

**CITY OF MARATHON, FLORIDA
RESOLUTION 2014-127**

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 THOMAS J. HIRCHAK JR., TRUSTEE OF THE THOMAS J. HIRCHAK, JR. REVOCABLE TRUST DATED 2/13/207 TO ABANDON A PORTION OF THE PUBLIC RIGHT-OF-WAY LOCATED AT 2980 DOLPHIN DRIVE, DESCRIBED AS ADJACENT TO LOTS 1 AND 2, BLOCK 4, VENICE SUBDIVISION, KEY VACCAS, PLAT BOOK 3, PAGE 22, NEAREST MILE MARKER 51.5, MONROE COUNTY, FLORIDA; AS LEGALLY DESCRIBED IN EXHIBIT "A"; AS FURTHER NOTED IN AN EASEMENT AGREEMENT IN EXHIBIT "B;" AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there presently exists a certain public right-of-way within the City of Marathon, Florida, located 2980 Dolphin Drive, described as adjacent to Lots 1 and 2, Block 4, Venice subdivision, Key Vaccas, Plat Book 3, Page 22, nearest mile marker 51.5, Monroe County, Florida, and as particularly described in the attached survey (Exhibit "A"); and

WHEREAS, Thomas J. Hirschak, Jr, Trustee of the Thomas J. Hirschak, Jr. Revocable Trust, has 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 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 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.

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.

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.

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 14th day of October, 2014.

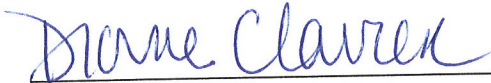
THE CITY OF MARATHON, FLORIDA



Dick Ramsay, Mayor

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

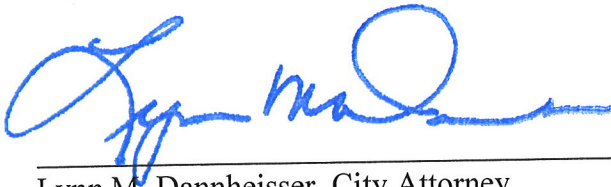
ATTEST:



Diane Clavier, City Clerk

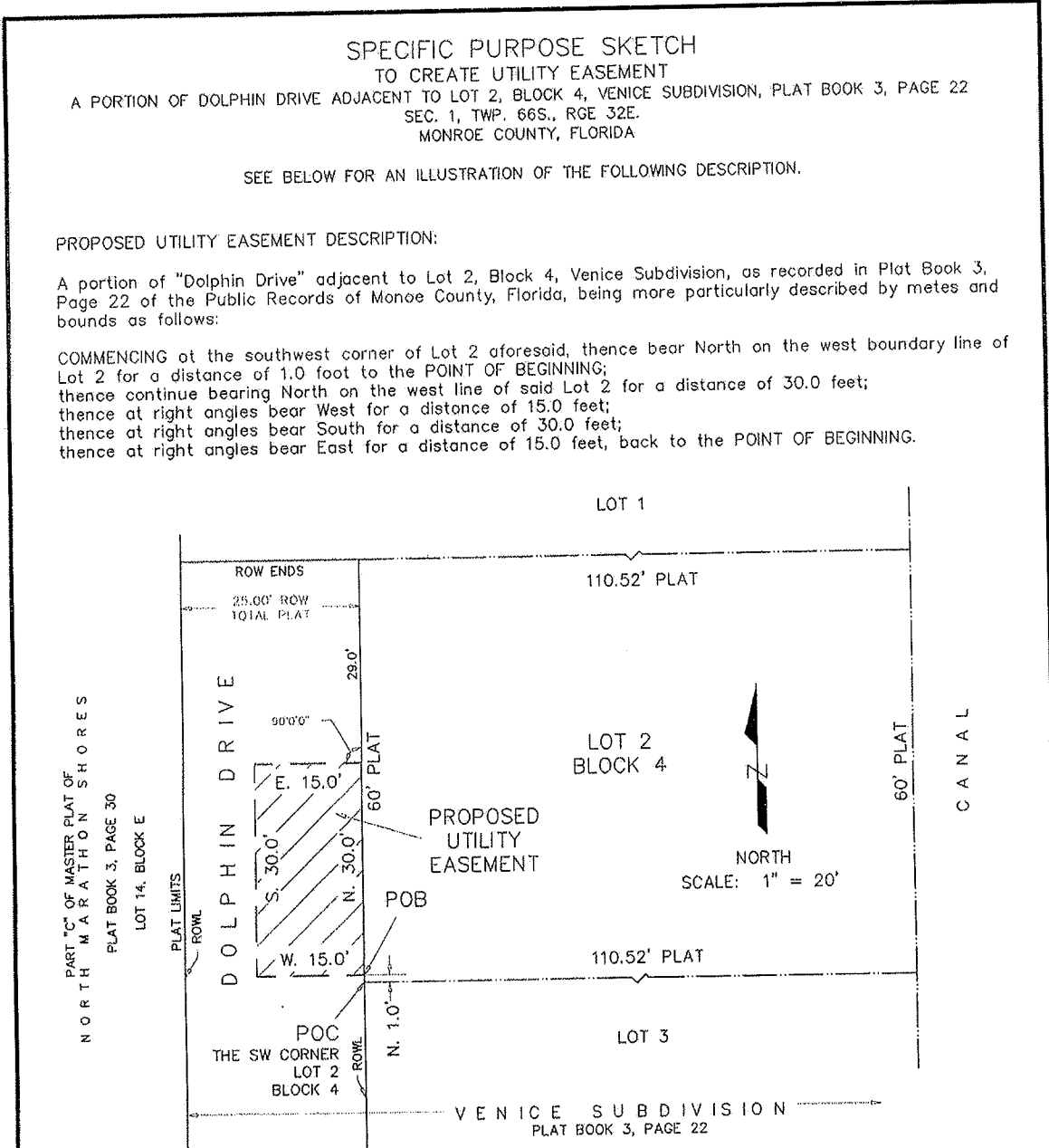
(City Seal)

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



Lynn M. Dannheisser, City Attorney

Exhibit B
 Copy – Original to be Provided by Applicant to
 Clerk of Court for Recordation



LEGEND FOR ABBREVIATIONS:
 POB = POINT OF BEGINNING
 POC = POINT OF COMMENCEMENT
 ROW = RIGHT OF WAY
 ROWL = RIGHT OF WAY LINE

PREPARED FOR: JOHN J. WOLFE, PA
 NOTE: THIS IS NOT A SURVEY.

SCALE:	1"=20'
DATE:	02/04/14
REV. DATE:	N/A
SHEET:	1 OF 1
DRAWN BY:	KB
CHECKED BY:	GF
INVOICE #:	14020401

THE PURPOSE OF THIS SKETCH IS TO ILLUSTRATE THE LEGAL DESCRIPTION NEWLY CREATED ON THIS DATE BY THE UNDERSIGNED AND SHOWN ON HEREON. IT IS NOT A SURVEY OF THE LANDS BEING DESCRIBED HEREIN (See chap. 5J-17 Florida Adm. Code and Chap. 472.027 Florida statutes).

SIGNED 
 ROBERT E. REECE, PSM 5632, PROFESSIONAL SURVEYOR AND MAPPER

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A REGISTERED SURVEYOR AND MAPPER

REECE & WHITE
 LAND SURVEYING, INC.

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 127 INDUSTRIAL ROAD, STE B, BIG PINE KEY, FL 33043
 OFFICE (305) 872 - 1348
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