

CITY OF MARATHON, FLORIDA  
RESOLUTION 2014-46

**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 TIMOTHY AND KATHLEEN O'CONNELL, TO ABANDON A PORTION OF A PUBLIC RIGHT-OF-WAY LOCATED ON OLD STATE ROAD 4A BETWEEN 35<sup>TH</sup> AND 37<sup>TH</sup> ST., DESCRIBE AS ADJACENT TO LOTS 4, 5, 6, 7, 8 AND 9, BLOCK 4, MARATHON BEACH SUBDIVISION, PLAT BOOK 2, PAGE 16, NEAREST MILE MARKER 49, 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 Old State Road 4A between 35<sup>th</sup> and 37<sup>th</sup> St., Described as surrounded by Lots 4, 5, 6, 7, 8, and 9, Block 4, Marathon Beach Subdivision, Plat Book 2, Page 16 and as particularly surveyed (attached); and

**WHEREAS**, Timothy and Kathleen O'Connell, 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 April 22, 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.
2. If the adjacent buildings that are presently non conforming are substantially damaged or destroyed, the replacement buildings will comply with the then lawful set backs, subject of course, to the sewer easement, if applicable.

**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 13<sup>TH</sup> DAY OF MAY, 2014.**

**THE CITY OF MARATHON, FLORIDA**

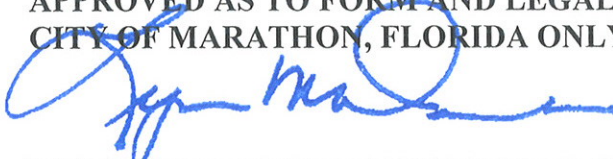
  
\_\_\_\_\_  
Dick Ramsay, Mayor

AYES: Bartus, Bull, Senmartin, Keating, 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:**

  
\_\_\_\_\_  
City Attorney

Attachment A

Copy - Original to be Provided by Applicant to Clerk of Court for Recordation

