

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2011-96**

**A RESOLUTION OF THE CITY OF MARATHON, FLORIDA, APPROVING A MEDIATED SETTLEMENT AGREEMENT BETWEEN THE GREAT MARATHON REAL ESTATE COMPANY, INC. AND THE CITY; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE MEDIATED SETTLEMENT AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, The Great Marathon Real Estate Company, Inc. (“GMREC”) filed suit against the City of Marathon, Florida (the “City”) in an action styled *The Great Marathon Real Estate Co., Inc., vs. City of Marathon*; Case No. 2009-CA-1-M, (the “Litigation”); and

**WHEREAS**, the Litigation involves a claim of inverse condemnation of GMREC’s access rights arising from the City’s closure of the Boot Key Bridge in lieu of the City condemning the access rights in accordance with Florida law; and

**WHEREAS**, the City disputes the allegations and the issues raised in the Litigation; and

**WHEREAS**, on September 10, 2011, the City and GMREC engaged in Court ordered mediation in an attempt to settle the Litigation; and

**WHEREAS**, the City and GMREC wish to avoid the expense, delay, and uncertainty of lengthy litigation and to resolve this Litigation under the terms of a Mediated Settlement Agreement (the “Mediated Settlement Agreement”), whereby the City will acquire GMREC access rights in lieu of the Litigation or the City condemning the access rights in accordance with Florida law; and

**WHEREAS**, the City and GMREC agree it is in their respective mutual best interests to do so.

**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.

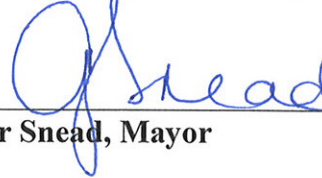
**Section 2.** The Mediated Settlement Agreement between the City and GMREC, a copy of which is attached as Exhibit “A”, is hereby approved.

**Section 3.** The appropriate City officials, including the Mayor, City Manager or designee, City Attorney, and Special Counsel are authorized to execute and deliver all documents and take all actions necessary to implement the terms and conditions of the Mediated Settlement Agreement.

**Section 4.** This resolution shall take effect immediately upon its adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 27<sup>th</sup> DAY OF SEPTEMBER, 2011.**

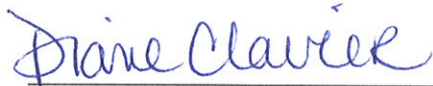
THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

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

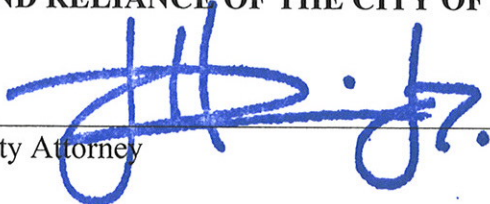
**ATTEST:**



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

IN THE CIRCUIT COURT OF THE 16<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
MONROE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 2009-CA-1-M

THE GREAT MARATHON REAL ESTATE  
CO., INC., a Florida corporation,

Plaintiff,

v.

CITY OF MARATHON,

Defendant.

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**MEDIATED SETTLEMENT AGREEMENT**

At the Mediation Conference held on September 10, 2011, the parties reached the following Settlement Agreement:

1. Subject to approval of the City of Marathon City Council at its meeting on September 27, 2011, the City will pay to Plaintiff, The Great Marathon Real Estate Co., Inc., the sum of \$3,000,000.00, in full settlement of all claims for compensation and damages in this action from Defendant, City of Marathon, whatsoever, including statutory interest, and any and all attorneys' fees, expert fees and costs. The City will adopt a resolution recognizing that this payment is in lieu of condemnation for the acquisition of the vehicular access rights to the Plaintiff's property.

2. Within thirty days of approval of this Mediated Settlement Agreement and adoption of the above resolution by the City Council, the City will pay the amount to the Brigham Moore, LLP Trust Account, c/o Amy Boulris.

3. Upon payment of the amounts set forth above, the Plaintiff will also execute a Release in favor of the City, releasing the City from any and all claims asserted or which could have been asserted in this case.

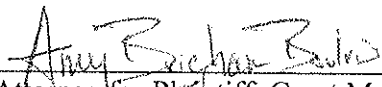
4. Upon payment of the amounts set forth above, the Plaintiff will also file a Voluntary Dismissal with Prejudice.

5. The Court will retain jurisdiction to enforce the terms and conditions of this Agreement.

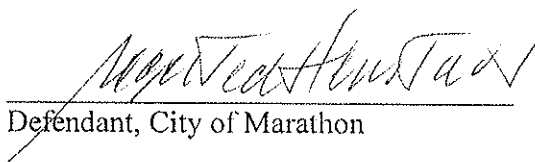
6. This Agreement, dated September 10, 2011, contains all of the agreements of the parties.



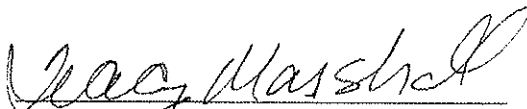
Plaintiff, Great Marathon Real Estate  
Company, Inc.



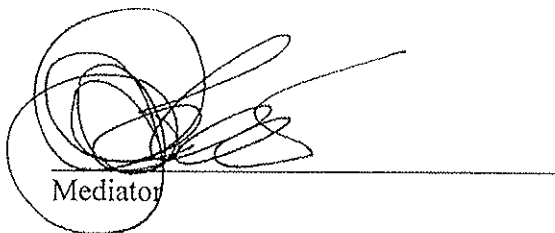
Attorney for Plaintiff, Great Marathon  
Real Estate Company, Inc.



Defendant, City of Marathon



Attorney for Defendant, City of  
Marathon



Mediator