

**CITY OF MARATHON, FLORIDA
RESOLUTION NO. 2019-48**

CONSIDERATION OF A REQUEST TO THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA TO RELEASE FUNDS IN THE AMOUNT OF \$300,000 TO FIRST TROPICAL GETAWAYS, INC AND MARATHON RENTALS, LLC; SAID FUNDS ARE HELD BY A LOCAL ATTORNEY PURSUANT TO CONDITIONS AND REQUIREMENTS PROMULGATED IN RESOLUTIONS 2015-123 AND 2017-94; AND THE TERMS FOR THE RELEASE OF SAID FUNDS IS SIMILARLY PRESCRIBED UNDER EACH DEVELOPMENT AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, First Tropical Getaways, Inc and Marathon Rentals, LLC (the “Applicant”) were approved for Development Agreements for the two independent projects memorialized in Resolutions 2015-123 and 2017-94 for the purposes of

1. Securing the ability to construct a total of twelve duplex and quad-plex residences,
2. Securing fourteen (14) affordable BPAS residential allocations, and
3. Establishing an In Lieu Payment Credit for current and future Transferrable Building Right (TBR) Transfers; and

WHEREAS, the City of Marathon (the “City”) entered into each Development Agreement with the Applicant promulgated in these two Resolutions; and

WHEREAS, the Applicant has met the terms of all conditions of both Development Agreements as defined in Section IV, “Statutory and Code Requirements,” Subsections B., Duration or Agreement and Submission of Permit Application” and C., “Building Right Allocations;” and

WHEREAS, the Applicant has further applied for, received permits, constructed, and received a Certificate of Occupancy (C.O.) for all fourteen (14) residential units and deed restricted all units as affordable workforce housing units; and

WHEREAS, the Applicant has previously requested and had released of funds held by the City (\$200,000.00) and those held in escrow (\$200,000.00) by two (2) local attorneys as memorialized in Resolution 2017-39. This amount is the equivalent of transferring twenty (20) TBRs and building two (2) affordable housing units; and

WHEREAS, the Applicant has currently placed in escrow through one (1) local attorney the amount of \$300,000.00 pursuant to provisions in Section IX, Subsection D. 3, of the Development Agreement; and

WHEREAS, the Applicant, pursuant to the conditions of the Development Agreement described herein and having met all requirements of the Agreement, has requested release of funds held in escrow by the law firm of Patrick M. Stevens, P.A.; and

WHEREAS, staff confirms that funds are held in escrow pursuant to the Agreement in the amount of \$300,000.000; and

WHEREAS, staff has reviewed the Applicant's request, concurs that the project is complete and that the funds noted above are held in escrow pursuant to the Agreement,

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.

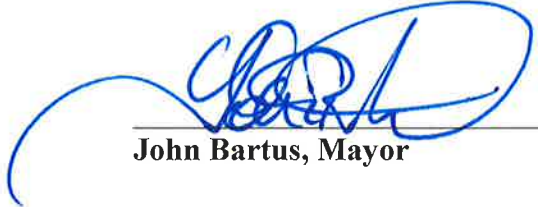
Section 2. The City Council authorizes the release of funds held in escrow by the firm of Patrick M. Stevens, P.A. at the following address and in the amount of \$300,000.00.

Patrick M. Stevens, Esq.
Law Offices of Patrick M. Stevens, P.A.
5701 Overseas Hwy. Suite 1
Marathon, FL 33050

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 28th DAY OF MAY 2019.

CITY OF MARATHON, FLORIDA



John Bartus, Mayor

AYES: Cook, Gonzalez, Senmartin, Zieg, Bartus
NOES: None
ABSENT: None
ABSTAIN: None

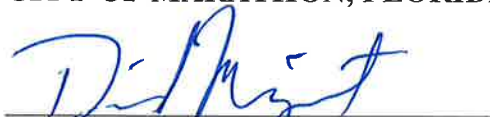
ATTEST:



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:



David Migut, City Attorney

EXHIBIT A

Development Agreement

Sponsored by: Puto

**CITY OF MARATHON, FLORIDA
RESOLUTION 2015-123**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST FOR A DEVELOPMENT AGREEMENT FOR RERR UNLIMITED, LLC, PURSUANT TO CHAPTER 102, ARTICLE 8 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "DEVELOPMENT AGREEMENTS," FOR THE DEVELOPMENT OF A PROPERTY WITH TWO AFFORDABLE HOUSING UNITS; WITH PROPOSED DENSITIES OF APPROXIMATELY 25 AFFORDABLE HOUSING UNITS PER ACRE; LOCATED AT 4043 LOUISA STREET; WHICH IS LEGALLY DESCRIBED AS BLOCK 2 NORTHERN HALF OF LOT 1 MARATHON BEACH SUBDIVISION, SECTION 10, TOWNSHIP 66 SOUTH, RANGE 32 EAST, MARATHON, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00337120-000000, NEAREST MILE MARKER 50 AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, RERR Unlimited LLC, (The "Applicant") filed an Application on August 13, 2015 for a Development Agreement pursuant to Chapter 102, Article 8 of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant proposes to develop two affordable housing residential units; 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 8th day of October, 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 13th and 27th days of October, 2015 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 hotels and motels in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

WHEREAS, the purpose of the Development Agreement is to security in his/her long term development plans and to insure 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 Development Agreement between the City and RERR, LLC, a copy of which is attached hereto as Exhibit "A," is hereby approved. The Mayor is authorized to execute this Development Agreement on behalf of the City.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Marathon, Florida, this 27th day of October, 2015.

THE CITY OF MARATHON, FLORIDA



Chris Bull, Mayor

AYES: Kelly, Zieg, Keating, Senmartin, Bull
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:**



David Migut, City Attorney

Parcel I.D. Nos.:
RE# 00337120-000000
(Space reserved/or recording)

DEVELOPMENT AGREEMENT FOR
RERR UNLIMITED
MARATHON, FLORIDA

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the CITY OF MARATHON, FLORIDA, a Florida municipal corporation (herein referred to as "City"), and RERR UNLIMITED, a Delaware limited liability company (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 set forth herein.

WITNESSETH:

WHEREAS, Owner is the owner of real property located in Marathon, Monroe County, Florida, more particularly described in Exhibit "A" (boundary survey), attached hereto and incorporated herein by reference; and

WHEREAS, Owner has submitted a proposal to develop and construct two (2) affordable residential units; and

WHEREAS, the construction and maintenance of affordable housing within the City of Marathon is a desirable goal and will serve to preserve workforce housing in the face of economic gentrification; and

WHEREAS, the economic development afforded by this Agreement is in the best interest of both parties to this Agreement as well as the general public in the City of Marathon; and

WHEREAS, the Marathon Planning Commission held a public hearing on the 8th day of October, 2015, to consider this Agreement, and recommended approval of this Agreement; and

WHEREAS, the City Council of Marathon held public hearings on the 13th and 27th days of October, 2015, to consider this Agreement; and

WHEREAS, the City has determined that this Agreement is in the public interest and is consistent with its policy to encourage the redevelopment of Marathon in a manner that provides and preserves affordable housing and will further the health, safety, and welfare of the residents of Marathon; and

WHEREAS, the State of Florida has awarded the City of Marathon sufficient allocations of market rate and affordable housing to allow the Owner an award of two (2) affordable unit

entitlements that will allow completion of the project; and the city accepts a \$20,000 in lieu of payment for the transfer of Market Rate TBR's, and

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:

- A. To encourage redevelopment of the Property consistent with Objective 1-3.4 in the City's Comprehensive Plan.
- B. To secure the ability to construct Owner's proposed development of two (2) single family residences.
- C. To secure two (2) affordable building allocations.
- D. To establish a In Lieu Payment Credit for future TBR Transfers.

III. DEFINITIONS.

For the purposes of this Agreement, all terms shall have the definitions as found in the Land Development Regulations (LDRs), 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. RERR Unlimited, is the Owner of the Property, which Property is the subject of this Agreement, as described in Exhibit B, Boundary and Topographic Survey. There are no other legal or equitable owners of the subject property known to the parties to this Agreement.
- B. Duration of Agreement and Submission of Permit Application. Owner shall have a period of twelve (12) months from the Effective Date of this Agreement to submit an application for a

building permit with the City to commence construction of the project contemplated herein. The duration of this Agreement shall be five (5) years from the effective date. Should the owner not commence construction within eighteen (18) months of the effective date of this Agreement, then this Agreement shall be null and void and the allocation of affordable housing contained herein shall be null and void and said allocation shall revert to the City. 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. Building Right Allocations. The City recognizes that the subject property currently possesses two (2) market rate entitlements (which Owner intends to transfer). The City hereby assigns to the project the two (2) affordable residential housing allocations.

1. The city shall ~~establish and~~ track "In Lieu **Transfer Credits**" under the terms of this Development Agreement; as requested by Owner, which shall accrue increase at a rate of \$1 of Credit for every \$1 Dollar of Project Residential Construction Costs. Documented In Lieu Transfer Credits, reviewed and approved by the City, may be and applied against future or ~~completed~~ pending Market Rate TBR transfers to Owner Property.

2. For the purposes of this Development Agreement, one (1) "In Lieu Transfer Credit," allowing the transfer of one (1) market rate TBR by the applicant, shall be equivalent to \$20,000 of construction cost as noted above. In-Lieu payment shall be \$20,000 for the duration of Developers Agreement or all credits applied whichever occurs first.

3. No In Lieu Transfer Credit shall be available for the transfer of market rate TBRs until the relevant affordable housing unit from which the credit is accruing has been constructed and a Certificate of Occupancy (CO) has been issued. In lieu of this requirement, the sum of \$20,000 may be placed in escrow running in favor of the City should the affordable unit not be finished and not receive a CO.

Affordable Housing is defined in Section 110.00 of the City's LDRs as: "Dwelling units which contain less than or equal to 1,800 square feet of habitable space meet all applicable requirements of the United States Department of Housing and Urban Development minimum property standards as to room sizes, fixtures, landscaping and building materials, when not in conflict with applicable laws of City; and are restricted in perpetuity or as allowed by law for a minimum 50-year period to use by households that meet the requirements of at least one (1) of the following income categories: Very-low, low, median, moderate or middle. The requirements for these income categories are as provided in Chapter 104, "Specific Use Regulations". "

It is agreed that the affordable housing shall comply with the Moderate-income standards or Middle-income standards as set forth in Section 104.03 (d) and 104.03 (e).

Moderate-income is defined as: "A household, whose income (excluding that of fulltime students under 18 years of age) does not exceed 120 percent of the median adjusted gross annual income for households within the county;"

Middle-income is defined as: "A household, whose income (excluding that of full-time students under 18 years of age) does not exceed 160 percent of the median adjusted gross annual income within the county;"

The standard is based on 120 percent adjusted median income (AMI) per annual HUD AMI and Federal Housing Finance Corporation (FHFC) rent charts for 2-bedroom and 3-bedroom units for Monroe County. For illustrative purposes, current rent charts for HUD and FHFC are attached hereto for reference as Exhibits 1 and 2.

D. Sale or Lease. Owner agrees to strictly comply with all the requirements of the City of Marathon regarding sale or leasing of the affordable housing units (general affordable pool as defined in Section 107.06(c) to be constructed as part of the project. In addition Owner anticipates establishing the affordable units as rental units, but in the event that the affordable units are sold, individually or in bulk, the affordable housing deed restrictions required by the City shall be imposed with a duration of fifty (50) years from the date of the issuance of the certificate of occupancy.

E. Density and Building Height. The property is located in a Residential Medium Zoning District as defined in the Land Development Regulations. Maximum building height permitted on the property is thirty-seven (37) feet.

F. Public Facilities, Concurrency, Impact Fees. The following identifies the public facilities that are required that will service the development of the Property: who shall provide the facilities; what new facilities, if any, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of development.

1. Potable Water. Domestic potable water is provided by the Florida Keys Aqueduct Authority.
2. Electric Service. Electric service is provided by Florida Keys Electric Service.
3. Solid Waste. Solid waste service is provided by Marathon Garbage Service or its successors and assigns, as determined by the City Council.
4. Fire Service. Fire service is provided by the Marathon Fire Department.
5. Wastewater, Sewage Collection and Disposal. Wastewater and sewage collection, treatment, and disposal shall be done by connection to the City sewer system.
6. Public Recreational Facilities. Public recreational facilities are available near the property in the Marathon Community Park and the Jesse Hobbs Park.
7. Stormwater Management. There shall be no direct discharge to the City of Marathon Nearshore Waters.
8. Fire Protection. Fire sprinklers will be installed if required by City Code.

9. Concurrency. All public facilities, with the exception of Wastewater, identified above are available as of the date of this Agreement, and capacity for each is projected to be available concurrent with the impacts of development. Wastewater capacity is available through the Central Sewer system for the City of Marathon.

10. Impact Fees. The City shall waive the impact fees for the affordable units allowed pursuant to Section 111.02 F.3(f).

G. Reservations or Dedications of Land for Public Purposes. These are not contemplated or necessary for this development.

H. Local Development Permits. The following City development approvals are required for the development of the Property.

1. This Development Agreement.

2. Building and related construction permits for the structures, 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.

3. Local Permits for Stormwater Runoff. Nothing in this Agreement shall preclude the parties from applying conditions in addition to Federal, State and regional permits, by mutual agreement, during final site plan review or permitting.

I. Finding of Consistency. By entering into this Agreement, the City finds that the development permitted or proposed herein is consistent with and furthers the Comprehensive Plan, applicable LDRs and the Principles for Guiding Development set forth in Section 380.0552(7), Florida Statutes.

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

K. 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

L. 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.

M. 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:

a. 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;

b. 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,

c. The City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement; or

d. The Agreement is based on substantially accurate 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.

N. 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 LORs. 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.

O. 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:

- a. Failure to comply with the provisions of this Agreement;
- b. 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:

- a. Failure to comply with the provisions of this Agreement;

b. 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.

P. 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:
Manager
RERR Unlimited
P. O. Box 07384
Fort Myers, FL 33919
(239) 267-4804

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

Q. 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.

R. 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.

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

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

U. 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.

V. 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

W. 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

X. 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.

Y. Use of Singular and Plural. Where the context requires, the singular includes the plural, and plural includes the singular.

Z. 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.

A.A. 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.

B.B. 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.

C.C. 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 Economic Opportunity, Division of Community Planning, 107 Madison Street, Room 22, Tallahassee, Florida 32399 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.

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

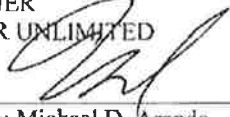
IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year below written. Signed, sealed, and delivered in the presence of:

INTENTIONALLY BLANK

WITNESSES:

OWNER
RERR UNLIMITED


Wit. #1 - Signature

By: 
Name: Michael D. Aranda
Title: Operating Manager

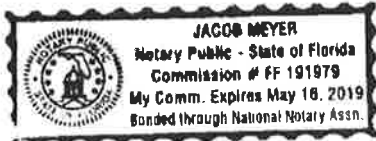
Yari Dominguez
Printed Name of Wit. #1

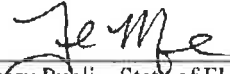

Wit. #2 - Signature

Jacob Meyer
Printed Name of Wit. #2

STATE OF FLORIDA
COUNTY OF MONROE

The following instrument was acknowledged before me on this 23rd day of November, 2015, by Michael D. Aranda, as Manager of RERR Unlimited, who is personally known to me or who produced _____ as identification, and who did/did not take an oath.





Notary Public, State of Florida
My commission expires:

On the 27 day of October, 2015, The City Council of the City of Marathon approved this Agreement by Resolution No. 2015-133.


ATTEST:

CITY OF MARATHON


City Clerk

By: 
Mayor

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


David Migut, City Attorney

LAW OFFICES OF
THOMAS D. WRIGHT
CHARTERED

8711 MONROE HWY
POST OFFICE BOX 800308

MARATHON, FLORIDA 33080-0309

TELEPHONE (305) 743-8118

FAX (305) 743-8188

E-MAIL: tdw@thomdwright.com

THOMAS D. WRIGHT

FLORIDA BAR BOARD
CERTIFIED REAL ESTATE ATTORNEY

July 7, 2015

Mr. Michael Aranda
RERR Unlimited
8885 Parkway, Suite 2180
Ft. Myers, FL 33919

Dear Mike:

Relative to your purchase of the Marathon lot, please find enclosed the closing documents as follows:

1) Title Policy #7230609-93872850 issued through Chicago Title Insurance Company in the amount of \$45,000.00.

2) Warranty Deed which has been recorded in Official Records 2722, Page 2468 of the Public Records of Monroe County, Florida.

Should you have any questions on the enclosures or if I can be of further assistance, please do not hesitate to contact me.

Very truly yours,



Thomas D. Wright

/mmh
Enclosures

1/5/15

315.00
18.50
323.50

Doc# 2014335 02/03/2015 11:40AM
Filed & Recorded in Official Records of
MONROE COUNTY RBY HERVILIN

Prepared by and return to:
Thomas D. Wright
Attorney at Law
Law Office of Thomas D. Wright Chartered
Post Office Box 508389
Marathon, FL 33950
305-743-8118
File Number: 14-517
Will Call No.:

02/03/2015 11:40AM
DEED DOC STAMP CL: Key: \$215.00

Doc# 2014335
Bk# 2722 Pg# 2488

Parcel Identification No. 09337120-000000

(Open Above This Line For Recording Date)

Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this 21st day of January, 2015 between Paradise Financial Mortgage Fund I, LLC, a Florida limited liability company whose post office address is 910 Grinnel Street, Key West, FL 33940 of the County of Monroe, State of Florida, grantor*, and RERR Unlimited, a Delaware limited liability company whose post office address is of the County of , State of , grantee*.

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Monroe County, Florida, to-wit:

North 1/2 of Lot 1, Block 2, Re-Subdivision of a part of Block 2, and all of Block 5, MARATHON BEACH, according to the Plat thereof, recorded in Plat Book 2, page 21 of the Public Records of Monroe County, Florida.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Doc# 2814335
Bk# 2722 Pg# 2488

William L. Joyce
Witness Name: *William L. Joyce*
Joseph W. Petro
Witness Name: *Joseph W. Petro*

Paradise Financial Mortgage Fund 1, LLC, a Florida limited liability company

By *Robert K. Fozzard*
Robert K. Fozzard, Managing Member

State of Florida
County of Monroe

The foregoing instrument was acknowledged before me ^{16th day} this 16th day of January, 2015 by Robert K. Fozzard, Managing Member of Paradise Financial Mortgage Fund 1, LLC, a Florida limited liability company, on behalf of said firm. He/she is personally known or has produced a driver's license as identification.

(Notary Seal)



Tina Masters
Notary Public
Printed Name: TINA MASTERS
My Commission Expires: JUNE 30, 2018

MONROE COUNTY
OFFICIAL RECORDS

EXHIBIT B
Request for Return of Escrow

Rerr Unlimited LLC

1222 SE 47th St, Ste 330 Cape Coral, Fl 33904
Office 239-267-4804 – fax 239-267-3445

March 27 2017

City of Marathon
9805 Overseas Hwy
Marathon, Fl 33050

RE: Development Agreement for RERR UNLIMITED, LLC

Pursuant to Resolution 2015-123, RERR Unlimited LLC requests the release of monies being held by the city and other entities. As required by resolution 2015-123 The Certificate of Occupancy is attached hereto. As such, RERR Unlimited LLC has met all the obligations and conditions as required by the Resolution 2015-123 and kindly requests the release/approval to release from others, the following amounts:

<u>Address / Name</u>	<u>TBR Number</u>	<u>City Held</u>
Peter Jay Ave	140091	\$20,000
850 84 th St Ocean	100021	\$20,000
16 Manowar Dr	70051	\$20,000
1135 74 th St Ocean	150074	\$20,000
Boherquez	70050	\$20,000
424 Calle Limon	140001	\$20,000
Fisherman's Point Association	140096	\$40,000
530/534 11 th St	100017	\$20,000
928 W 75 th St Ocean	14-0011	\$20,000
<i>Total Requested</i>		<i>\$200,000</i>

<u>Address / Name</u>	<u>TBR Number</u>	<u>By Others</u>
1135 74 th St ocean	100021	\$20,000
Overseas Properties LLC	150043	\$160,000
234 49 th St	80049	\$20,000
<i>Total Requested</i>		<i>\$200,000</i>

Thank you in advance for your assistance and please let me know if anything additional is needed to process this request.

Kindly


Michael Aranda
Managing Member

EXHIBIT C
City Affordable Housing Revenues

A11110
 Date 5/10/2017
 Time 2:34 PM

CITY OF MARATHON
 Budgetary Posting Journal

Account Description			Account Number							
Date	Mo/Yr	Transaction Description	Trans Number	(T)	Ven/Cus	(T)	Type	Transaction	Debits	Credits
AFFORDABLE HOUSING FEE IN LIEU			105-329-101							
10/6/2008	10/2008	AFFORD HOUSE/BOCC PUMPOUT REIMB/PHONE REIMB	6622	D			CR	Revenue	0.00	60,000.00
9/30/2008	12/2008	ACCRUE AFFORDABLE HOUSING FEE FROM E GRECO					CR-RV	Revenue	0.00	{60,000.00}
9/30/2008	12/2008	ACCRUE AFFORDABLE HOUSING FEE FROM E GRECO					CR-RV	Revenue	0.00	{60,000.00}
9/30/2008	12/2008	ACCRUE AFFORDABLE HOUSING FEE FROM E GRECO					CR	Revenue	0.00	60,000.00
10/29/2009	10/2009	DEP JOHN WOLFE TBR 170 W 63RD	8243	D			CR	Revenue	0.00	20,000.00
12/23/2009	12/2009	MARATHON INN RES2008-61 AFFORDABLE HOUSING	8408	D			CR	Revenue	0.00	2,000.00
9/15/2014	09/2014	WALDERA PA TRUST TBR 1010 PETER JAY	16595	D			CR	Revenue	0.00	20,000.00
2/26/2015	02/2015	T WRIGHT TRUST/TBR 1342 7TH ST O	17407	D			CR	Revenue	0.00	20,000.00
5/13/2015	05/2015	T WRIGHT TRUST - TBR 1135-74TH ST	17728	D			CR	Revenue	0.00	20,000.00
5/13/2015	05/2015	T WRIGHT TRUST - TBR 16 MAN-O-WAR	17729	D			CR	Revenue	0.00	20,000.00
5/13/2015	05/2015	T WRIGHT TRUST - TBR 1010 PETER JAY #2	17730	D			CR	Revenue	0.00	20,000.00
5/13/2015	05/2015	T WRIGHT TRUST - TBR 850 - 84TH ST	17731	D			CR	Revenue	0.00	20,000.00
8/11/2015	08/2015	MARLIN BAY YACHT CLUB - RES 2015-81	18141	D			CR	Revenue	0.00	750,000.00
3/17/2016	03/2016	JOHN WOLFE TRUST - 866 105TH ST OCEAN	19129	D			CR	Revenue	0.00	20,000.00
4/29/2016	04/2016	ACCURATE MOTORS - 250 GULF TERRACE	19293	D			CR	Revenue	0.00	20,000.00
6/6/2016	06/2016	RERR - TBR 201 20TH ST OCEAN	19516	D			CR	Revenue	0.00	40,000.00
6/6/2016	06/2016	PYATT - TBR 230 41ST ST BLDG 3	19517	D			CR	Revenue	0.00	20,000.00
8/29/2016	08/2016	T WRIGHT TRUST - TBR 424 CALLE LIMON	19858	D			CR	Revenue	0.00	20,000.00
10/31/2016	10/2016	T WRIGHT TRUST - TBR 530/534 11TH ST	20121	D			CR	Revenue	0.00	20,000.00
10/31/2016	10/2016	T WRIGHT TRUST - TBR 928 75TH ST	20122	D			CR	Revenue	0.00	20,000.00
TOTALS: ORIG-EST= .00 EST-TRANSFERS= .00			TOT-REV= 1,052,000.00							

EXHIBIT D
Thomas D. Wright Escrow

LAW OFFICES OF
THOMAS D. WRIGHT

CHARTERED

8711 OVERSEAS HIGHWAY

POST OFFICE BOX 500309

MARATHON, FLORIDA 33050-0309

TELEPHONE (305) 743-8118

FAX (305) 743-8198

E-MAIL tdw@tdwclosings.com

THOMAS D. WRIGHT

FLORIDA BAR BOARD
CERTIFIED REAL ESTATE ATTORNEY

May 10, 2017

City of Marathon
9805 Overseas Highway
Marathon, FL 33050

In Re: RERR

This is to confirm that our office is holding the sum of \$160,000.00 regarding the TBR's purchase from the Overseas Lounge Property. This is also to confirm that if a check in the amount of \$20,000.00 issued to the City is returned to our office regarding the Coldiron TBR, that sum is also in our account.

Very truly yours,



Thomas D. Wright

/mm

EXHIBIT E
Patrick Stevens Escrow

PS Law Offices of
Patrick M. Stevens, P.A.

Patrick M. Stevens, P.A.
(205) 743-6200
(781) 294-6663 Fax

5700 Overseas Highway, Suite 1
Marathon, FL 33981
pstevens@pslawfirm.com
mst@pslawfirm.com
admin@pslawfirm.com

May 11, 2017

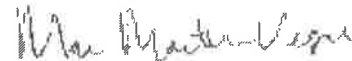
The City of Marathon
9505 Overseas Highway
Marathon, FL 33954

Re: Money held in escrow for Transferable Building Rights for Anglers at Sombbrero

To whom it may concern,

This letter is to confirm that our office is holding \$20,000.00 in escrow for the sale of TBR# 080049, Fisher and Renner to Mike Aranda.

Respectfully,



Mari Murrin-Vegre
Legal Assistant to
Patrick M. Stevens