

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2014-126**

**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 GRASSY KEY HOLDINGS, LLC AND FLORIDIAN HOLDINGS, LLC TO ABANDON A PORTION OF THE PUBLIC RIGHT-OF-WAY LOCATED AT OCEAN DRIVE ON GRASSY KEY, DESCRIBED AS ADJACENT TO LOTS 1 THROUGH 9, BLOCK 3, AND LOTS 1 THROUGH 4, BLOCK 4, ECSTASY SUBDIVISION, KEY VACCAS, PLAT BOOK 2, PAGE 92, NEAREST MILE MARKER 56.5, 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 ocean drive on grassy key, described as adjacent to Lots 1 through 9, Block 3, and Lots 1 through 4, Block 2, Ecstasy Subdivision, Key Vaccas, Plat Book 2, Page 92, Nearest Mile Marker 56.5, Monroe County, Florida, and as particularly described in the attached survey (Exhibit "A"); and

**WHEREAS**, Grassy Key Holdings, LLC and Floridian Holdings, LLC, 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 within the City's ownership and authority to abandon; and

**WHEREAS**, a public hearing to vacate the Right-of-Way was held on October 14, 2014 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's request meets all of the requirements of Section 26-1 of the City Code for the abandonment of the Right-of-Way.

**WHEREAS**, THE City Council has made the following findings of fact pursuant to Section 26-16 of the Code of the City of Marathon:

- a) The abandonment of this right-of-way will not adversely affect the operations and functions of the City because with a grant of utility easement to continue maintenance of its sewer facilities, City operations within the Ocean Drive Right-Of-Way will not be adversely affected.
- b) Public access to water is possible through this Right-Of-Way on the condition that the Applicant proffers funds to ensure more appropriate ocean access
- c) there will no adverse affect on surrounding traffic circulation or patterns.
- d) The abandonment will not adversely affect a public view corridor.
- e) The applicant and one other owner own all of the property surrounding Ocean Drive. One owner will continue to attain access on this road to his individual residence and will be provided continued access through an access agreement so no other property owner is deprived of access to and from their property.
- f) The proposed abandonment will not interfere with utility services being provided, or unreasonably affect any utility easement on the condition that the approval of the resolution abandoning the right-of-way be subject to the applicant conveying 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.

**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 they and all conditions required of Applicants are hereby incorporated as if fully stated 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 City will convey and the Applicant shall accept and fully maintain the wastewater utilities under the Ocean Drive Right-of Way described in Exhibit "A."
- (2) The Applicant will convey a utility easement to all other utilities on and under the Ocean Drive Right-of Way described in Exhibit "A" as well as execute an release and indemnification to the City from any and all liability that might be incurred from date of the conveyance.
- (3) The Applicant will create a cross access easement guaranteeing access for all purposes to Mr. Duke Martin (RE No. 00358700-000000; Lot 4, Block 3, Ecstasy Subd.) to continue in perpetuity or until a time of mutual dissolution.
- (4) The applicant will assist the City in locating other locations for ocean and recreational access. In this regard, the Applicants shall proffer \$200,000 payable within ninety days from issuance of this resolution payable to the City of Marathon as a contribution to locating other better suited locations for ocean and recreational access which funds shall be deposited into a special trust fund created and earmarked for that purpose.

(5) Said conditions as promulgated above shall be met by the applicant within sixty (60) days of the effective date of this Resolution.

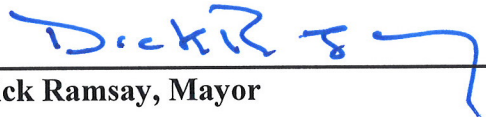
**Section 3.** The City Clerk shall forward a certified copy this Resolution to the Applicant, who shall be responsible for all costs incurred in recording this instrument in the public records of Monroe County, Florida. The Applicant shall provide the City evidence of the recording of this Resolution 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 14<sup>th</sup> day of October, 2014.

**THE CITY OF MARATHON, FLORIDA**

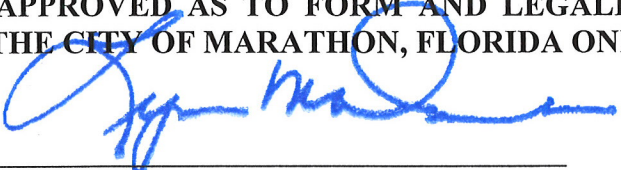
  
\_\_\_\_\_  
Dick Ramsay, Mayor

AYES: Bartus, Bull, Senmartin, Ramsay  
NOES: Keating  
ABSENT: None  
ABSTAIN: None

**ATTEST:**

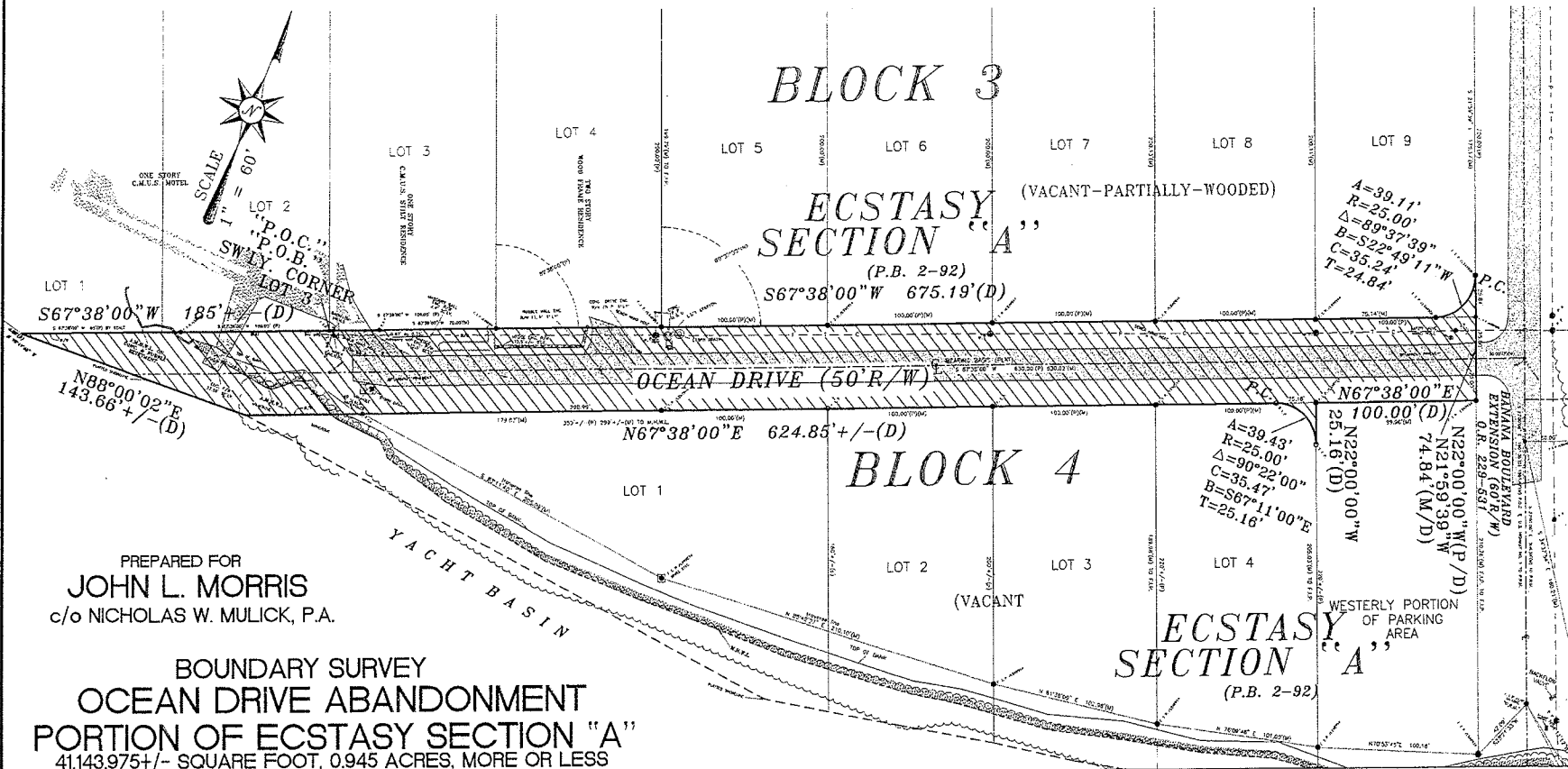
  
\_\_\_\_\_  
Diane Clavier, City Clerk  
(City Seal)

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

  
\_\_\_\_\_  
Lynn Dannheisser, City Attorney

Attachment A  
Copy – Original to be Provided by Applicant to  
Clerk of Court for Recordation

MAP OF BOUNDARY SURVEY FOR LEGAL DESCRIPTION



PREPARED FOR  
**JOHN L. MORRIS**  
c/o NICHOLAS W. MULICK, P.A.

**BOUNDARY SURVEY  
OCEAN DRIVE ABANDONMENT  
PORTION OF ECSTASY SECTION "A"**  
41,143.975+/- SQUARE FOOT, 0.945 ACRES, MORE OR LESS

**LEGEND**

- F.C. = FOUND CONTROL POINT  
406 NAL/PC
- S.C.P. = SET CONTROL POINT  
SS SCREW/DISC#4906
- P.I. = FOUND 3/4" PIPE  
/SIZE/CAP TYPE
- P.I. = SET 3/4" PIPE  
/LS#4906
- R.B. = FOUND 5/8" REBAR  
/SIZE/CAP TYPE
- H.M. = HERMANENT REFERENCE  
MONUMENT
- P.P. = POWER POLE  
/BENCH MARK
- = FOUND CONCRETE MONUMENT

**ABBREVIATIONS**

- ENC. = ENCROACHMENT
  - C.L. = CHAIN LINK FENCE
  - CONC. = CONCRETE
  - R/W = RIGHT-OF-WAY
  - (P) = PLAT
  - (M) = MEASURED
  - (C) = CALCULATED
  - (D) = DEED/DESCRIPTION
  - P.O.C. = POINT OF COMMENCEMENT
  - P.O.B. = POINT OF BEGINNING
  - P.C. = POINT OF CURVE
  - P.I. = POINT OF INTERSECTION
  - P.T. = POINT OF TANGENT
  - CL = CENTERLINE
- P & A = PETSCH AND ASSOCIATES  
P.T.S. = PHILLIPS AND TRICE SURVEYING  
R.M. = REFERENCE MONUMENT  
-P-T-C = AERIAL POWER, TELEPHONE, AND/OR CABLE LINES  
M.H.W.L. = APPROXIMATE MEAN HIGH WATER LINE ACCORDING TO ARMY CORP OF ENGINEERS ESTIMATE
- NOTE: UNDERGROUND ENCROACHMENTS IF ANY ARE NOT LOCATED. ALL ANGLES ARE 90° UNLESS OTHERWISE NOTED.
- CURVE DATA  
A=ARC      B=CHORD BEARING  
R=RADIUS    C=CHORD  
T=TANGENT    Δ=CENTRAL ANGLE
- O.R. = OFFICIAL RECORDS BOOK-PAGE  
P.B. = PLAT BOOK-PAGE  
S.F. = SQUARE FOOT (AREA)

**ABSTRACTOR'S NOTES:**

- 1) LEGAL DESCRIPTION AS FURNISHED BY CLIENT OR THEIR REPRESENTATIVES
- 2) THIS SURVEY IS NOT ASSIGNABLE
- 3) THIS SURVEY SUBJECT TO A TITLE SEARCH
- 4) THIS SURVEY MAP OR COPIES THEREOF ARE NOT VALID WITHOUT SIGNATURE AND THE ORIGINAL RASID SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER
- 5) ADDITIONS OR DELETIONS TO THIS SURVEY MAP BY OTHERS THAN THE SIGNING PARTY IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY.

**LEGAL DESCRIPTION AS FURNISHED BY CLIENT:**

ALL OF BLOCK 3 AND BLOCK 4, AND THE WESTERLY PORTION OF PARCELS THAT ARE DESIGNATED AS "PARKING AREA" LYING WESTERLY OF THE SOUTHERLY EXTENSION OF THE WESTERLY RIGHT-OF-WAY LINE OF BANANA BOULEVARD, AS REFLECTED IN ECSTASY SECTION "A", A SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 92, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

NOT VALID WITHOUT  
SHEETS 1 TO 2 ATTACHED

P.N. 140905 | 05  
SHEET 2 OF 2

THE SURVEY DEPICTED HERE IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE