

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2016-72**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, APPROVING A REQUEST BY HTG CRYSTAL COVE RESORT, LLLP FOR A DEVELOPMENT AGREEMENT PURSUANT TO CHAPTER 102, ARTICLES 8 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS) ENTITLED “DEVELOPMENT AGREEMENT,” AUTHORIZING THE DEVELOPMENT OF A TWENTY-EIGHT (28) UNIT RV PARK, FORTY-SIX AFFORDABLE HOUSING UNITS, AND 7,700 SQUARE FEET OF COMMERCIAL RETAIL ON PROPERTIES LOCATED AT AND ADJACENT TO 4900 OVERSEAS HIGHWAY; REAL ESTATE NUMBERS 00327150-000000, 00327910-000000, 00327920-000000, 00327990-000000, 00328000-000000, 00328010-000000, 00328020-000000, AND 00328030-000000. NEAREST MILE MARKER 50**

**WHEREAS**, HTG Crystal Cove, LLLP., (The “Applicant”) filed an Application on June 30, 2016 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 13 of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS**; the Applicant proposes to develop twenty-eight (28) RV, forty-six (46) workforce and affordable housing residential units, and 7,700 square feet of commercial space; and

**WHEREAS**, City staff reviewed the Applicant’s request for a Development Agreement determining that the Applicant’s project proposal was in compliance with the City’s Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City’s Level of Service (LOS); and

**WHEREAS**, on the 15<sup>th</sup> day of August, 2015, the City of Marathon Planning Commission (the “Commission”) conducted a properly advertised public hearing (the “Public Hearings”) regarding the request submitted by the Applicant, for a Development Agreement pursuant to Chapter 102, Article 8 of the LDRs; and

**WHEREAS**, and on the 23<sup>rd</sup> day of August, 2016 and the 13<sup>th</sup> day of September, 2016, the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by the Applicant, for a Development Agreement pursuant to Chapter 102, Article 8 of the LDRs; and

**WHEREAS**; the City Council made a determination that the Applicant’s request for a Development Agreement, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City’s Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage the redevelopment of properties within the City of Marathon and will further the health, safety and welfare of the residents of Marathon; and

**WHEREAS**, the purpose of the Conditional Use Permit is to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

**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 approves the Development Agreement, attached hereto as "Exhibit A."

**Section 3.** This resolution shall take effect immediately upon its adoption by the City of Marathon and after review and approval by the Department of Economic Opportunity pursuant to Chapters 163 and 380, *Florida Statutes*.

**PASSED AND APPROVED** by the City Council of the city of Marathon, Florida, this 13<sup>th</sup> day of September, 2016.

**THE CITY OF MARATHON, FLORIDA**



**Mark Senmartin, Mayor**

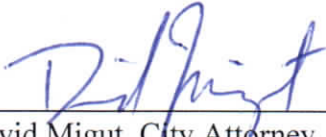
AYES: Zieg, Bartus, Coldiron, Kelly, Senmartin  
NOES: None  
ABSENT: None  
ABSTAIN: None

**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:**



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David Migut, City Attorney

**EXHIBIT A**  
**DEVELOPMENT AGREEMENT**

This Instrument Was Prepared By  
and should be returned to:  
Jim Saunders  
Bayview Homes, LLC  
99198 Overseas Highway Ste. 2  
Key Largo, Florida 33037

Doc# 2100183 11/21/2016 11:54AM  
Filed & Recorded in Official Records of  
MONROE COUNTY AMY HEAVILIN

Doc# 2100183  
Bk# 2826 Pg# 1950

Development Agreements for  
HTG Crystal Cove Resort, LLLP  
Marathon, Florida

RE Nos. 00327150-000000, 00327910-000000, 00327920-000000, 00327990-000000, 00328000-000000, 00328010-000000, 00328020-000000, AND 00328030-000000

(Space Reserved for Recording)

Development Agreement for  
HTG Crystal Cove Resort, LLLP  
Marathon, Florida

This Development Agreement ("Agreement") is entered into by and between the City of Marathon, a Florida Municipal Corporation (herein referred to as "City"), and HTG Crystal Cove Resort, LLLP, a Florida limited liability limited partnership, whose address is 3225 Aviation Avenue, Suite 602, Coconut Grove, Florida 33133 (herein referred to as "Owner"), pursuant to *Chapter 102, Article 8* of the Land Development Regulations of the City of Marathon, and the Florida Local Government Development Agreement Act, Sections 163.3220-163.3243, Florida Statutes, and is binding on the effective date as set forth herein.

**WITNESSETH:**

**WHEREAS**, Owner owns real property located in Marathon, Florida, described in Exhibit "A" hereto, which is the location of HTG Crystal Cove Resort LLLP and its proposed redevelopment; and

**WHEREAS**, said HTG Crystal Cove Resort LLLP hold entitlements to thirty-four (34) transient residential units, one (1) market rate residential units, and 1,633 square feet of commercial space; and

**WHEREAS**, the real property described in Exhibit "1" is designated on the City's Future Land Use Map (FLUM) as Mixed Use Commercial (MU-C), and is zoned as Mixed Use (MU), which land use designation and zoning allow the property to be used for transient rentals; and

**WHEREAS**, Owner desires to develop twenty-eight (28) RV sites and amenities in an RV Park, forty-six (46) workforce and affordable housing residential units, and 7,700 square feet of commercial development; and

**WHEREAS**, the City's affordable housing requirement for transient uses, as set out in Section 104.25 of the City of Marathon Land Development Regulations requires that new transient development provide affordable housing in an amount equal to 20% of the square footage of new transient development; and

**WHEREAS**, the Marathon Planning Commission held a public hearing on the 15<sup>th</sup> day of August, 2016, to consider this agreement, and recommended approval of this agreement; and

**WHEREAS**, the City Council of Marathon held public hearings on the 23<sup>rd</sup> day of August and 13<sup>th</sup> day of September, 2016, to consider this Agreement; and

**WHEREAS**, the City has determined that this Agreement is in the public interest, is consistent with its policy to encourage the redevelopment of hotels and motels in Marathon, and will further the health, safety and welfare of the residents of Marathon.

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as Follows:

#### **I. RECITALS.**

The foregoing recitals are a part of this Agreement on which the parties have relied and are incorporated into this Agreement by reference.

#### **II. PURPOSES OF AGREEMENT.**

The purposes of this Agreement are as Follows:

To re-develop the HTG Crystal Cove Resort L.L.P. site to include the development of twenty-eight (28) RV sites, forty-six (46) workforce and affordable housing residential units, and up to 7,700 square feet of commercial area, said Property noted in Exhibit A, consistent with the City of Marathon's Comprehensive Plan and Objective 1-3.4 of the City of Marathon's Comprehensive Plan;

#### **III. Definitions.**

For the purposes of this Agreement, all terms shall have the definitions as found in the City of Marathon's Land Development Regulations, Comprehensive Plan and in Chapter 163, Florida Statutes, or in other applicable Florida Statutes, and if not defined in the Code, Plan, or Statute, the term shall be understood by its usual and customary meaning.

#### **IV. Statutory and Code Requirements.**

The Parties recognize the binding effect of the Florida Local Government Development Agreement Act, Sections 163.3221, et seq., Florida Statutes, as to the form and content of this Agreement and in accordance therewith set forth and agree to the following:

##### A. Legal Description and Ownership.

HTG Crystal Cove Resort LLLP is the Owner of the Property identified by Real Estate Numbers 00327150-000000, 00327910-000000, 00327920-000000, 00327990-000000, 00328000-000000, 00328010-000000, 00328020-000000, and 00328030-000000 which are the Properties the  
603626040.2

subject of this Agreement, as described in Exhibit 2, Improvement Location and Boundary Survey. At time of development, there will be no other legal or equitable owners of the subject property known to the parties to this Agreement.

B. Duration of Agreement.

The Owner shall have a period of one (1) year from the Effective Date of this Agreement to obtain the first building permit for the RV Park site and three (3) years from the Effective Date of this Agreement to obtain the first permit for the workforce and affordable housing component of the project. All Certificates of Occupancy and/or Final Inspections for structures on the Property as shown on the Site Plan shall be obtained within seven (7) years.

This Agreement may be renewed or extended as provided herein. If the Owner has not complied with the terms of this section, this Agreement may be subject to termination as provided herein.

C. Permitted Uses.

1. The Development permitted on the Property shall consist of those uses set forth herein, as identified on the conceptual site plan attached hereto as Exhibit 3, and incorporated herein by reference. The permitted uses are as follows:

- i. Twenty-eight (28) RV Park RV sites
- ii. Forty-six (46) workforce and affordable housing residential units; and
- iii. 7,700 square feet of commercial development.
- iv. Requirement to provide workforce housing pursuant to Section 104.25 A. of the LDRs.

2. Existing entitlements include thirty-four (34) transient residential units (TRUs), one (1) market rate residential unit, and 1,633 square feet of commercial square footage. These entitlements shall be utilized to complete the project as approved. The approval of this Development Agreement does not convey or grant a vested right or entitlement to future allocations of affordable residential units by the City for the forty-six (46) affordable residential units referenced and approved in this Development Agreement. Such allocations shall be made at a future date consistent with the comprehensive plan amendments and LDR amendments. It is the intent of the applicant, with the support of the City, to seek the necessary affordable residential unit allocations through an Inter-local Agreement transferring the units from Monroe County to the City of Marathon.

3. For the duration of this Agreement, the Parties agree that any and all of the approved development shall adhere to, conform to, and be controlled by this Agreement, the Exhibits attached hereto and incorporated by reference, the LDRs and the Comprehensive Plan governing the development of the subject property on the Effective Date of this Agreement. In the event that all or a portion of the existing or authorized development subject to this Agreement should



be destroyed by storm, fire or other disaster, the Owner, it's grantees, successors, or assigns shall have the absolute right to rebuild or repair the affected structure(s) and reinitiate the prior approved use so long as such development is in compliance with this Agreement.

4. Through this Development Agreement and the approval of Resolution 2016-71 which provides a Conditional Use Permit for the project, the Developer agrees to all Conditions approved in the Conditional Use Permit.

5. Pursuant to this Development Agreement the Owner agrees that that required workforce housing units, pursuant to Chapter 104 Article 1, Section 104.25 and the City's Zoning in Progress concerning affordable housing, shall be complete prior to the Certificate of Occupancy for all RV units. In the alternative, the City will accept a bond for the value of the units or an irrevocable letter of credit which shall only be released upon completion of the required units.

6. The following documents are attached hereto and incorporated by reference, showing the Property Boundary and Existing and Proposed Uses:

Exhibit 1: Warranty Deed

Exhibit 2: Site Survey

Exhibit 3: Conceptual Site Plan as approved herein and pursuant to the City's approval of a Conditional Use Permit

7. Maximum Building Height shall be thirty-seven (37) feet, as provided in Future Land Use Element Policy 1-3.2.5 in the City's Comprehensive Plan and as defined by the LDRs.

8. The Owner shall execute and record in the public records of Monroe County a Declaration of Covenants and Restrictions in a form acceptable to the City ensuring that all Transient Units on the property comply with Hurricane Evacuation Requirements set forth in Policy 1-2.2.1 of the Future Land Use Element of City's Comprehensive Plan, in effect or as amended.

D. Public Facilities

1. The Florida Keys Aqueduct Authority provides domestic potable water.

2. Electric Service is provided by the Florida Keys Electric Co-op.

3. Solid Waste Service is provided by Marathon Garbage Service.

4. Owner shall provide wastewater and sewage collection and disposal by expanding its current connection to the City.

5. Educational Facilities. The redevelopment of transient use as contemplated by this Agreement

will not impact education facilities.

6. Recreational Facilities. The Property includes onsite recreational facilities for visitors and guests of the property. Therefore, redevelopment of the property will have no impact on public recreation facilities.

7. Stormwater. A Stormwater Management System which meets all applicable local, state and federal requirements shall be constructed onsite as part of the Site Redevelopment. This system will retain, detain, and treat Stormwater on the Property and therefore will provide a substantial benefit to water quality in the area. There shall be no direct discharge to the City of Marathon Nearshore Waters.

8. Any increased impacts on Public Facilities or Public Services attributable to each unit of the development, and the cost of capital improvement to meet the associated increased demand on such facilities or services, shall be assured by payment to the City, concurrent with the issuance of the building permits for each unit, of any City of Marathon Impact Fees required by the ordinance then in effect, as well as by payment by owner of any applicable utility system Development Fees. In addition, Owner agrees to be subject to any reasonable impact fee ordinance adopted by the City within twenty-four (24) months after the Effective Date of the Agreement, providing such ordinance applies equally and uniformly to all redevelopment in Marathon.

9. Fire Protection. The Owner shall provide fire hydrants and other such fire protection facilities as required by the Life Safety Code administered by the City Fire Department. Fire sprinklers will be installed as required by City Code.

E. Local Development Permits.

The following is a list of all Development Permits approved or needed to be approved for the redevelopment of the Property as specified and requested in this Agreement:

1. This Development Agreement.
2. Conditional Use Approval.
3. The Final Site Plan, Landscape Plan, Drainage Plan, Building Elevations and Floor Plan approvals.
4. Building and related construction permits for all structures utilized for principal use or accessory use, land clearing, and landscaping. At any time any building permit is applied for, Owner shall demonstrate compliance with all applicable Federal, State and Municipal Disabled-access Regulations in effect at the time of application.

5. Federal, State, Regional, and Local Permits for Stormwater runoff.

Nothing in this Agreement shall preclude the parties from applying additional conditions, by mutual agreement, during Final Site Plan review or permitting.

F. Finding of Consistency.

By Entering into this Agreement, the City finds that the redevelopment permitted or proposed herein is consistent with and furthers the Comprehensive Plan (as defined herein), applicable LDRs and the Principles for Guiding Development set forth at Section 380.0552(7), Florida Statutes.

G. Existing BPAS Exempt Units and Square Footage

The Parties acknowledge that there exist on the Property:

<u>Development Type</u>	<u>Existing</u>
Transient Units:	30 units
Single Family Dwellings:	1 Market Rate Residential Units
Commercial Floor Area:	1,633 Sq. Ft.

H. Reservations or Dedications of Land for Public Purposes.

The parties anticipate that Owner may reserve or dedicate land for public purposes in connection with the Redevelopment, but is currently unaware of the specifics of such reservation(s) or dedication(s). Reservations and dedications for public purposes in connection with this Agreement may be requested by the City's Comprehensive Plan and City Code. Such reservations or rededications may include, by way of example, easements necessary for the provision of stormwater, utility, and wastewater services to the Property.

I. Mutual Cooperation.

City and Owner agree to cooperate fully and assist each other in the performance of the provisions of this Agreement.

J. Development to Comply with Permits and City Comprehensive Plan and Code Provisions.

The redevelopment shall be developed in accordance with all required permits and in accordance with all applicable provisions of the City's Comprehensive Plan and Land Development Regulations in effect on the effective date of this Agreement. No Certificate of Occupancy for an individual building shall be issued until all plans for that building are approved by the City and Owner has complied with all conditions in permits issued by the City and the other regulatory entities for that building. The City agrees that any permits or certificates of occupancy to be issued by the City shall not be unreasonably withheld or delayed.

K. Compliance With Permit, Terms, Conditions, and Restrictions Not Identified Herein.

The failure of this Agreement to address a particular permit, condition, term, or restriction shall not relieve Owner of the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions.

L. Laws Governing.

1. For the duration of this Agreement, all approved development of the Property shall comply with and be controlled by this Agreement and provisions of the City's Comprehensive Plan and City Code in effect on the date of execution of this Agreement, inclusive of text changes and rezoning approved by the City Council on the date of the City's approval of this Agreement, if any. The parties do not anticipate that the City will apply subsequently adopted laws and policies to the Property, except as expressly provided in this Agreement.

2. Pursuant to Section 163.3233, Florida Statutes, the City may apply subsequently adopted laws and policies to the Property only if the City holds a public hearing and determines that:

- i. The new laws and policies are not in conflict with the laws and policies governing the Agreement and do not prevent development of the land uses, intensities, or densities set forth in this Agreement;
- ii. The new laws and policies are essential to the public health, safety, or welfare, and the City expressly states that they shall apply to the development that is subject to this Agreement;
- iii. The City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement; or
- iv. The Agreement is based on substantially inaccurate information supplied by Owner.

Provided, however, nothing in this Agreement shall prohibit the parties from mutually agreeing to apply subsequently adopted laws to the Property.

3. If state or federal laws enacted after the Effective Date of this Agreement preclude any party's compliance with the terms of this Agreement, it shall be modified as necessary to comply with the relevant state or Federal laws. However, this Agreement shall not be construed to waive or abrogate any rights that may vest pursuant to common law.

M. Amendment, Renewal and Termination.

This Agreement may be amended, renewed, or terminated as follows:

1. As provided in Section 163.3237, Florida Statutes, this Agreement may be amended by mutual consent of the parties to this Agreement or by their successors in interest. Amendment

under this provision shall be accomplished by an instrument in writing signed by the parties or their successors.

2. As provided in Section 163.3237, Florida Statutes, this Agreement may be renewed by the mutual consent of the parties, subject to the public hearing requirement in Section 163.3225, Florida Statutes, and applicable LDRs. The City shall conduct at least two (2) public hearings, one of which may be held by the local planning agency at the option of the City. Notice of intent to consider renewal of the Agreement shall be advertised approximately fifteen (15) days before each public hearing in a newspaper of general circulation and readership in Marathon, and shall be mailed to all affected property owners before the first public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing. The notice shall specify the location of the land subject to the Agreement, the development uses on the Property, the population densities, and the building intensities and height and shall specify a place where a copy of the Agreement can be obtained.

3. This Agreement may be terminated by Owner or its successor(s) in interest following a breach of this Agreement by the City upon written notice to the City as provided in this Agreement.

4. Pursuant to Section 163.3235, Florida Statutes, this Agreement may be revoked or modified by the City if, on the basis of substantial competent evidence, the City finds there has been a failure by Owner to comply with the terms of this Agreement.

5. This Agreement may be terminated by mutual consent of the parties.

N. Breach of Agreement and Cure Provisions.

1. If the City concludes that there has been a material breach in this Agreement by Owner, prior to revoking this Agreement, the City shall serve written notice on Owner identifying the term or condition the City contends has been materially breached and providing Owner with ninety (90) days from the date of receipt of the notice to cure the breach or negotiate an amendment to this Agreement. Each of the following events shall be considered a material breach of this Agreement:

- (i) Failure to comply with the provisions of this Agreement;
- (ii) Failure to comply with terms and conditions of permits issued by the City or other regulatory entity for the development authorized by this Agreement.

2. If Owner concludes that there has been a material breach in the terms of this Agreement by the City, Owner shall serve written notice on the City identifying the term or condition Owner contends has been materially breached and providing the City with ninety (90) days from the date of receipt of the notice to cure the breach, or negotiate an amendment to this Agreement. The following events shall be considered a material breach of this Agreement:

- (i) Failure to comply with the provisions of this Agreement;

(ii) Failure to timely process any application for Site Plan approval or other development authorized by this Agreement.

3. If either party waives a material breach in this Agreement, such a waiver shall not be deemed a waiver of any subsequent breach.

4. Notwithstanding any other provisions of this Development Agreement to the contrary, neither party hereto shall be deemed to be in default under this Development Agreement where delay in the construction or performance of the obligations imposed by this Development Agreement are caused by war, revolution, labor strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, governmental restrictions, embargoes, litigation (excluding litigation between the City and the Owner), tornadoes, hurricanes, tropical storms or other severe weather events, or any other causes beyond the control of such party. The time of performance hereunder, as well as the term of this Development Agreement, shall be extended for the period of any forced delays or delays caused or resulting from any of the foregoing causes. The Owner must submit evidence to the City's reasonable satisfaction of any such delay.

O. Notices.

All notices, demands, requests, or replies provided for or permitted by this Agreement, including notification of a change of address, shall be in writing to the addressees identified below, and may be delivered by anyone of the following methods: (a) by personal delivery; (b) by deposit with the United States Postal Services as certified or registered mail, return receipt requested, postage prepaid; or (c) by deposit with an overnight express delivery service with a signed receipt required. Notice shall be effective upon receipt. The addresses and telephone numbers of the parties are as follows:

TO OWNER:

HTG Crystal Cove Resort I.L.L.P.  
3225 Aviation Avenue, Suite 602  
Coconut Grove, Florida 33133

With a copy by regular U.S. Mail to:

Thomas D Wright  
Florida Board Certified Real Estate Attorney  
9711 Overseas Highway  
Marathon, Florida 33050

TO THE CITY:

City Manager  
City of Marathon  
9805 Overseas Highway  
Marathon, Florida 33050  
(305) 743-0033

With a copy by regular U.S. Mail to:  
City Attorney  
City of Marathon  
9805 Overseas Highway  
Marathon, Florida 33050  
(305) 743-0033

P. Annual Report.

On each anniversary date of the Effective Date of this Agreement, Owner shall provide the City with a report identifying (a) the amount of development authorized by this Agreement that has been completed, (b) the amount of development authorized by this Agreement that remains to be completed, and (c) any changes to the plan of development that have occurred during the one (1) year period from the Effective Date of this Agreement or from the date of the last Annual Report.

Q. Enforcement.

In accordance with Section 163.3243, Florida Statutes, any party to this Agreement, any aggrieved or adversely affected person as defined in Section 163.3215(2), Florida Statutes, or the State Land Planning Agency may file an action for injunctive relief in the Circuit Court of Monroe County, Florida, to enforce the terms of this Agreement or to challenge the compliance of this Agreement with the provisions of Section 163.3220-163.3243, Florida Statutes.

R. Binding Effect.

This Agreement shall be binding upon the parties hereto, their successors in interest, heirs, assigns, and personal representatives.

S. Assignment.

This Agreement may not be assigned without the written consent of the parties, which consent shall not be unreasonably withheld.

T. Drafting of Agreement.

The parties acknowledge that they jointly participated in the drafting of this Agreement and that no term or provision of this Agreement shall be construed in favor of or against either party based solely on the drafting of the Agreement.

U. Severability.

In the event any provision, paragraph or section of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, such determination shall not affect the

enforceability or validity of the remaining provisions of this Agreement.

V. Applicable Laws.

This Agreement was drafted and delivered in the State of Florida and shall be construed and enforced in accordance with the laws of the State of Florida.

W. Litigation/Attorneys Fees; Venue: Waiver of Right to Jury Trial.

As between the City and Owner, in the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred with respect to such litigation, including reasonable attorney's fees. This includes, but is not limited to, reimbursement for reasonable attorney's fees and costs incurred with respect to any appellate, bankruptcy, post-judgment, or trial proceedings related to this Agreement. Venue for any legal proceeding arising out of this Agreement shall be in Monroe County, Florida.

THE PARTIES TO THIS AGREEMENT WAIVE THE RIGHT TO A JURY TRIAL IN ANY LITIGATION ARISING OUT OF THIS AGREEMENT.

X. Use of Singular and Plural.

Where the context requires, the singular includes the plural, and plural includes the singular.

Y. Duplicate Originals; Counterparts.

This Agreement may be executed in any number of originals and in counterparts, all of which evidence one agreement. Only one original is required to be produced for any purpose.

Z. Headings.

The headings contained in this Agreement are for identification purposes only and shall not be construed to amend, modify, or alter the terms of this Agreement.

AA. Entirety of Agreement.

This Agreement incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, or understandings regarding the matters contained herein. The parties agree that there are no commitments, agreements, or understandings concerning the subjects covered by this Agreement that are not contained in or incorporated into this document and, accordingly, no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether written or oral. This Agreement contains the entire and exclusive understanding and agreement among the parties and may not be modified in any manner except by an instrument in writing signed by the parties.



BB. Recording: Effective Date.

The Owner shall record this Agreement in the public records of Monroe County, Florida, within fourteen (14) days after the date the last party signs this Agreement. A copy of the recorded Agreement showing the date, page and book where recorded shall be submitted to the State Land Planning Agency at the Department of Community Affairs, Division of Community Planning, 2555 Shumard Oak Boulevard, Tallahassee FL 32399-2100 by hand delivery or registered or certified United States mail, or by a delivery service that provides a signed receipt showing the date of delivery, within fourteen (14) days after the Agreement is recorded and received by the Owner or his agents. Owner shall also provide a copy of the recorded Agreement to the City at 9805 Overseas Highway, Marathon, Florida 33050, within the same time period. This Agreement shall become effective thirty (30) days after the date the State Land Planning Agency receives its copy pursuant to Section 163.3239, Florida Statutes.


CC. Date of Agreement.

The Date of this Agreement is the date the last party signs and acknowledges this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year below written. Signed, sealed, and delivered in the presence of:

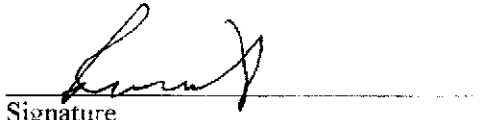
WITNESSES:

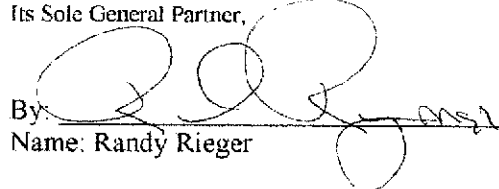
OWNER

  
Signature  
JOSE M. ROMERO III  
Name of witness (printed or typed)

HTG Crystal Cove Resort LLLP,  
A Florida Limited Liability Limited Partnership

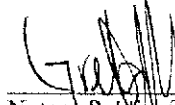
By: HTG Crystal Cove Resort GP, LLC,  
A Florida Limited Liability Company  
Its Sole General Partner,

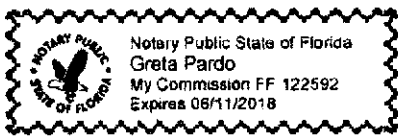
  
Signature  
RICHARD A. MATLOF  
Name of witness (printed or typed)

By:   
Name: Randy Rieger  
Title: Authorized Person

STATE OF FLORIDA COUNTY OF MONROE

The following instrument was acknowledged before me on this 10<sup>th</sup> day of NOVEMBER, 2016, by Randy Rieger, as Authorized Person of HTG Crystal Cove Resort GP, LLC, who is personally known to me or who produced \_\_\_\_\_ as identification, and who did/did not take an oath.


  
Notary Public, State of Florida At Large  
My commission expires:

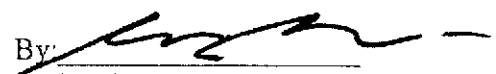


RM GR

On the 13<sup>th</sup> day of September, 2016, The City Council of the City of Marathon approved this Agreement by Resolution No. 2016-72

ATTEST:

  
\_\_\_\_\_  
City Clerk

CITY OF MARATHON  
By:   
\_\_\_\_\_  
Mark Senmartin, Mayor

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

  
\_\_\_\_\_  
David Migut, City Attorney

EXHIBIT I

EXHIBIT "A"

LEGAL DESCRIPTION

Lots 5 and 6 of Thompson and Adams Subdivision of Government Lot 1, Section 10, Township 66 South, Range 32 East which plat is recorded in Plat Book 2, at Page 24 of the Public Records of Monroe County, Florida.

That portion of a 66-Foot right-of-way of Old State Highway 4A lying immediately South of Lot 5 of Thompson and Adams Subdivision according to the plat thereof recorded in Plat Book 2, Page 24, of the Public Records of Monroe County, Florida.

Together with a parcel of bay bottom land in the Bay of Florida, North of and adjacent to Lot 5 of Thompson-Adams Subdivision, as recorded in Plat Book 2, Page 24 of the Public Records of Monroe County, Florida. Said Subdivision also being in a part of Government Lot 1, Section 10, Township 66 South, Range 32 East, and being more particularly described by metes and bounds as follows:

Commencing at the intersection of the East line of Section 10, Township 66 South, Range 32 East, and the northwesterly right-of-way line of Old State Highway No. 4A. Bear southwesterly along the northwesterly right-of-way line of Old State Highway No. 4A for a distance of 734.09 feet to the Southeast corner of said Lot 5; thence bear North along the East line of Lot 5 for a distance of 889.77 feet to the point of beginning of the parcel of bay bottom land hereinafter described. from said point of beginning, continue bearing North along the East line of Lot 5, extended, for a distance of 220 feet to a point, thence at right angles and West for a distance of 130.97 feet to a point on the West line of Lot 5, extended North, thence bear South along the West line of Lot 5, extended North, for a distance of 270 feet, more or less, to a point on the shoreline, thence meander the shoreline in a southerly and northeasterly direction for a distance of 220 feet, more or less, back to the point of beginning.

Together with a parcel of bay bottom land in the Bay of Florida North of and adjacent to Lot 6 of Thompson and Adams Subdivision as recorded in Plat Book 2, Page 24 of the Public Records of Monroe County, Florida, said subdivision also being in a part of Government Lot 1, Section 10, Township 66 South, Range 32 East and being more particularly described by metes and bounds as follows:

Commencing at the intersection of the M.H.W.L. of the Gulf of Mexico and the West boundary of Lot 6 of said Thompson and Adams Subdivision of Government Lot 1, Section 10, Township 66 South, Range 32 East as per plat thereof in Plat Book 2, Page 24, of the Public Records of Monroe County, Florida, as and for the point of beginning of the property to be described. Run thence North into the waters of the Gulf of Mexico for a distance of 323 feet; thence at a right angle and East for a distance of 100.97 feet to a point; thence at a right angle and South to the M.H.W.L. at a point where it intersects the Eastern boundary of said Lot 6; thence meander said M.H.W.L. in a westerly direction to the point of beginning.

Receipt# 397381

AMY HEAVILIN  
CLERK OF COURT  
MONROE COUNTY  
500 WHITEHEAD STREET  
KEY WEST, FL  
33040

Doc#: 210C183 Pgs: 16  
Type: AGREEMENT  
Book: 2826 Pages: 1950-1965  
RECORDING \$ 137.50

Type: COPY OFFICIAL RECORD  
(Cnt: 1 Qty: 16)  
COPY OF OFFICIAL RECORD \$ 16.00

Total \$ 153.50  
Check(s) Tendered \$ 153.50  
Balance \$ 0.00

CHECK Number  
12241 \$ 153.50

Total Documents: 17  
Total Fees: 2

Client Name GENERAL PUBLIC  
Nov 21 2016 11:54:27 AM

Cashier: CYNTHIA SHEPARD-WIKE