

**CITY OF MARATHON, FLORIDA
RESOLUTION NO. 2012-57**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, NOMINATING PROPERTY FOR PURCHASE BY THE MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY AS CONSERVATION LAND; REQUESTING THAT TITLE TO THE PROPERTY BE TRANSFERRED TO THE CITY AFTER ACQUISITION; AUTHORIZING THE MAYOR TO SIGN A CONSERVATION EASEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Lots 10 and 11, Block 30; Lot 5, Block 37; Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and the northwesterly 4 feet of Lots 1 and 14, Block 44; and Lots 1, 2, 15, and 16, Block 51, Crains, according to the plat thereof as recorded in Plat Book 1, Page 51 of the Public Records of Monroe County, Florida (the "Property") consist of environmentally sensitive land located within the City's boundary; and

WHEREAS, purchase of the Property as conservation land is consistent with the policies of the City's Comprehensive Plan and Land Development Regulations; and

WHEREAS, the owners have agreed to sell the subject property to the Monroe County Comprehensive Plan Land Authority (the "Land Authority"); and

WHEREAS, the City requests that the Land Authority transfer title to the Property to the City upon acquisition so that the City can maintain the Property for conservation purposes.

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.

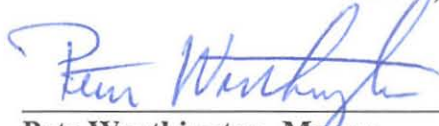
Section 2. The City Council hereby nominates the Property for purchase by the Land Authority as conservation land. Upon the Land Authority's purchase of the Property, the City Council hereby requests that the Land Authority transfer title to the Property to the City of Marathon.

Section 3. The Mayor is hereby authorized to execute the Conservation Easement in favor of the Land Authority set forth in Exhibit "A" attached hereto and incorporated herein upon transfer of title of the Property from the Land Authority to the City.

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

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, THIS 12th DAY OF June, 2012.

THE CITY OF MARATHON, FLORIDA



Pete Worthington, Mayor

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

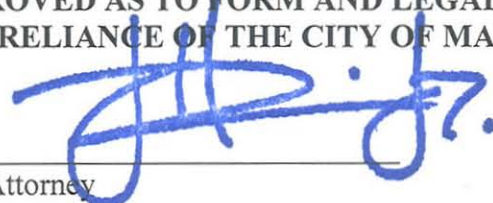
ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney

Exhibit "A"

THIS INSTRUMENT PREPARED BY AND RETURN TO:
Larry R. Erskine, Esq.
1200 Truman Avenue, Suite 207
Key West, FL 33040

Doc# 1900475
Bk# 2590 Pg# 1249

Property Appraiser's Parcel Identification (Folio) Number:
00370090-000000, 00370100-000000, 00371200-000000,
00372260-000000 through 00372390-000000, 00373340-000000, 00373350-000000,
00373480-000000, and 00373490-000000

SPACE ABOVE THIS LINE FOR RECORDING DATA

GRANT OF CONSERVATION EASEMENT

THIS GRANT OF EASEMENT is made on this 24~~th~~ day of September, 2012, by **The City of Marathon, Florida** of 9805 Overseas Highway, Marathon, Florida 33050, Grantor, to **Monroe County Comprehensive Plan Land Authority**, a land authority under Section 380.0663 (1), Florida Statutes and Monroe County Ordinance No. 031-1986, whose address is 1200 Truman Avenue, Suite 207, Key West, Florida 33040, as Grantee.

A) The Grantor is the owner of certain real property (the servient estate) located in Monroe County, Florida, more particularly described as Lots 10 and 11, Square 30; Lot 5, Square 37; Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and the northwesterly 4 feet of Lots 1 and 14, Square 44; and Lots 1, 2, 15, and 16, Square 51, Crains, according to the plat thereof as recorded in Plat Book 1, Page 51 of the Public Records of Monroe County, Florida.

B) This easement is a conservation easement created pursuant to Section 704.06, Florida Statutes, and is to be governed by, construed, and enforced in accordance with that statute along with applicable laws of the State of Florida.

1. *Grant of easement.*

In consideration for the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt of which is hereby acknowledged, the Grantor hereby grants to Grantee the easement described below.

2. *Easement area.*

The location of the easement area on the servient estate is as follows: Lots 10 and 11, Square 30; Lot 5, Square 37; Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and the northwesterly 4 feet of Lots 1 and 14, Square 44; and Lots 1, 2, 15, and 16, Square 51, Crains, according to the plat thereof as recorded in Plat Book 1, Page 51 of the Public Records of Monroe County, Florida.

3. *Baseline conditions within easement area.*

The Grantor acknowledges as of the date of this instrument the easement area is undeveloped upland, wetland, and submerged land forested with tropical hardwood hammock, buttonwood, salt marsh, and mangrove vegetation with no clearing, development, or structures of any kind.

4. *Restraints imposed by the conservation easement.*

The conservation easement granted by this instrument prohibits the following within the easement area:

- a) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground.
- b) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.
- c) Removal or destruction of trees, shrubs, or other vegetation except non-native vegetation whose removal is authorized by the Grantee.
- d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.
- e) Surface use except for purposes that permit the land or water area to remain predominately in its natural condition.
- f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation; specifically no suffering, permitting, or allowing invasive exotic species of animals or plants to exist.
- g) Acts or uses detrimental to such retention of land or water areas.
- h) Transfer of development rights to or from the easement area.

5. *Terms and persons bound.*

This conservation easement is perpetual, runs with the land and is binding on all present and subsequent owners and mortgagees of the servient estate. Grantor represents that the mortgagee(s), if any, whose consent is attached hereto, is (are) the only mortgagee(s) having a security interest in the servient estate.

6. *Modification of easement.*

No modification of this easement is binding unless evidenced in writing and signed by an authorized representative of the Grantee.

7. *Attorney's fees.*

In the event of any controversy, claim or dispute arising under this instrument, the prevailing party shall be entitled to recover reasonable attorney's fees and costs, including appeals.

8. *Entry of Grantee's representative on the servient estate.*

The Grantee may enter upon the servient estate, after first furnishing the Grantor no less than 24 hours notice, for the purpose of inspection to determine the Grantor's compliance with this Grant of Easement.

9. *Limitation on Liability for Personal Injury or Injury to Property.*

The Grantor waives any rights the Grantor may have to bring a claim against Grantee for personal injury or injury to property that is caused by the negligent action or inaction of Grantee or an employee or agent of Grantee during the course of Grantee's activity related to this Grant of Easement. To the extent allowed by law, the Grantor is liable for and must fully defend, release, discharge, indemnify and hold harmless the Grantee, its officers and employees, agents and contractors, from and against any and all claims, demands, causes of action, losses, costs and expenses of whatever type – including investigation and witness costs and expenses and attorneys' fees and costs - that arise out of or are attributable to the Grantor's operations on the premises except for those claims, demands, damages, liabilities, actions, causes of action, losses, costs and expenses that are the result of the sole negligence of the Grantee. Grantor and Grantee do not waive any of their sovereign immunity rights, including, but not limited to, those expressed in Section 768.28, Florida Statutes.

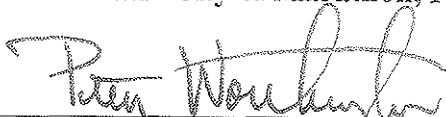
10. Notice.

Any notice provided for or concerning this grant of easement must be in writing and is sufficiently given when sent by certified or registered mail, or via an equivalent service furnished by a private carrier, to the respective address of each party as set forth at the beginning of this Grant of Easement.

IN WITNESS WHEREOF, Grantor grants the Conservation Easement above and executes this instrument on the date first above written.

Grantor: The City of Marathon, Florida


Witness #1 Signature


By: Pete Worthington, Mayor


Roger T. Hemstadt
Witness #1 Printed Name


Witness #2 Signature

Diane Clavier
Witness #2 Printed Name

IN WITNESS WHEREOF, Grantee accepts the Conservation Easement granted above and executes this instrument.

Grantee: Monroe County Comprehensive
Plan Land Authority


Witness #1 Signature


By: Kim Wigington, Chairman

MARK J. ROSCH
Witness #1 Printed Name


Witness #2 Signature

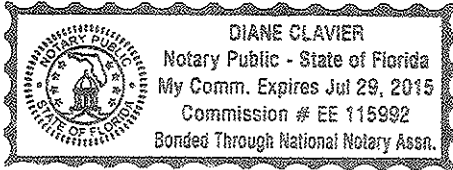
Doc# 1900475
Bk# 2590 Pg# 1251

SANDRA ALBERTUS
Witness #2 Printed Name

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 13 day of June, 2012, by
Pete Worthington, Mayor of The City of Marathon, Florida who is personally known to me or has produced
_____ as identification.

SEAL



Diane Clavier

Signature of Notary Public

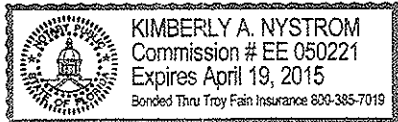
My Commission Expires:

Printed Name of Notary Public

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 24th day of September, 2012, by
Kim Wigington, Chairman of the Monroe County Comprehensive Plan Land Authority who is personally
known to me or has produced _____ as identification.

SEAL



Kimberly A. Nystrom

Signature of Notary Public

My Commission Expires: April 19, 2015

Kimberly A. Nystrom
Printed Name of Notary Public

Doc# 1900475
Bk# 2590 Pg# 1252

Doc# 1900475
Bk# 2590 Pg# 1247

THIS INSTRUMENT PREPARED BY AND RETURN TO:

Larry R. Erskine, Esq.
1200 Truman Avenue, Suite 207
Key West, Florida 33040

Property Appraisers Parcel Identification (Folio) Number: 00370090-000000; 00370100-000000; 00371200-000000; 00372260-000000; 00372270-000000; 00372280-000000; 00372290-000000; 00372300-000000; 00372310-000000; 00372320-000000; 00372330-000000; 00372340-000000; 00372350-000000; 00372360-000000; 00372370-000000; 00372380-000000; 00372390-000000; 00373340-000000; 00373350-000000; 00373480-000000; 00373490-000000

SPACE ABOVE THIS LINE FOR RECORDING DATA

THIS WARRANTY DEED, made the 24 day of September, 2012, by **Monroe County Comprehensive Plan Land Authority**, a land authority under section 380.0663(1), Florida Statutes, and Monroe County Ordinance No. 031-1986, whose post office address is 1200 Truman Ave., Suite 207, Key West, FL 33040 herein called the Grantor, to **The City of Marathon, Florida**, a municipal corporation, whose post office address is 9805 Overseas Highway, FL 33050, hereinafter called the Grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That the grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee all that certain land situate in MONROE County, State of Florida, viz.:

Lots 10 and 11, Square 30; Lot 5, Square 37; Lots 2 through 13, inclusive, and the northwesterly 4 feet of Lots 1 and 14, Square 44; and Lots 1, 2, 15, and 16, Square 51, all in Crains Subdivision, according to the Plat thereof as recorded in Plat Book 1, page 51, of the Public Records of Monroe County, Florida.

Subject to easements, restrictions and reservations of record and taxes for the year 2012 and thereafter.

SUBJECT TO: Grant of Conservation Easement in favor of Grantor herein, attached hereto as Exhibit "A".

THE PROPERTY CONVEYED HEREIN IS NEITHER THE DOMICILE NOR THE HOMESTEAD OF THE GRANTOR HEREIN NOR HIS/HER SPOUSE NOR ANY OF HIS/HER IMMEDIATE HOUSEHOLD AS DEFINED BY THE LAWS OF THE STATE OF FLORIDA.

TOGETHER, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2011.

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

Signed, sealed and delivered in the presence of:

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 24th day of September, 2012, by Kim Wigington, Chairman of the Monroe County Comprehensive Plan Land Authority, who is personally known to me or has produced _____ as identification.

SEAL



My Commission Expires: **April 19, 2015**

Kimberly A. Nystrom

Notary Public

Kimberly A. Nystrom

Printed Notary Name