOT 10 IN BLOCK 1 OF SAID PLAT OF "RIGGS' SUBDIVISION;" THENCE N89°36'05"E ALONG THE SOUTH LINE OF SAID SECTION 8 FOR 31.42 FEET TO THE SOUTHWEST CORNER OF SAID LOT 10 IN BLOCK 2 OF "RIGGS' SUBDIVISION;" THENCE N17°42'51"W ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF PENINSULA STREET (11TH STREET-OCEAN) FOR 240.34 FEET TO THE NORTHWEST CORNER OF SAID LOT 8 IN BLOCK 2 OF "RIGGS' SUBDIVISION;" THENCE N72°17'09"E ALONG THE NORTHERLY LINE OF SAID LOT 8 IN BLOCK 2 OF "RIGGS' SUBDIVISION" FOR 100.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 8 AND A POINT OF INTERSECTION WITH THE DELIMITED BOUNDARY OF THE PROPERTY DESCRIBED IN THAT CERTAIN "NOTICE AND QUIT CLAIM DEED" AS RECORDED FEBRUARY 11, 2002 IN OFFICIAL RECORDS BOOK 1759 AT PAGE 2380 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA; THENCE ALONG SAID DELIMITED BOUNDARY AS SET FORTH IN THE "NOTICE AND QUIT CLAIM DEED" FOR THE FOLLOWING COURSES: THENCE S17°42'50"E FOR 6.43 FEET; THENCE S72°17'30"E FOR 123.22 FEET; THENCE S17°36'30"E FOR 118.60 FEET; THENCE N72°23'31"E FOR 8.06 FEET; THENCE N67°57'27"E FOR 7.19 FEET TO THE POINT OF TERMINATION OF SAID DELIMITED LINE AND THE POINT OF BEGINNING OF THE MEAN HIGH WATER LINE AS SURVEYED BY PBS&J, THE METHODOLOGY FOR WHICH WAS APPROVED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION BUREAU OF SURVEY AND MAPPING ON JULY 20, 2005 (THE "MEAN HIGH WATER LINE"); THENCE ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING COURSES; THENCE S22°17'00"E FOR 37.97 FEET; THENCE S12°54'52"E FOR 37.04 FEET; THENCE S25°41'56"E FOR 36.05 FEET; THENCE S14°41'34"E FOR 23.55 FEET; THENCE S04°43'06"E FOR 29.63 FEET; THENCE S05°31'41"E FOR 43.04 FEET; THENCE S02°17'53"E FOR 23.62 FEET; THENCE S10°13'59"E FOR 37.36 FEET; THENCE S00°20'41"W FOR 26.45 FEET; THENCE S00°35'12"E FOR 32.64 FEET; THENCE S00°28'27"E FOR 23.47 FEET; THENCE S00°43'28"W FOR 32.46 FEET; THENCE S00°15'16"W FOR 33.22 FEET; THENCE S02°54'59"E FOR 41.76 FEET; THENCE S05°33'47"E FOR 20.06 FEET; THENCE S04°58'18"W FOR 21.97 FEET; THENCE S10°08'12"E FOR 44.52 FEET; THENCE S10°11'30"E FOR 38.10 FEET; THENCE S10°23'28"W FOR 25.83 FEET; THENCE S19°08'50"W FOR 14.76 FEET; THENCE S24°49'49"W FOR 36.56 FEET; THENCE S40°33'36"W FOR 47.72 FEET; THENCE S50°43'31"W FOR 35.49 FEET; THENCE N88°17'57"W FOR 17.79 FEET; THENCE N15°16'20"W FOR 10.35 FEET TO THE POINT OF TERMINATION OF SAID MEAN HIGH WATER LINE AND THE POINT OF BEGINNING OF THE SEAWARD FACE OF THE EXISTING CONCRETE BULKHEAD AND DECK (THE "CONCRETE BULKHEAD"); THENCE ALONG SAID SEAWARD FACE OF THE EXISTING CONCRETE BULKHEAD FOR THE FOLLOWING COURSES; THENCE N58°16'29"W FOR 14.50 FEET; THENCE N29°23'51"E FOR 5.83 FEET; THENCE N13°52'25"E FOR 132.35 FEET; THENCE N13°57'48"E FOR 27.26 FEET; THENCE N12°52'38"W FOR 278.80 FEET; THENCE S76°32'34"W FOR 104.89 FEET; THENCE S14°48'35"E FOR 56.54 FEET; THENCE S14°55'30"E FOR 134.19 FEET; THENCE S15°23'33"E FOR 86.40 FEET; THENCE S11°55'03"E FOR 53.67 FEET; THENCE S19°15'17"W FOR 71.66 FEET; THENCE N89°00'35"W FOR 102.89 FEET; THENCE N09°48'48"W FOR 58.93 FEET; THENCE N06°14'41"W FOR 19.69 FEET; THENCE N08°50'18"W FOR 220.57 FEET; THENCE N20°41'32"W FOR 140.25 FEET; THENCE S71°57'51"W FOR 14.23 FEET; THENCE N17°46'11"W FOR 137.53 FEET; THENCE N00°44'24"E FOR 4.75 FEET; THENCE N88°43'37"W FOR 27.01 FEET; THENCE S81°58'51"W FOR 12.84 FEET; THENCE N82°13'13"W FOR 31.76 FEET; THENCE N29°16'57"W FOR 3.74 FEET; THENCE N11°08'15"W FOR 14.87 FEET; THENCE N82°23'05"W FOR 1.81 FEET; THENCE N09°11'52"W FOR 35.43 FEET; THENCE N11°16'04"W FOR 27.36 FEET; THENCE N56°39'22"W FOR 7.86 FEET; THENCE S79°39'13"W FOR 14.49 FEET; THENCE N63°19'24"W FOR 4.76 FEET; THENCE N25°52'51"W FOR 14.58 FEET; THENCE N23°39'34"W FOR 35.46 FEET TO THE POINT OF TERMINATION OF SAID SEAWARD FACE OF THE EXISTING CONCRETE BULKHEAD AND THE POINT OF BEGINNING OF THE AFOREMENTIONED MEAN HIGH WATER LINE; THENCE ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING COURSES; THENCE N38°22'20"W FOR 6.01 FEET; THENCE N27°32'42"W FOR 6.90 FEET; THENCE N34°34'33"W FOR 8.60 FEET TO THE POINT OF SAID MEAN HIGH WATER LINE AND A POINT OF INTERSECTION WITH THE SOUTHWESTERLY PROLONGATION OF THE NORTHWESTERLY LINE OF SAID LOT 8 IN BLOCK 1 OF "RIGGS' SUBDIVISION;" THENCE N72°17'09"E ALONG SAID SOUTHERLY

IN BLOCK 1; THENCE S17°42'51"E ALONG THE SOUTHWESTERLY RIGHT OF WAY LINE OF SAID PENINSULA STREET (11TH STREET-OCEAN) FOR 230.99 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION OF PORTION OF RIGHT OF WAY TO BE ABANDONED:

THAT PORTION OF 30.00 FEET WIDE RIGHT OF WAY OF PENINSULA STREET (11TH STREET-OCEAN) HERETOFORE TO BE ABANDONED AND OR VACATED. SAID PORTION OF RIGHT OF WAY LYING AND BEING IN SECTION 8, IN TOWNSHIP 66 SOUTH, RANGE 32, EAST, CITY OF MARATHON, MONROE COUNTY, FLORIDA AND AS SHOWN ON THE PLAT OF "RIGGS SUBDIVISION," ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 68, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF LOT 10 IN BLOCK 1 OF SAID PLAT OF "RIGGS' SUBDIVISION;" THENCE N89°36'05"E ALONG THE SOUTH LINE OF SAID SECTION 8 FOR 31.42 FEET TO THE SOUTHWEST CORNER OF LOT 10 IN BLOCK 2 OF "RIGGS' SUBDIVISION;" THENCE N17°42'51"W ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF PENINSULA STREET (11TH STREET-OCEAN) FOR 180.34 FEET; THENCE S72°17'09"W FOR 30.00 FEET TO THE SOUTHWESTERLY RIGHT OF WAY OF PENINSULA STREET (11TH STREET-OCEAN); THENCE S17°42'51"E ALONG SAID SOUTHWESTERLY RIGHT OF WAY A DISTANCE OF 171.01 FEET TO THE POINT OF BEGINNING.

ABANDONED PORTION CONTAINING 5269.26 SQUARE FEET.

CERTIFIED TO: WATERS EDGE MARINA, LLC

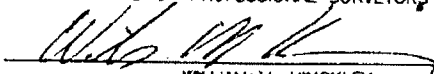
NOTES:

- 1) MEASURED BEARINGS ARE BASED ON THE CENTERLINE OF PENINSULA STREET BEING N17°42'51"W (DEED)
- 2) THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE POLICY AND MAY BE SUBJECT TO EASEMENTS, RIGHT-OF-WAYS, RESTRICTIONS AND OTHER MATTERS OF RECORD.
- 3) NO UNDERGROUND ENCROACHMENTS OR IMPROVEMENTS WERE LOCATED UNLESS OTHERWISE STATED.
- 4) ELEVATIONS (IF SHOWN) ARE BASED ON N.G.V.D. 1929 (NATIONAL GEODETIC VERTICAL DATUM 1929).
- 5) SUBJECT PROPERTY APPEARS TO BE IN ZONES VE (EL 9) AND ZONE VE (EL 11) AS SCALED ON THE "FLOOD INSURANCE RATE MAP" COMMUNITY PANEL NO. 120681 1378 K, DATE OF INDEX 2/18/05.
- 6) PRINTED DIMENSIONS SHOWN SUPERSEDE SCALED DIMENSIONS.
- 7) USE OF THIS SURVEY BY ANYONE OTHER THAN THOSE "CERTIFIED TO" WILL BE THE RE-USERS SOLE RISK WITHOUT LIABILITY TO THE SURVEYOR.
- 8) NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA PROFESSIONAL SURVEYOR AND MAPPER.
- 9) THIS SURVEY IS NOT INTENDED TO SHOW THE LOCATION OR EXISTENCE OF ANY JURISDICTIONAL, HAZARDOUS OR ENVIRONMENTALLY SENSITIVE AREAS.

LEGEND:

A	ARC LENGTH	(D)	DEED DATA	FCIR	FOUND CAPPED IRON ROD (SIZE)	WM	WATER METER
ASPH	ASPHALT	DRAIN	DRAINAGE	FN	FOUND NAIL	OW	OBSERVATION WELL
CH	CHORD LENGTH	EASMT	EASEMENT	FND	FOUND NAIL & DISK (MARKED)	(P)	PLAT DATA
(C)	CALCULATED	(M)	FIELD MEASURED DATA	GA	GUY ANCHOR	P	PLANTER
CB	CHORD BEARING	FCM	FOUND CONCRETE MONUMENT	LB	LICENSED BUSINESS	R	RADIUS
CS	CONCRETE SLAB	FW	FIRE WELL	LP	LIGHT POLE	R/W	RIGHT-OF-WAY
CLF	CHAIN LINK FENCE	F/C	FENCE CORNER	MAS	MASONRY	SIR	SET IRON ROD 5/8" PSM#5772
CONC	CONCRETE	FCP	FOUND CAPPED PIPE (SIZE)	MH	MANHOLE	SN&D	SET NAIL AND DISK PSM#5772
CPP	CONCRETE POWER POLE	FIR	FOUND IRON ROD (SIZE)	PP	POWER POLE	WV	WATER VALVE

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND THAT SAID SURVEY REPRESENTED HEREON MEETS THE TECHNICAL STANDARD SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS ACCORDING TO CHAPTER 61G17-6 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.


 WILLIAM M. HINCKLEY
 PROFESSIONAL SURVEYOR AND MAPPER NO. 5772
 STATE OF FLORIDA

PAGE 2 OF 2
 NOT COMPLETE WITHOUT PAGE 1 OF 2

TYPE OF SURVEY	DATE	WILLIAM M. HINCKLEY PROFESSIONAL SURVEYOR AND MAPPER P.O. BOX 1587 ISLAMORADA, FLORIDA 33038 PHONE (305) 853-7034 EMAIL: bill_hinckley@yahoo.com
SPECIFIC PURPOSE	9/24/10	

MONROE COUNTY
 OFFICIAL RECORDS

Doc# 1846374
 Bk# 2529 Pg# 222

THIS INSTRUMENT WAS PREPARED BY, RECORD AND RETURN TO:

Robert E. Gallagher, Jr., Esq.
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.,
150 West Flagler St., Suite 2200
Miami, FL 33130

Doc# 1822679 02/02/2011 11:41AM
Filed & Recorded in Official Records of
MONROE COUNTY DANNY L. KOLHAGE

02/02/2011 11:41AM
DEED DOC STAMP CL: JD \$0.70

Doc# 1822679
Bk# 2503 Pg# 138

DECLARATION OF NON-EXCLUSIVE IRREVOCABLE EASEMENT

[Water's Edge Marina]

THE PARTIES

This Declaration of a Non-Exclusive Irrevocable Easement (the "Declaration") is made and entered into as of January __, 2011 by and between Water's Edge Marina, LLC, a Florida limited liability company, its successors and assigns (the "Grantor"), having an address of 1021 11th Street, Ocean, Marathon, Florida 33050 and the City of Marathon, a Florida municipal corporation, its successors and assigns, having an address of 9805 Overseas Highway Marathon, Florida 33050 (the "Grantee").

RECITALS

A. The Grantor is the owner in fee simple of those certain parcels of real property more particularly described in Exhibit "A" attached hereto and made a material part hereof which are referred to as Easement 1 and Easement 2 (collectively, the "Easement Parcel").

B. The Grantor acknowledges the need for the Grantee to have the use of the Easement Parcel as a result of the Grantee having abandoned a portion of Peninsula Street (AKA 11th Street, Ocean) located southerly from the Easement Parcel to create a cul-de-sac turnaround on both sides of the terminus of Peninsula Street and for such other purposes as may reasonably be required by the Grantee for the Easement Parcel.

CONSIDERATION

NOW, THEREFORE, in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following grants, agreements, covenants and restrictions are made:

GRANT, TERMS, AGREEMENTS, COVENANTS AND CONDITIONS

1. Grant of Easement. Grantor hereby grants and conveys to Grantee and its successors and assigns and unto the Grantee's servants, agents, employees, guests, licensees, a perpetual non-exclusive easement over, across and under the Easement Parcel with full right of

ingress and egress thereto. The easement herein granted is an easement appurtenant and is for the purpose of ingress and egress for persons, motor vehicles, emergency vehicles, trucks, bikes, buses, motorcycles and trailers. The Grantee shall have the right but not the obligation from time to time, to install, maintain and replace on and under the Easement Parcel, any utility services and drainage, including but not by limitation, curb, gutter, storm drains as the Grantee deems appropriate. Grantee shall bear all costs of installation, maintenance, repair and replacement of the referenced items, unless the requirement to maintain, repair or replacement resulted from or is related to the Grantor's actions.

2. Grantor's Responsibilities. Grantor shall provide the Easement Parcel to the Grantee free and clear of any obstruction and Grantor shall not construct, place or allow the placing or construction of any obstruction which will interfere with the Grantee's use of the Easement Parcel as granted hereunder. Other than Grantee's obligations to bear the costs of installation, repair and maintain the items, as set forth and as limited in Section 1 above, the Grantor is solely responsible for all other expenses arising from or related to the Easement Parcel.

3. Excluded From Grant. This Grant of Easement made in the Declaration does not permit parking on the Easement Parcel or for the Grantee to construct an obstruction within the Easement Parcel which would unreasonably block the Grantor's access to its land adjacent to the Easement Parcel.

4. No Public Dedication. Nothing contained in this grant of easement shall, in any way, be deemed or constitute a gift of or dedication of any portion of the Easement Parcel to the general public or for the benefit of the general public whatsoever, it being the intention of the parties hereto that this grant of easement shall be limited to and utilized for the purposes expressed herein and only for the benefit of the persons herein named.

5. Enforcement. The terms and conditions of this Declaration shall run with the Easement Parcel and shall inure to the benefit of and be enforceable by the Grantee and the Grantor, their respective legal representatives, successors and assigns, and the Grantee and the Grantor, each shall have a right of action to enforce by proceedings at law or in equity all conditions and covenants imposed by the provisions of this Declaration, or any amendment thereto, including the right to prevent the violation of such conditions and covenants and the right to recover actual damages for such violation (but not consequential or punitive damages).

6. Liens. Grantee shall not permit any construction lien or similar lien arising by reason of Grantee's work relating to the Easement Parcel to remain an encumbrance against the Easement Parcel. Grantee may bond over and contest the validity of any such mechanics lien in lieu of payment thereof.

7. No Waiver. Failure by either party to enforce any covenant, condition or restriction contained in this Declaration in any certain instance or on any particular occasion shall not be deemed a waiver of such right on any future breach of the same or any other covenant, condition or restriction.

8. Severability. Invalidation of any one or a portion of these covenants, conditions and restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

9. Attorney's Fees. In the event action is instituted to enforce any of the provisions contained in this Declaration, the prevailing party in such action shall be entitled to recover from the other party thereto reasonable attorney's fees and costs of such suit as determined by the court or by arbitration as part of the judgment.

10. Notices. Any notice hereunder shall be in writing and shall be deemed to have been properly delivered when directed to the addressee as follows:

If to Grantee: City of Marathon
9805 Overseas Highway
Marathon, Florida 33050
Attention: City Manager

With a copy to
Grantee's Attorney: Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street, Ste. 2200
Miami, Florida 33130
Attention: John Herin, Esquire

If to Grantor: Water's Edge Marina, LLC
c/o Water's Edge Property Management, LLC
Its Manager
1021 11th Street, Ocean
Marathon, Florida 33050
Attn: Robert Leef, its Manager

With a copy to
Grantor's Attorney: David P. Kirwan, Esq.
5800 Overseas Highway, Suite 4
Marathon, Florida 33050

Any notice, request, demand, instruction or other communication to be given to either party hereunder, shall be in writing and shall either be (i) hand delivered, or (ii) sent by Federal Express or a comparable overnight mail service. Notice shall be deemed to have been given upon receipt or refusal of delivery of said notice. The addressees and addresses for the purpose of this paragraph may be changed by giving notice. Unless and until such written notice is received, the last addressee and address stated herein shall be deemed to continue in effect for all purposes hereunder.

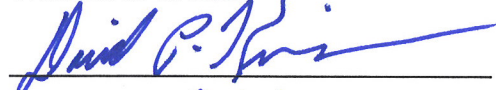
11. Captions. Captions used in this Declaration are for information purposes only and do not alter, modify or add to the terms of this Declaration.

12. Governing Law. This Declaration will be governed and interpreted pursuant to the laws of the State of Florida. Grantor and Grantee, their successors and assigns, shall perform all of their respective obligations under this Declaration in compliance with all applicable laws.

13. Modification/Entire Agreement. This Declaration may be modified only in a writing executed by the parties to this Declaration or their respective successors or assigns. This Declaration constitutes the entire agreement between the parties with respect to the subject matter hereof and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

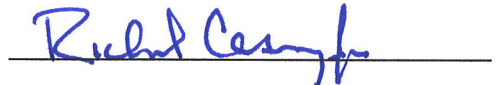
14. Waiver of Jury Trial. Grantor and Grantee hereby knowingly, voluntarily and intentionally, waive trial by jury in any action brought by one against the other in connection with any matter arising out of or in any way connected with this easement agreement. This waiver shall apply to any original claim, counterclaim, cross claim, or other claim of any kind asserted by either party in any such action. Neither party nor any representative of either party, including counsel, has represented to the other that it would not seek to enforce this waiver of right to jury trial in any such action. The parties acknowledge that the provisions of this section are a material inducement to their entering into this easement agreement.

Witness as to Leef:



David P. Kitwan

Print Name



RICHARD CASEY, JR

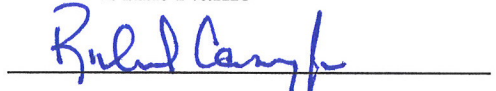
Print Name

Witness as to Sena:



David P. Kitwan

Print Name



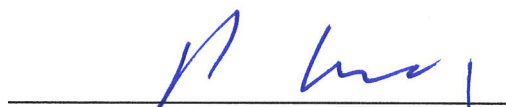
RICHARD CASEY, JR

Print Name

As to the Grantor

Water's Edge Marina, LLC

By: Water's Edge Property Management,
LLC,
Its Manager



By: Robert Leef, Manager



By: Phillip G. Sena, Manager

Diane Clavier

Diane Clavier

Print Name

Donna M. Cofano

Donna M. Cofano

Print Name

As to the Grantee:

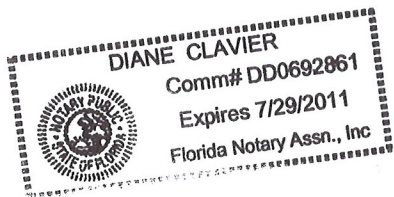
City of Marathon, a Florida municipal corporation

By: [Signature]
Roger T. Hernstadt, City Manager

STATE OF FLORIDA)

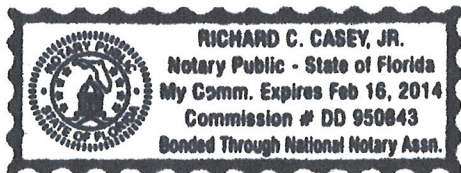
COUNTY OF MONROE)

The foregoing instrument was acknowledged before me this 31 day of January, 2011 by Roger Hemstadt, City Manager of the City of Marathon, a Florida municipal corporation, on behalf of the City, who is either personally known to me or produced a _____ as identification.



[Signature]
Notary Public
State of Florida at Large
My Commission Expires: 7-29-11

The foregoing instrument was acknowledged before me this 31st day of January, 2011 by Robert Leef and Phillip G. Sena who produced their drivers licenses as identification.



[Signature]
Notary Public
State of Florida at Large
My Commission Expires:

EXHIBIT "A"
EASEMENT PARCEL

Doc# 1822679
Bk# 2503 Pg# 143

SKETCH AND DESCRIPTION:

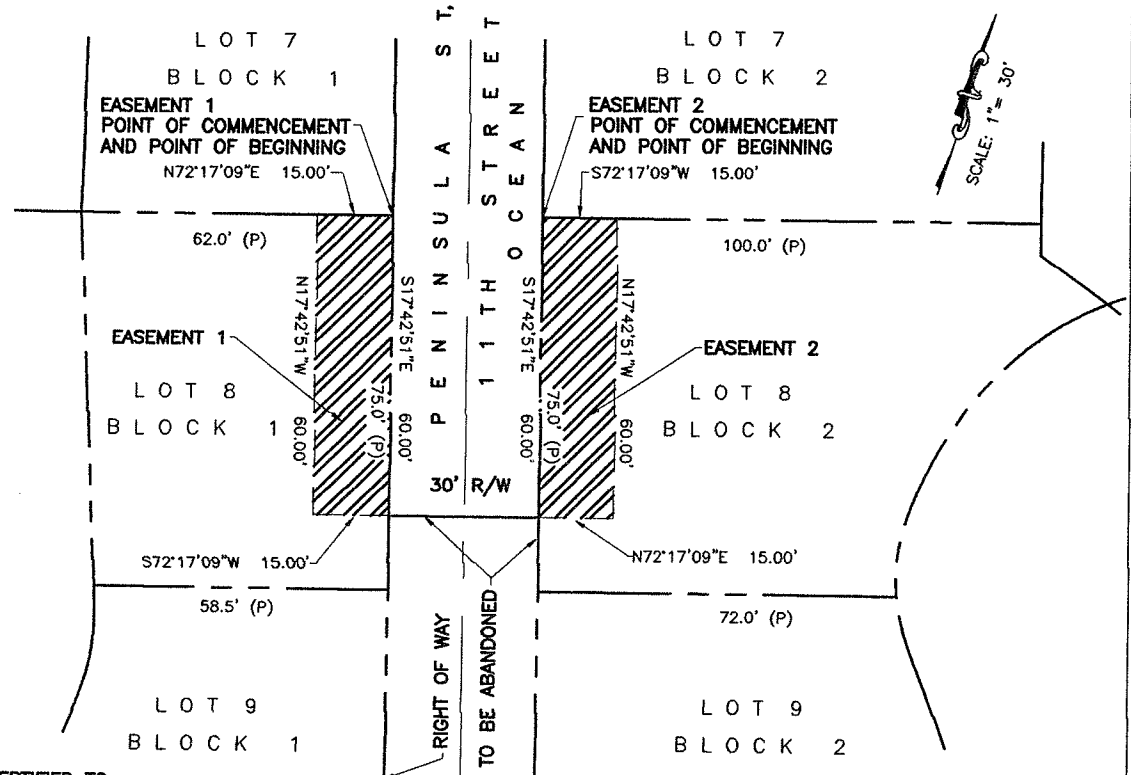
DESCRIPTION:

EASEMENT 1

A 15 FEET BY 60 FEET EASEMENT BEING A PORTION OF LOT 8, BLOCK 1, "RIGGS SUBDIVISION" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 68 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA TO BE USED FOR ROADWAY PURPOSES AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AND BEGINNING AT THE NORTHEASTLY CORNER OF SAID LOT 8, BLOCK 1; THENCE S17°42'51"E ALONG THE SOUTHWESTERLY RIGHT OF WAY LINE OF PENINSULA STREET (11TH STREET-OCEAN) A DISTANCE OF 60.00 FEET; THENCE S72°17'09"W FOR A DISTANCE OF 15.00 FEET; THENCE N17°42'51"W A DISTANCE OF 60.00 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 8, BLOCK 1; THENCE N72°17'09"E A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING.

AND EASEMENT 2

A 15 FEET BY 60 FEET EASEMENT BEING A PORTION OF LOT 8, BLOCK 2, "RIGGS SUBDIVISION" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, AT PAGE 68 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA TO BE USED FOR ROADWAY PURPOSES AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AND BEGINNING AT THE NORTHWESTLY CORNER OF SAID LOT 8, BLOCK 2; THENCE S17°42'51"E ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF PENINSULA STREET (11TH STREET-OCEAN) A DISTANCE OF 60.00 FEET; THENCE N72°17'09"E FOR A DISTANCE OF 15.00 FEET; THENCE N17°42'51"W A DISTANCE OF 60.00 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 8, BLOCK 2; THENCE S72°17'09"W A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING.



CERTIFIED TO:
WATERS EDGE MARINA, LLC,
THE CITY OF MARATHON, A FLORIDA MUNICIPAL CORPORATION AND
STEARNS, WEAVER, MILLER, WEISSLER,
ALHADEFF & SITTERSON, P.A.

SKETCH

MONROE COUNTY OFFICIAL RECORDS

NOTES:

- 1) MEASURED BEARINGS ARE BASED ON THE CENTERLINE OF PENINSULA STREET BEING N17°42'51"W (DEED)
- 2) THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE POLICY AND MAY BE SUBJECT TO EASEMENTS, RIGHT-OF-WAYS, RESTRICTIONS AND OTHER MATTERS OF RECORD.
- 3) NO UNDERGROUND ENCROACHMENTS OR IMPROVEMENTS WERE LOCATED UNLESS OTHERWISE STATED.
- 4) ELEVATIONS (IF SHOWN) ARE BASED ON N.G.V.D. 1929 (NATIONAL GEODETIC VERTICAL DATUM 1929).
- 5) SUBJECT PROPERTY APPEARS TO BE IN ZONES VE (EL 9) AND ZONE VE (EL 11) AS SCALED ON THE "FLOOD INSURANCE RATE MAP" COMMUNITY PANEL NO. 120681 1378 K, DATE OF INDEX 2/18/05.
- 6) PRINTED DIMENSIONS SHOWN SUPERSEDE SCALED DIMENSIONS.
- 7) USE OF THIS SURVEY BY ANYONE OTHER THAN THOSE "CERTIFIED TO" WILL BE THE RE-USERS SOLE RISK WITHOUT LIABILITY TO THE SURVEYOR.
- 8) NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA PROFESSIONAL SURVEYOR AND MAPPER.
- 9) THIS SURVEY IS NOT INTENDED TO SHOW THE LOCATION OR EXISTENCE OF ANY JURISDICTIONAL, HAZARDOUS OR ENVIRONMENTALLY SENSITIVE AREAS.

LEGEND:

A	ARC LENGTH	(D)	DEED DATA	FCIR	FOUND CAPPED IRON ROD (SIZE)	WM	WATER METER
ASPH	ASPHALT	DR	DRAIN	FN	FOUND NAIL	PC	POINT OF CURVE
CH	CHORD LENGTH	EASMT	EASEMENT	FN&D	FOUND NAIL & DISK (MARKED)	(P)	PLAT DATA
(C)	CALCULATED	(M)	FIELD MEASURED DATA	FPP	FOUND PINCHED PIPE (SIZE)	(R)	RADIAL
CB	CHORD BEARING	FCM	FOUND CONCRETE MONUMENT	LB	LICENSED BUSINESS	R	RADIUS
CBS	CONCRETE BLOCK STRUCTURE	FDH	FOUND DRILL HOLE	LS	LICENSED SURVEYOR	R/W	RIGHT-OF-WAY
CLF	CHAIN LINK FENCE	FIP	FOUND OPEN PIPE (SIZE)	MAS	MASONRY	SIR	SET IRON ROD 5/8" PSM#5772
CONC	CONCRETE	FCIP	FOUND CAPPED PIPE (SIZE)	MB	MAIL BOX	SN&D	SET NAIL AND DISK PSM#5772
CS	CONCRETE SLAB	FIR	FOUND IRON ROD (SIZE)	PP	POWER POLE	(W)	WITNESS CORNER

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND THAT SAID SURVEY REPRESENTED HEREON MEETS THE TECHNICAL STANDARD SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS ACCORDING TO CHAPTER 61G17-6 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

William M. Hinckley
WILLIAM M. HINCKLEY
PROFESSIONAL SURVEYOR AND MAPPER NO. 5772
STATE OF FLORIDA

TYPE OF SURVEY	DATE
BOUNDARY	9/24/10
ADDED CERTIFICATIONS	01/14/11

WILLIAM M. HINCKLEY
PROFESSIONAL SURVEYOR AND MAPPER
P.O. BOX 1567
ISLAMORADA, FLORIDA 33036
EMAIL: bill_hinckley@yahoo.com