

**CITY OF MARATHON, FLORIDA
RESOLUTION 2020-11**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA APPROVING A REQUEST FOR THE EXTENSION OF A DEVELOPMENT AGREEMENT FOR JOJO'S OF THE FLORIDA KEYS, LLC. AND NOMAD OUTFITTER'S LLC FOR THE REDEVELOPMENT OF A MIXED USE PROJECT CONSISTING OF FOURTEEN (14) SINGLE FAMILY RESIDENCES, A CONVENIENCE STORE WITH FUEL, AND A MARINA; ON PROPERTY WHICH IS LEGALLY DESCRIBED AS GRASSY KEY PT GOVT. LOT 5; HAVING REAL ESTATE NUMBERS 00100110-000000, 00100110-000200, 00100110-000300, 00100110-000400, AND 00100130-000000; LOCATED AT 59720 AND 59740 OVERSEAS HIGHWAY, GRASSY KEY, MARATHON, FLORIDA. NEAREST MILE MARKER 60.

WHEREAS, by Resolution 2014-75, the City Council of the City of Marathon, Florida (the "City") approved a Development Agreement (the "Agreement") for JoJo's Of The Florida Keys, LLC. And Nomad Outfitter's LLC ("Owners"), a copy of which is attached as Exhibit "A"; and

WHEREAS, Section B of the Agreement provides that the Agreement shall remain in effect for seven (7) years from its effective date with an option to extend the Agreement; and

WHEREAS, Section H. 17 provides for renewal of the Agreement after legal public notice and two (2) public hearings; and

WHEREAS, the Owner is requesting an amendment to said section to allow an option for seven (7) years from the date of approval of this Amendment; and

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 Conditional Use Permit and Development Agreement (See Exhibit A1 and A2, Resolutions 2014-74 and 2014-75) is revised to include the Conditional Use Approval (Resolution 2014-74) and to allow for a three (3) year extension (SEE Exhibit "B") set to terminate on August 29, 2024.

Section 3. This Resolution shall take effect immediately upon approval of this Resolution.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11th DAY OF FEBRUARY 2020.

THE CITY OF MARATHON, FLORIDA



Steve Cook, Mayor

AYES: Zieg, Gonzalez, Bartus, Senmartin, Cook
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

EXHIBIT A1

**RESOLUTION 2014-71
CONDITIONAL USE PERMIT FOR
JOJO'S OF THE FLORIDA KEYS, LLC. AND NOMAD OUTFITTER'S LLC**

EXHIBIT A2

**RESOLUTION 2014-75
DEVELOPMENT AGREEMENT FOR
JOJO'S OF THE FLORIDA KEYS, LLC. AND NOMAD OUTFITTER'S LLC**

EXHIBIT B

**NEW / REVISED DEVELOPMENT AGREEMENT FOR
JOJO'S OF THE FLORIDA KEYS, LLC. AND NOMAD OUTFITTER'S LLC**

Sponsored by: Puto

CITY OF MARATHON, FLORIDA
RESOLUTION 2014-074

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY JOJO'S OF THE FLORIDA KEYS, LLC AND NOMAD OUTFITTER'S LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING THE REDEVELOPMENT OF A MIXED USE PROJECT CONSISTING OF FOURTEEN (14) SINGLE FAMILY RESIDENCES, A CONVENIENCE STORE WITH FUEL, AND A MARINA AT THE PROPERTY LOCATED AT 59720 AND 59740 OVERSEAS HIGHWAY, OCEAN, NEAREST MILE MARKER 60, WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 5, GRASSY KEY, SECTION 20, TOWNSHIP 65, RANGE 34, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00100110-000000, 00100110-000200, 00100110-000300, AND 00100130-000000.

WHEREAS, JoJo's / Nomad Outfitters, (The "Applicant") filed an Application on May 5, 2014 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 13 and 8 respectively of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant proposes to redevelop the existing project site by creating fourteen (14) single family residences, a convenience store with fuel, and a marina; and

WHEREAS, City staff reviewed the Applicant's request for a Conditional Use Permit and 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 16th day of June, 2014, 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 Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, and on the 8th day of July, 2014 and the 22nd day of July, 2014, the City Council (the "Council") conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; the City Council made a determination that the Applicant's request for a Conditional Use Permit, 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 in 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 Development Order 2014-05, a copy of which is attached hereto as Exhibit "A", granting a Conditional Use Permit to JoJo's of the Florida Keys, LLC and Nomad Outfitters LLC subject to the Conditions imposed. The Director of Planning is authorized to sign the development order 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 22nd day of July, 2014.

THE CITY OF MARATHON, FLORIDA



Dick Ramsay, Mayor

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

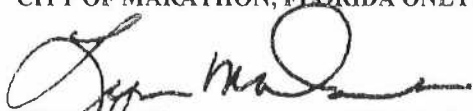
ATTEST:



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. Wanneisser, City Attorney



CITY OF MARATHON, FLORIDA
CONDITIONAL USE
DEVELOPMENT ORDER # 2014-05

A DEVELOPMENT ORDER APPROVING THE CONDITIONAL USE APPLICATION SUBMITTED BY JOJO'S OF THE FLORIDA KEYS, LLC AND NOMAD OUTFITTER'S LLC FOR A CONDITIONAL USE PERMIT, PURSUANT TO CHAPTER 102, ARTICLE 13 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "CONDITIONAL USE PERMITS", AUTHORIZING THE REDEVELOPMENT OF A MIXED USE PROJECT CONSISTING OF FOURTEEN (14) SINGLE FAMILY RESIDENCES, A CONVENIENCE STORE WITH FUEL, AND A MARINA AT THE PROPERTY LOCATED AT 59720 AND 59740 OVERSEAS HIGHWAY, OCEAN, NEAREST MILE MARKER 60, WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 5, GRASSY KEY, SECTION 20, TOWNSHIP 65, RANGE 34, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00100110-000000, 00100110-000200, 00100110-000300, AND 00100130-000000.

WHEREAS, JoJo's / Nomad Outfitters, (The "Applicant") filed an Application on May 5, 2014 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 13 and 8 respectively of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant proposes to redevelop the existing project site by creating fourteen (14) single family residences, a convenience store with fuel, and a marina; and

WHEREAS, City staff reviewed the Applicant's request for a Conditional Use Permit and 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 16th day of June, 2014, 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 Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, and on the 8th day of July, 2014 and the 22nd day of July, 2014, the City Council (the "Council") conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; the City Council made a determination that the Applicant's request for a

Conditional Use Permit, 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 in 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, and

WHEREAS, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by JoJo's of the Florida Keys, LLC and Nomad Outfitters LLC. and does hereby find and determine as provided below.

FINDINGS OF FACT:

1. The applicant will redevelop the existing project site by creating fourteen (14) single family residences, a 2,400 square foot convenience store with fuel, and a marina / boat ramp with approximately 590 linear feet of dockage. See Exhibit A.
2. In accordance with Section 102.77 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The proposed use is consistent with the Comprehensive Plan and LDRs;
 - b. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;
 - c. The proposed use shall not adversely affect the health, safety, and welfare of the public; and
 - d. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and
 - e. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:
 1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
 2. Off-street parking and loading areas where required, with particular attention to item 1 above;
 3. The noise, glare or odor effects of the conditional use on surrounding properties;

4. Refuse and service areas, with particular reference to location, screening and Items 1 and 2 above;
5. Utilities, with reference to location and availability;
6. Screening and buffering with reference to type, dimensions and character;
7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding properties;
8. Required yards and other open space;
9. General compatibility with surrounding properties; and

CONDITIONS IMPOSED:

Granting approval of the Application is subject to the following conditions:

Conditions of Approval

- 1) The applicant must provide plans for an approvable wastewater conveyance system to be connected to the City's Sewer prior to the issuance of any building permits under the Conditional Use Permit approval;
- 2) The applicant must provide final plans for an approvable stormwater management system prior to the issuance of any permits under the Conditional Use Permit;
- 3) The applicant must execute a Unity of Title, retaining separate title between JoJo's and Nomad, combining all parcels, which must be approved by the City Attorney and recorded in the Official Records of the Monroe County Clerk of Courts prior to building permit application;
- 4) The applicant must comply with all comments & or conditions set out in the City TRC comment letter dated May 27, 2014; most already responded to;
- 5) The applicant will obtain site plan approval of the following from the Director and necessary City Departments prior to issuance of building permits:
 - o Final landscaping, open space, buffering, setbacks, restoration/mitigation plans (native vegetation subject to restoration/mitigation) and lighting plans in coordination with the Director and City Biologist prior to building permit approval; and
 - o The applicant will provide fire protection plans in accordance with fire protection requirements as established by the City Fire Marshal and as otherwise identified in the TRC comments; and
 - o The applicant will meet all floodplain related requirements as set out in the LDRs; and
 - o The applicant will obtain the City Engineer's approval of final stormwater plans subject to the requirements of the LDRs and as otherwise identified in the TRC comments prior to the issuance of building permits.
 - o The applicant will be required to connect to the City of Marathon wastewater collection and treatment system prior to the issuance of a Certificate of Occupancy;

- 6) The applicant will obtain all required permits for any signs erected on the property, as required under the Code;
- 7) The applicant will obtain any required permits and permissions from SFWMD and FDOT, ACOE and any other applicable agency(s) prior to issuance of building permits;
- 8) Final Technical Review / Site Plan approval will constitute the Certificate of Concurrence for the project. The determination will be valid for one year subject to an option for a one year extension - Conditional Use Permit only. The determination will be valid for a period of 7 years - Development Agreement only.

VIOLATION OF CONDITIONS:

The applicant understands and acknowledges that it must comply with all of the terms and conditions herein, and all other applicable requirements of the City or other governmental agencies applicable to the use of the Property. In accordance with the Code, the Council may revoke this approval upon a determination that the Applicant or its successor or designee is in non-compliance with this Resolution or Code. Failure to adhere to the terms and conditions of approval contained herein is a violation of the Code and persons found violating the conditions shall be subject to the penalties prescribed therein.

CONCLUSIONS OF LAW:


Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

1. The Application has been processed in accordance with the applicable provisions of the City Code, and will not be detrimental to the community as a whole; and
2. In rendering its decision, as reflected in this Resolution, the Council has:
 - (a) Accorded procedural due process;
 - (b) Observed the essential requirements of the law;
 - (c) Supported its decision by substantial competent evidence of record; and
3. The Application for a conditional use is hereby GRANTED subject to the conditions specified herein.

EFFECTIVE DATE:

This development order shall not take effect for thirty (30) days following the date it is filed with the City Clerk, and during that time, the conditional use approval granted herein shall be subject to appeal as provided in the City Code. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

7/24/14
Date


George Gantt
Director of Planning

This Development Order was filed in the Office of the City Clerk of this 24 day of July 2014.

Diane Clavier
Diane Clavier, City Clerk

NOTICE

Under the authority of Section 102.79(c) of the City of Marathon Land Development Regulations, this development order shall become null and void with no further notice required by the City, unless a business license has been issued for the use or a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the City of Marathon Building Official within one (1) year from the date of conditional use approval, or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured with three (3) years of the date of this development order is approved by the City Council.

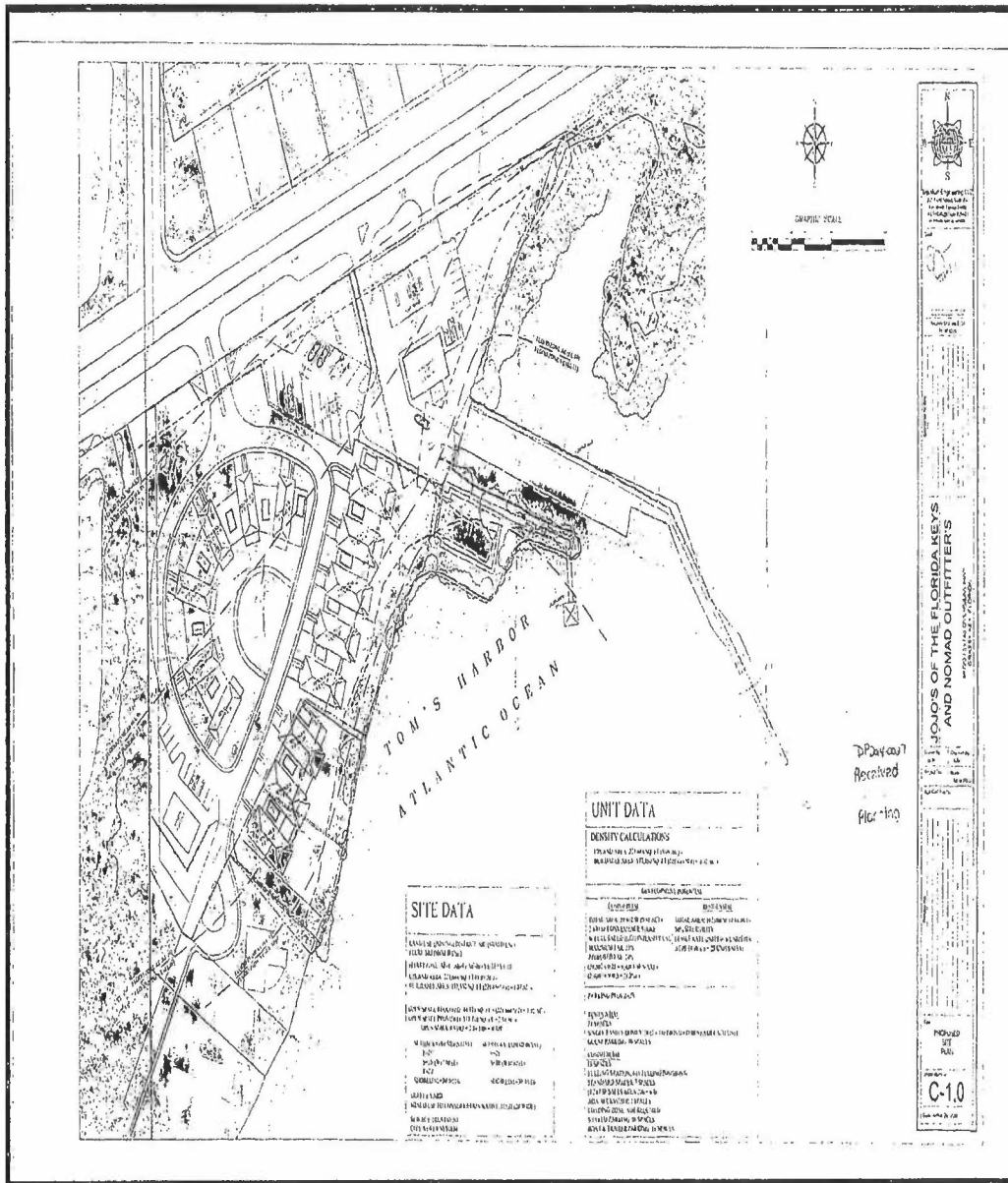
In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During that forty-five days, the Florida Department of Economic Opportunity may appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing Resolution was furnished, via U.S. certified mail, return receipt requested, addressed to John J. Wolfe, P.A., 2955 Overseas Hwy this 24th day of July, 2014. Marathon, FL 33050

Diane Clavier
Diane Clavier City Clerk

EXHIBIT A



SITE DATA

PROJECT: UNITS OF THE FLORIDA KEYS AND NOMAD OUTFITTERS
 LOCATION: TOM'S HARBOR, FLORIDA KEYS
 AREA: 100,000 SQ. FT.
 ZONING: RESIDENTIAL
 OWNER: [REDACTED]
 ARCHITECT: [REDACTED]

UNIT DATA

DENSITY CALCULATIONS
 TOTAL UNIT AREA: 100,000 SQ. FT.
 UNIT AREA: 1,000 SQ. FT.
 TOTAL UNITS: 100

UNIT TYPE	AREA (SQ. FT.)	NUMBER OF UNITS
1-BEDROOM	1,000	100
2-BEDROOM	1,000	100
3-BEDROOM	1,000	100
4-BEDROOM	1,000	100
5-BEDROOM	1,000	100
6-BEDROOM	1,000	100
7-BEDROOM	1,000	100
8-BEDROOM	1,000	100
9-BEDROOM	1,000	100
10-BEDROOM	1,000	100

UNITS OF THE FLORIDA KEYS AND NOMAD OUTFITTERS
 C-10
 DRAWING NO.

RECEIVED
 [REDACTED]

Sponsored by: Puto

**CITY OF MARATHON, FLORIDA
RESOLUTION 2014-75**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY JOJO'S OF THE FLORIDA KEYS, LLC AND NOMAD OUTFITTER'S LLC (THE "APPLICANT") FOR A DEVELOPMENT AGREEMENT, PURSUANT TO CHAPTER 102, ARTICLE 8 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (CODE) ENTITLED "DEVELOPMENT AGREEMENT", AUTHORIZING THE REDEVELOPMENT OF A MIXED USE PROJECT CONSISTING OF FOURTEEN (14) SINGLE FAMILY RESIDENCES, A CONVENIENCE STORE WITH FUEL, AND A MARINA SUBJECT TO CONDITIONS IMPOSED; FOR PROPERTY LOCATED AT 59720 AND 59740 OVERSEAS HIGHWAY, OCEAN, NEAREST MILE MARKER 60, WHICH IS LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 5, GRASSY KEY, SECTION 20, TOWNSHIP 65, RANGE 34, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00100110-000000, 00100110-000200, 00100110-000300, AND 00100130-000000.

WHEREAS, JoJo's / Nomad Outfitters, (The "Applicant") filed an Application on May 5, 2014 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 13 and 8 respectively of the City of Marathon Land Development Regulations (LDRs); and

WHEREAS; the Applicant proposes to redevelop the existing project site by creating fourteen (14) single family residences, a convenience store with fuel, and a marina; and

WHEREAS, City staff reviewed the Applicant's request for a Conditional Use Permit and 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 16th day of June, 2014, 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 Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS, and on the 8th day of July, 2014 and the 22nd day of July, 2014, the City Council (the "Council") conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

WHEREAS; the City Council made a determination that the Applicant's request for a Conditional Use Permit, 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 of a Development Agreement is in the public interest, is consistent with its policy to 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 assure the Applicant that, upon receipt of his permits under this chapter, he may proceed in accordance with existing ordinances and regulations subject to the conditions of the development agreement at the property described in the application,

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 this Development Agreement, a copy of which is attached hereto as Exhibit "A", granting approval to JoJo's of the Florida Keys, LLC and Nomad Outfitters LLC to redevelop the existing project site with fourteen (14) single family residences, a 2,400 square foot convenience store with fuel, and a marina / boat ramp with approximately 590 linear feet of dockage subject to conditions imposed and as further described in the Agreement. The Mayor is authorized to sign the development order on behalf of the City.

Section 3. This Resolution shall take effect upon approval by the State Department of Economic Opportunity.

PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 22nd day of July, 2014.

THE CITY OF MARATHON, FLORIDA



Dick Ramsay, Mayor

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

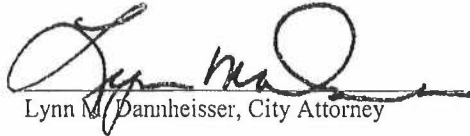
ATTEST:



Diane Clavier
City Clerk

(City Seal)

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



Lynn M. Dannheisser, City Attorney

Prepared by
and return to:
John J. Wolfe, Esq.
John J. Wolfe, P.A.
2955 Overseas Hwy.
Marathon, FL 33050

Doc# 1996036 08/29/2014 11:18AM
Filed & Recorded in Official Records of
MONROE COUNTY AMY HEAVILIN

Doc# 1996036
Bk# 2700 Pg# 2344

Parcel ID Nos:
00100110-000000, 00100110-000200,
00100110-000300, 00100130-000000

Development Agreement for
JoJo's of The Florida Keys, LLC, Harwin-Tobin Keys, LLC & Nomad Outfitters LLC
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 JoJo's of The Florida Keys, LLC, a Florida limited liability company, 1101 Ben Tobin Drive, Hollywood, FL 33021 (herein referred to as "JoJo's"), Harwin-Tobin, LLC, a Florida limited liability company, 1101 Ben Tobin Drive, Hollywood, FL 33021 (herein referred to as "Harwin"), and Nomad Outfitters LLC a Florida limited liability company, 59740 Overseas Highway, Marathon, FL 33050 (herein referred to as "Nomad") (JoJo's, Harwin, and Nomad, sometimes hereinafter collectively referred to as "Owner", and City and Owner herein referred to as the "Parties"), 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, JoJo's, Harwin and Nomad are the owners of approximately 5.1 acres located in the City on Grassy Key, approximate Mile Marker 60, as more particularly described in Exhibit 1 attached hereto, which is the subject of this Agreement (hereinafter, the "Property")

WHEREAS, JoJo's and Harwin are the owners of approximately 4.2 acres of the Property, as more particularly described in Exhibit 2 attached hereto (hereinafter, the "JoJo's Property"); and

WHEREAS, Nomad is the owner of approximately .9 acres of the Property, as more particularly described in Exhibit 3 attached hereto (hereinafter, the "Nomad Property"),

WHEREAS, the Property is currently developed with existing structures, most of which have reached functional obsolescence and need to be demolished; the existing structures and the rights associated with the Property as recognized by the City are set forth in Section IV. C. of this Agreement; and

WHEREAS, JoJo's and Nomad have entered into various agreements relating to conveyances of portions of the Property to each other, joint use of certain facilities, granting of necessary easements and related matters to provide for the joint redevelopment of the Property consistent with the redevelopment proposed in this Agreement; and

AM

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WHEREAS, though the JoJo's Property and the Nomad property are under separate ownership and control, the existing development and rights complement and enhance the proposed redevelopment of the Property, and the proposed redevelopment, which will require cross conveyances of certain portions of the Property as well as easements and agreements concerning use can best be ensured by entering into this Agreement with the City to provide for an orderly development process within the timelines set forth herein; and

WHEREAS, the location of the Property at the Northeasterly entrance to the City further dictates the importance of entering into this Agreement to enhance the use, appeal and attractiveness of the Property consistent with the City's community character goals as set forth in the City of Marathon Comprehensive Plan Effective July 5, 2005, as amended (the "Comprehensive Plan"); and

WHEREAS, the proposed redevelopment of the property is permissible and appropriate for the Comprehensive Plan Future Land Use designation, Mixed Use Commercial, applicable to the Property, which provides for the establishment of mixed use development patterns and recognizes established mixed use development patterns within the City; and

WHEREAS, the Marathon Planning Commission held a public hearing on the 16th day of June, 2014, to consider this Agreement, and recommended approval of this Agreement; and

WHEREAS, the City Council of Marathon held public hearings on the 8th day and 22nd day of July, 2014, 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 mixed use properties in Marathon, and will further the health, safety and welfare of the City's residents.

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 1-1.1 and Policy 1-1.1.1 of the Comprehensive Plan;
- B. To provide for an orderly development process consistent with the provisions of Chapter 102, Article 8 of the City's Land Development Regulations.

AM

III. Definitions.

For the purposes of this Agreement, all terms shall have the definitions as found in the City's Land Development Regulations (the "LDRs"), the Comprehensive Plan and in Chapter 163, Florida Statutes, or in other applicable Florida Statutes, and if not defined in the Code, Comprehensive 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 163.3220, 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.

JoJo's, Harwin and Nomad are the owners of the Property (as described in Exhibit 1), which is the Property subject of this Agreement. There are no other legal or equitable owners of the Property known to the parties to this Agreement.

In order to accomplish the redevelopment contemplated hereby, JoJo's will be conveying to Nomad and Nomad will be conveying to JoJo's certain portions of the Property and will be granting certain easements to each other to rationalize the property boundaries and enable the redevelopment proposed herein. The parcels to be conveyed and the easements to be granted are described in Exhibit 4 attached hereto and made a part hereof.

B. Duration of Agreement.

The duration of this Agreement shall be seven (7) years from the Effective Date.

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. Existing Development.

City has recognized the following existing development on the Property relevant to the proposed redevelopment and this Agreement:

- 2,400 square foot convenience store and six station fuel dispensers on the Nomad property
- Four (4) market rate building rights on the Nomad Property
- Ten (10) market rate building rights on the JoJo's Property

The City has recognized certain additional development rights as existing on the Property, but such development rights are not necessary for the redevelopment proposed herein

ADMA

D. Proposed Redevelopment.

The proposed redevelopment approved pursuant to this Agreement is as follows:

Rebuild the 2,400 square foot convenience store and six station fuel dispensers on the Nomad property;

Construct fourteen (14) single-family market rate homes and accessory pools/amenities using the existing entitlements from the Nomad Property and the JoJo's Property. The four (4) market rate building rights from the Nomad Property will be conveyed to JoJo's with the conveyance of the portion of the Nomad's Property by Nomad to JoJo's. The fourteen (14) single-family market rate homes will be subject to a mandatory homeowner's association in accordance with state law.

Construct the boat/trailer parking facility on the Nomad property as shown on the site plan.

Construct all required utility, access, storm water management, landscape and vehicular and pedestrian travel ways.

The proposed redevelopment is depicted on the proposed site plan dated April 29, 2014 signed by Richard J. Milelli, PE submitted by the parties to the City in connection with the Conditional Use Application for this redevelopment (the "Site Plan"). See Exhibit 5.

E. Density and Building Height.

Use and Intensity. The Owner plans a minor rearrangement of the Property boundaries as described in Section IV. A. above. The resulting JoJo's parcel area will be 182,086 square feet or 4.18 acres, and the Nomad parcel will be 39,602 square feet or 0.91 acres. The following table shows the development uses permitted on the Property, including population densities, and building intensities and height, and demonstrates that the project is compliant with Table 103.15.2 Density, Intensity, and Dimensions outlined in the LDRs.

	Jojo's Parcel		NOMAD Outfitter's Parcel	
	City Code Std	Proposed	City Code Std	Proposed
Density	Market Rate 6 units /acre	14 units = 56% $6 \times 4.18 = 25$ $14 \div 25 = 56$	Convenience Store w/Fuel FAR .25	2,400 s.f. = 24.3% FAR $39,602 \times .25 = 9,900$ $2,400 \div 9,900 = .24$
Lot Area per Unit	N/A		N/A	
Setbacks Front	0 to 30	25'	0 to 30	25'
Setbacks Rear	20'	30' (shoreline)	20'	30' (shoreline)
Setbacks Side 1	0 to 10'	15'	0 to 10'	10'
Setbacks Side 2	5'	10'	5'	30'

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Height	37'	32' ¾"	37'	21'
Open Space	20%	49.9%	20%	50%
	36,417 s.f.	90,810 s.f.	7,920 s.f.	19,908 s.f.

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 shall be addressed through impact fees, if any.
7. Stormwater Management. A stormwater management system that meets all applicable local, state and federal requirements shall be constructed on site as part of the site development of the Property. 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 Nearshore Waters.
8. Fire Protection. In connection with the Owners' development of the Property, Owners 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.
9. Concurrency. All public facilities identified above are available as of the date of this Agreement.
10. Impact Fees. Any increased impacts on public facilities or public services attributable to each unit developed on the Property, and the cost of capital improvements 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 applicable City of Marathon impact fees required by ordinance then in effect, as well as by payment by Owner of any applicable utility system development fees. Owner agrees to pay impact fees pursuant to any applicable impact fee ordinances adopted within twenty-four (24) months of the Effective Date of this Agreement, provided such ordinance applies equally and uniformly to all redevelopment in the City of Marathon.

G. 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 development of the Property, but is currently unaware of the specifics of such reservation(s) or dedication(s). Reservations and dedications for public purposes in connection

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with this Agreement may be requested by the City's Comprehensive Plan and City Code. Such reservations or dedications may include, by way of example, easements necessary for the provision of stormwater, utility and wastewater services to the Property.

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 all structures contemplated by this Agreement and all infrastructure improvements, 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).

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 Comprehensive Plan and City Code Provisions.

The redevelopment shall be developed in accordance with all required permits and in accordance with all applicable provisions of the Comprehensive Plan and LDRs 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 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 new laws and policies are specifically anticipated and provided for in this Agreement;
 - iv. The City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement; or
 - v. 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.

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 LDRs. The City shall conduct at least two (2) public hearings,

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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:

- (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 Agreement to the contrary, neither party hereto shall be deemed to be in default under this Agreement where delay in the construction or

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performance of the obligations imposed by this 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 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:

Jo-Jo's of the Florida Keys, LLC
1101 Ben Tobin Drive
Hollywood, FL 33021

Harwin Tobin Keys, LLC
1101 Ben Tobin Drive
Hollywood, FL 33021

Nomad Outfitters LLC
59740 Overseas Highway
Marathon, FL 33050

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

John J. Wolfe
John J. Wolfe, P.A.
2955 Overseas Highway
Marathon, FL 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:

Lynn M. Dannheisser, Esq.
City Attorney, City of Marathon

AD

Gray Robinson, PA
1221 Brickel Ave
Miami, FL 33131
(305) 416-6880

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, 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.

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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 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

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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:

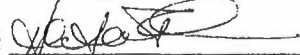
WITNESSES:



Signature
Victor Lopez
Name of witness (printed or typed)

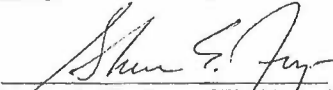
OWNER:

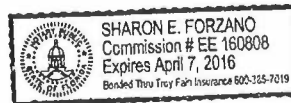
JO-JO'S OF THE FLORIDA KEYS, LLC
By: HARWIN-TOBIN KEYS, LLC
Its Sole Manager

By: 
Herbert A. Tobin, Chief Executive Officer

STATE OF FLORIDA
COUNTY OF MONROE

The following instrument was acknowledged before me on this 12 day of August, 2014, by Herbert A. Tobin as Chief Executive Officer of Harwin Tobin Keys, LLC, the Manager of Jo-Jo's of the Florida Keys, LLC, who is personally known to me or who produced N/A as identification, and who did/did not take an oath.


Notary Public, State of Florida/At Large
My commission expires: 4-7-16



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Bk# 2700 Pg# 2356

[Signature]
Signature
Victor Lopez

Owner:
HARWIN-TOBIN KEYS, LLC

By: [Signature]
Herbert A. Tobin, Chief Executive Officer

Name of witness (printed or typed)
[Signature]
Signature
Lena Lee Quintana
Name of witness (printed or typed)

STATE OF FLORIDA
COUNTY OF MONROE

The following instrument was acknowledged before me on this 12 day of August, 2014, by Herbert A. Tobin as Chief Executive Officer of Harwin Tobin Keys, LLC, who is personally known to me or who produced N/A as identification, and who did/did not take an oath.

[Signature]
Notary Public, State of Florida At Large
My commission expires: 4-7-16



[Handwritten mark]

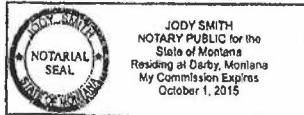
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BK# 2700 Pg# 2357

Courtney Cords
Signature
Courtney Cords
Name of witness (printed or typed)
Beanna Merchel
Signature
Beanna Merchel
Name of witness (printed or typed)

OWNER:
NOMAD OUTFITTERS LLC
By: [Signature]
Carter Bates, Managing Member

STATE OF FLORIDA
COUNTY OF MONROE

The following instrument was acknowledged before me on this 22nd day of Aug, 2014, by Carter Bates as Managing Member of Nomad Outfitters LLC, who is personally known to me or who produced MIA and Cert of acknowledgment for Nomad as identification, and who did not take an oath.



Jody Smith
Notary Public, State of Florida At Large
My commission expires: 10-01-2015

On the 22nd day of July, 2014, The City Council of the City of Marathon approved this Agreement by Resolution No. 2014-75.

ATTEST:
[Signature]
City Clerk

CITY OF MARATHON
By: [Signature]
Dick Ramsay, MAYOR

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

[Signature]
Lynn M. Dannheisser, City Attorney

Doc# 1996036
BK# 2700 P# 2358

EXHIBIT 1



Doc# 1996036
Bk# 2700 Pg# 2359

EXHIBIT I

LEGAL DESCRIPTION OF PROPERTY SUBJECT TO DEVELOPMENT AGREEMENT

Official Record Book 1815, Page 1844

A parcel of land in Government Lot 5, Section 20, Township 65 South, Range 34 East, Grassy Key, Monroe County, Florida, being more particularly described as follows:

BEGINNING at the intersection of the West line of said Government Lot 5 with the southeasterly right of way line of State Road No. 5 (US Highway No. 1), run thence North 68°38'00" East, along said Right of Way line for a distance of 332.20 feet; run thence South 21°22'00" East for a distance of 198.65 feet to a point; run thence for the following three (3) courses: 1). North 65°20'00" East, 26.65 feet; 2). South 75°05'40" East, 34.00 feet; 3). North 29°54'20" East, 40.00 feet to a point on the Mean High Water Line of the Atlantic Ocean; thence along the Mean High Water Line of the Atlantic Ocean for the following thirty-one courses:

1). South 0°30'18" West, 3.97 feet; 2). South 15°18'55" West, 16.66 feet; 3). South 65°32'55" East, 31.97 feet; 4). South 75°57'54" East, 41.09 feet; 5). South 76°44'19" East, 30.01 feet; 6). South 68°01'46" East, 17.94 feet; 7). South 75°49'49" East, 42.08 feet; 8). South 79°59'37" East, 16.13 feet; 9). South 81°22'42" East, 8.01 feet; 10). South 50°52'22" East, 10.76 feet; 11). South 9°24'53" East, 10.89 feet; 12). South 66°41'17" West, 14.08 feet; 13). North 57°13'49" West, 8.91 feet; 14). North 79°44'29" West, 20.53 feet; 15). North 75°38'15" West, 18.91 feet; 16). North 82°05'40" West, 18.42 feet; 17). South 73°46'38" West, 9.36 feet; 18). South 64°21'01" West, 8.71 feet; 19). South 46°17'09" West, 12.23 feet; 20). South 29°24'20" West, 25.13 feet; 21). South 52°03'17" West, 24.85 feet; 22). North 74°52'47" West, 22.30 feet; 23). North 67°48'27" West, 17.71 feet; 24). North 72°14'26" West, 19.18 feet; 25). North 74°40'26" West, 15.80 feet; 26). North 84°47'44" West, 17.91 feet; 27). South 71°11'58" West, 19.03 feet; 28). South 50°18'29" West, 12.61 feet; 29). South 28°55'09" West, 25.67 feet; 30). South 4°30'14" East, 8.41 feet; 31). South 57°08'46" West, 15.67 feet to an intersection with the original mean high water line of the Atlantic Ocean; Thence meander along the shoreline of the Atlantic Ocean in a Southwesterly direction for 287 feet more or less to an intersection with the Northeasterly line of the lands described by deed recorded in Official Record Book 927 at Page 1143 of the Public Records of Monroe County, Fla.; run thence North 60°48'17" West for a distance of 152.59 feet to a point; run thence South 39°35'00" West for a distance of 93.55 feet to a point; run thence North 42°20'00" West for a distance of 72.85 feet more or less, to the intersection with the West line of Government Lot 5; run thence North 0°40'00" West for a distance of 389.34 feet more or less, to the POINT OF BEGINNING.

AND

OFFICIAL RECORDS BOOK 2186, PAGE 653

A PARCEL OF LAND IN GOVERNMENT LOT 5, SECTION 20, TOWNSHIP 65 SOUTH, RANGE 34 EAST, ON GRASSY KEY, MONROE COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF THE SAID GOVERNMENT LOT 5, WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NUMBER 5, (U.S. HIGHWAY NO. 1), RUN N 68°38' E ALONG SAID RIGHT-OF-WAY LINE FOR 332.2 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND. FROM THE SAID POINT OF BEGINNING RUN S 21° 22' E ALONG THE EASTERLY LINE OF THE LANDS DESCRIBED BY DEED RECORDED IN MONROE

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COUNTY, FLORIDA OFFICIAL RECORDS BOOK 494 AT PAGES 1039 AND 1040 FOR 198.65 FEET TO THE POINT OF BEGINNING OF THE PROPERTY BOUNDARY DESCRIBED BY QUIT CLAIM DEED AND FINAL JUDGMENT, (CASE NO. 80-157-CA-8), RECORDED IN MONROE COUNTY, FLORIDA OFFICIAL RECORDS BOOK 780 AT PAGE 3 AND 820 AT PAGES 1613 AND 1614; THENCE ALONG SAID PROPERTY BOUNDARY FOR THE FOLLOWING THREE (3) COURSES:

(1). N 65° 20' E, 26.65 FEET; (2). S 75°05'40"E, 34.00 FEET; (3). N29°54'20" E, 40.00 FEET TO THE POINT OF ENDING OF SAID PROPERTY BOUNDARY, THE SAME BEING A POINT ON THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN; THENCE ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING SEVEN (7) COURSES:

(1). N 5°48'33" W, 16.92 FEET; (2). S 62°38'36" E, 3.11 FEET; (3). N 31°22'52" E, 68.32 FEET; (4). N 31°56'01" E, 42.33 FEET; (5). N 33°25'40" E, 21.49 FEET; (6). N 30°48'08" E, 46.12 FEET; (7). N 36°41'58" E, 31.09 FEET; THENCE ALONG THE "ORIGINAL MEAN HIGH WATER LINE" OF GRASSY KEY FOR THE FOLLOWING TWO (2) COURSES:

(1). N 27°59'58" E, 65.22 FEET; (2). N 42°06'23" E, 26.87 FEET TO THE SAID SOUTH-EASTERLY RIGHT-OF-WAY LINE; THENCE S 66°38' W ALONG SAID RIGHT-OF-WAY LINE FOR 334.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND, CONTAINING 0.91 ACRES MORE OR LESS.

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EXHIBIT 2

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EXHIBIT 2

LEGAL DESCRIPTION OF PROPERTY OWNED BY

JOJO'S OF THE FLORIDA KEYS, LLC

AND

HARWIN-TOBIN KEYS, LLC

Official Record Book 1815, Page 1844

A parcel of land in Government Lot 5, Section 20, Township 65 South, Range 34 East, Grassy Key, Monroe County, Florida, being more particularly described as follows:

BEGINNING at the intersection of the West line of said Government Lot 5 with the southeasterly right of way line of State Road No. 5 (US Highway No. 1), run thence North 68°38'00" East, along said Right of Way line for a distance of 332.20 feet; run thence South 21°22'00" East for a distance of 198.65 feet to a point; run thence for the following three (3) courses: 1). North 65°20'00" East, 26.65 feet; 2). South 75°05'40" East, 34.00 feet; 3). North 29°54'20" East, 40.00 feet to a point on the Mean High Water Line of the Atlantic Ocean; thence along the Mean High Water Line of the Atlantic Ocean for the following thirty-one courses:

1). South 0°30'18" West, 3.97 feet; 2). South 15°18'55" West, 16.66 feet; 3). South 65°32'55" East, 31.97 feet; 4). South 75°57'54" East, 41.09 feet; 5). South 76°44'19" East, 30.01 feet; 6). South 68°01'46" East, 17.94 feet 7). South 75°49'49" East, 42.08 feet; 8). South 79°59'37" East, 16.13 feet; 9). South 81°22'42" East, 8.01 feet; 10). South 50°52'22" East, 10.76 feet; 11). South 9°24'53" East, 10.89 feet; 12). South 66°41'17" West, 14.08 feet; 13). North 57°13'49" West, 8.91 feet; 14). North 79°44'29" West, 20.53 feet; 15). North 75°38'15" West, 18.91 feet; 16). North 82°05'40" West, 18.42 feet; 17). South 73°46'38" West, 9.36 feet; 18). South 64°21'01" West, 8.71 feet; 19). South 46°17'09" West, 12.23 feet 20). South 29°24'20" West, 25.13 feet; 21). South 52°03'17" West, 24.85 feet; 22). North 74°52'47" West, 22.30 feet; 23). North 67°48'27" West, 17.71 feet; 24). North 72°14'26" West; 19.18 feet; 25). North 74°40'26" West, 15.80 feet; 26). North 84°47'44" West, 17.91 feet; 27). South 71°11'58" West, 19.03 feet; 28). South 50°18'29" West, 12.61 feet; 29). South 28°55'09" West, 25.67 feet; 30). South 4°30'14" East, 8.41 feet; 31). South 57°08'46" West, 15.67 feet to an intersection with the original mean high water line of the Atlantic Ocean; Thence meander along the shoreline of the Atlantic Ocean in a Southwesterly direction for 287 feet more or less to an intersection with the Northeasterly line of the lands described by deed recorded in Official Record Book 927 at Page 1143 of the Public Records of Monroe County, Fla.; run thence North 60°48'17" West for a distance of 152.59 feet to a point; run thence South 39°35'00" West for a distance of 93.55 feet to a point; run thence North 42°20'00" West for a distance of 72.85 feet more or less, to the intersection with the West line of Government Lot 5; run thence North 0°40'00" West for a distance of 389.34 feet more or less, to the POINT OF BEGINNING.

Doc# 1996036
Bk# 2700 Pg# 2363

EXHIBIT 3



EXHIBIT 3

LEGAL DESCRIPTION OF PROPERTY OWNED BY

NOMAD OUTFITTERS LLC

OFFICIAL RECORDS BOOK 2186, PAGE 653

A PARCEL OF LAND IN GOVERNMENT LOT 5, SECTION 20, TOWNSHIP 65 SOUTH, RANGE 34 EAST, ON GRASSY KEY, MONROE COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF THE SAID GOVERNMENT LOT 5, WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NUMBER 5, (U.S. HIGHWAY NO. 1), RUN N 68°38' E ALONG SAID RIGHT-OF-WAY LINE FOR 332.2 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND. FROM THE SAID POINT OF BEGINNING RUN S 21° 22' E ALONG THE EASTERLY LINE OF THE LANDS DESCRIBED BY DEED RECORDED IN MONROE COUNTY, FLORIDA OFFICIAL RECORDS BOOK 494 AT PAGES 1039 AND 1040 FOR 198.65 FEET TO THE POINT OF BEGINNING OF THE PROPERTY BOUNDARY DESCRIBED BY QUIT CLAIM DEED AND FINAL JUDGMENT, (CASE NO. 80-157-CA-8), RECORDED IN MONROE COUNTY, FLORIDA OFFICIAL RECORDS BOOK 780 AT PAGE 3 AND 820 AT PAGES 1613 AND 1614; THENCE ALONG SAID PROPERTY BOUNDARY FOR THE FOLLOWING THREE (3) COURSES:

(1). N 65° 20' E, 26.65 FEET; (2). S 75°05'40"E, 34.00 FEET; (3). N29°54'20" E, 40.00 FEET TO THE POINT OF ENDING OF SAID PROPERTY BOUNDARY, THE SAME BEING A POINT ON THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN; THENCE ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING SEVEN (7) COURSES:

(1). N 5°48'33" W, 16.92 FEET; (2). S 62°38'36" E, 3.11 FEET; (3). N 31°22'52" E, 68.32 FEET; (4). N 31°56'01" E, 42.33 FEET; (5). N 33°25'40" E, 21.49 FEET; (6). N 30°48'08" E, 46.12 FEET; (7). N 36°41'58" E, 31.09 FEET; THENCE ALONG THE "ORIGINAL MEAN HIGH WATER LINE" OF GRASSY KEY FOR THE FOLLOWING TWO (2) COURSES:

(1). N 27°59'58" E, 65.22 FEET; (2). N 42°06'23" E, 26.87 FEET TO THE SAID SOUTH-EASTERLY RIGHT-OF-WAY LINE; THENCE S 66°38' W ALONG SAID RIGHT-OF-WAY LINE FOR 334.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND, CONTAINING 0.91 ACRES MORE OR LESS.

Doc# 1996036
Bk# 2700 Pg# 2365

EXHIBIT 4



EXHIBIT 4

CONVEYANCES AND EASEMENTS

BOAT PARKING PARCEL

JoJo's and Harwin will grant and convey to Nomad the enclosed site shown on the Site Plan as boat parking 12'x25', 7 spaces provided and boat parking 12'x32', 9 spaces provided, together with the area shown on the Site Plan

Access to the parking site shall be from the Nomad Property in the area of the Nomad Property closest to the boat ramp. Exit from the parking site shall be by the road way, which connects to the exit road from the JoJo's Property. JoJo's will execute an appropriate instrument granting such exit easement.

BOAT RAMP PARCEL

JoJo's is the owner of a portion of property which crosses over the boat ramp located on the Nomad property and as shown on the Site Plan.

The property contained therein, being a portion of the boat ramp and being necessary for the operation of the marina by Nomad, JoJo's will convey to Nomad, by Warranty Deed, the described property.

The Warranty Deed will make reference to a Use Agreement entered into by and between the parties hereto, and recorded in the Public Records of Monroe County, outlining the use of the conveyed property as a boat ramp and granting a non-exclusive easement across the Nomad Property for access to the boat ramp by JoJo's, Harwin and their assigns and their guests, licensees and invitees.

TRIANGLE PARCEL

The Site Plan shows a triangular piece of property, southwesterly of the wall dividing the Nomad property from the JoJo's Property. That triangular piece is presently owned by Nomad, but is essential to the development of the JoJo's Property. Nomad will convey to Tobin the triangular piece of property.

ACCESS TO FLOATING DOCK

In order to access the Floating Dock, the JoJo's and Harwin residents, their tenants, guests and licensees will need access across a portion of the Nomad property. Nomad will grant a perpetual access easement allowing the aforesaid parties to cross over from the JoJo's Property and to access the Floating Dock.

Doc# 1996036
Bk# 2700 Pg# 2367

PEDESTRIAN WALKWAY

The Site Plan attached hereto contains a reference to a pedestrian walkway, which will be on the borderline of the JoJo's Property and Nomad Property, a gate which will open from the JoJo's Property on to the Nomad property. Nomad will grant an Easement for the opening of such gate on to the Nomad property and for pedestrian access across the Nomad property on to the boat ramp and the floating dock.

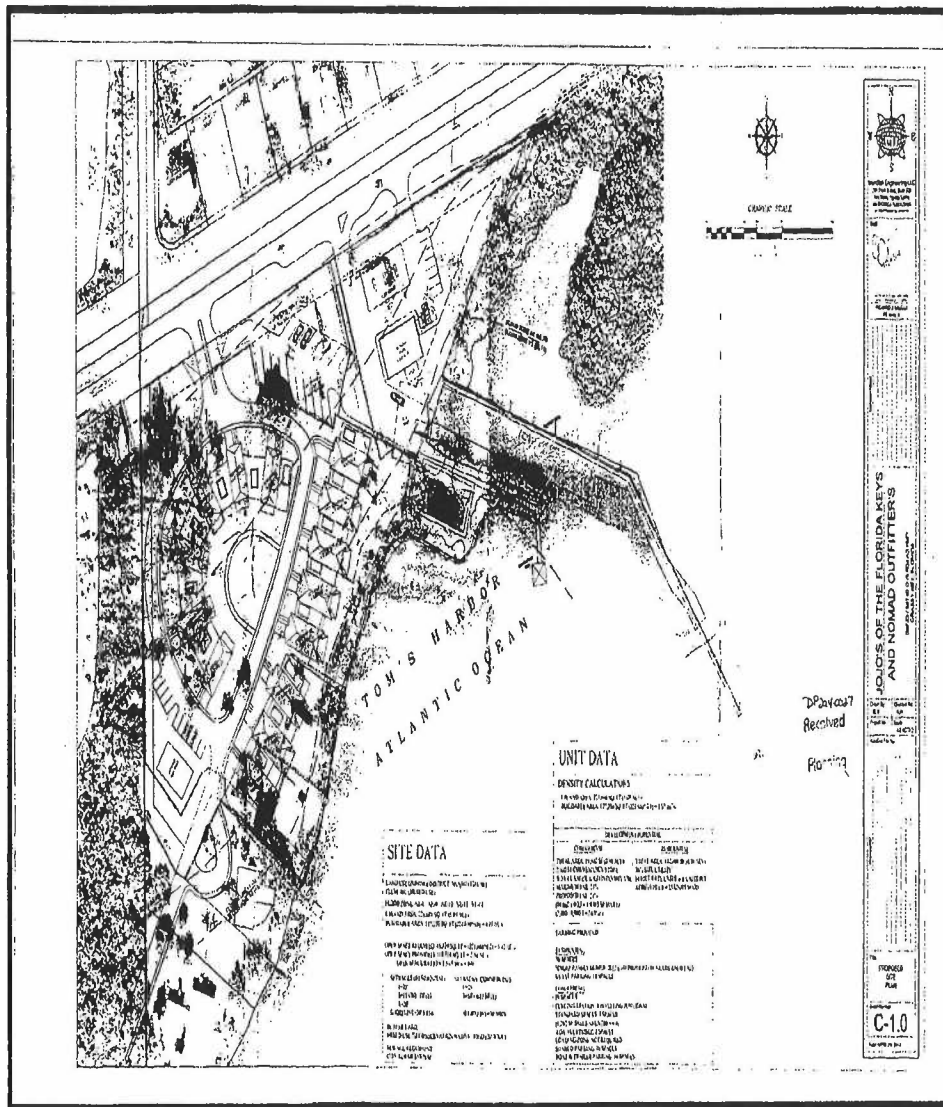
VEHICULAR ACCESS TO BOAT RAMP & FLOATING DOCK

In order for the residents of the JoJo's Property and the Harwin Property, their successors and assigns, to access the boat ramp and floating dock by automobile, they will need to pass over the Nomad property. Nomad will grant to JoJo's, Harwin, and their successors and assigns and the residents entitled to access to the floating dock, their successor, assigns, guests and invitees, an automobile access easement from Highway U.S.1 across the designated areas of the Nomad property for access to the boat ramp and the floating dock.

mg

EXHIBIT 5

HONOLULU COUNTY
OFFICIAL RECORDS



Doc# 1996036
BKH 2700 PSM 2368

PREPARED BY AND RETURN TO:

Spottswood, Spottswood,
Spottswood & Sterling, PLLC
500 Fleming Street
Key West, FL 33040

Parcel ID Nos:

00100110-000000, 00100110-000200,
00100110-000300, 00100130-000000

**AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR
JOJO'S OF THE FLORIDA KEYS, LLC, HARWIN-TOBIN KEYS. LLC & NOMAD
OUTFITTERS LLC 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 JoJo's of The Florida Keys, LLC, a Florida limited liability company, 1101 Ben Tobin Drive, Hollywood, FL 33021 (herein referred to as "JoJo's"), Harwin-Tobin. LLC, a Florida limited liability company, 1101 Ben Tobin Drive, Hollywood, FL 33021 (herein referred to as "Harwin"), and Nomad Outfitters LLC a Florida limited liability company, 59740 Overseas Highway, Marathon, FL 33050 (herein referred to as "Nomad") (JoJo's, Harwin, and Nomad, sometimes hereinafter collectively referred to as "Owner", and City and Owner herein referred to as the "Parties"), 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, JoJo's, Harwin and Nomad are the owners of approximately 5.1 acres located in the City on Grassy Key, approximate Mile Marker 60, as more particularly described in Exhibit 1 attached hereto, which is the subject of this Agreement (hereinafter, the "Property")

WHEREAS, JoJo's and Harwin are the owners of approximately 4.2 acres of the Property, as more particularly described in Exhibit 2 attached hereto (hereinafter, the "JoJo's Property"); and

WHEREAS, Nomad is the owner of approximately .9 acres of the Property, as more particularly described in Exhibit 3 attached hereto (hereinafter, the "Nomad Property").

WHEREAS, the Property is currently developed with existing structures, most of which have reached functional obsolescence and need to be demolished; the existing structures and the rights associated with the Property as recognized by the City are set forth in Section IV. C. of this Agreement; and

WHEREAS, JoJo's and Nomad have entered into various agreements relating to conveyances of portions of the Property to each other, joint use of certain facilities, granting of necessary easements and related matters to provide for the joint redevelopment of the Property consistent with the redevelopment proposed in this Agreement; and

WHEREAS, though the JoJo's Property and the Nomad property are under separate ownership and control, the existing development and rights complement and enhance the proposed redevelopment of the Property, and the proposed redevelopment, which will require cross conveyances of certain portions of the Property as well as easements and agreements concerning use can best be ensured by entering into this Agreement with the City to provide for an orderly development process within the timelines set forth herein; and

WHEREAS, The City has approved site plans for the Property by approving a Conditional Use Plan for the Property promulgated as Resolution 2014-75; and

WHEREAS, under current City Land Development Regulations, Conditional Use/ Site Plan approvals expire after a period of one calendar year, unless administratively renewed by the Planning Director; and

WHEREAS, the Property owners have received renewals of the Conditional Use/ Site Plan Approval each year since the initial Development Agreement Approval, and the amendment to it approved by the City in 2014; and

WHEREAS, a property of this type may require multiple years to develop and construct to its approved full potential; and

WHEREAS, it is critical to potential buyers and homeowners, that the applicable approved Site Plan remain valid as they and their neighbors develop their homes as the development matures; and

WHEREAS, it is in the interest of the City to promote logical, sustainable and quality development single family houses and accessory uses; and

WHEREAS, the location of the Property at the Northeasterly entrance to the City further dictates the of entering into this Agreement to enhance the use, appeal and attractiveness of the Property consistent with the City's community character goals as set forth in the City of Marathon Comprehensive Plan Effective July 5, 2005, as amended (the "Comprehensive Plan"); and

WHEREAS, the proposed redevelopment of the property is permissible and appropriate for the Comprehensive Plan Future Land Use designation, Mixed Use Commercial, applicable to the Property, which provides for the establishment of mixed used development patterns and recognizes established mixed use development patterns within the City; and

WHEREAS, the City Council of Marathon held public hearings on the 10th day of December, 2019, 14th day of January 2020 and the 11th day of February, 2020, to consider the amendment to the original 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 mixed-use properties in Marathon, and will further the health, safety and welfare of the City's residents.

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 1-1.1 and Policy 1-1.1.1 of the Comprehensive Plan;
- B. To provide for an orderly development process consistent with the provisions of Chapter 102, Article 8 of the City's Land Development Regulations.
- C. To make the current site plan approval per Chapter 102, Article 13, "Conditional Use Permit," of the Land Development Code concurrent with the duration of this Agreement as stated in Section IV B herein.

III. Definitions.

For the purposes of this Agreement, all terms shall have the definitions as found in the City's Land Development Regulations (the "LDRs"), the Comprehensive Plan and in Chapter 163, Florida Statutes, or in other applicable Florida Statutes, and if not defined in the Code, Comprehensive 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 163.3220, 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.

JoJo's, Harwin and Nomad are the owners of the Property (as described in Exhibit 1), which is the Property subject of this Agreement. There are no other legal or equitable owners of the Property known to the parties to this Agreement.

In order to accomplish the redevelopment contemplated hereby, JoJo's will be conveying to Nomad and Nomad will be conveying to JoJo's certain portions of the Property and will be granting certain easements to each other to rationalize the property boundaries and enable the redevelopment proposed herein. The parcels to be conveyed and the easements to be granted are described in Exhibit 4 attached hereto and made a part hereof.

B. Duration of Agreement.

The duration of this Agreement shall equate to a three (3) year extension of the original Agreement which would terminate through this Agreement on August 29, 2024.

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.

The site Plan and Conditional Use approval for the Property shall have a valid duration period coterminous and consistent with the duration period of this Agreement, which shall also now terminate on August 29, 2024. Resolution 2014-74 approving the Site Plan/Conditional Use is attached as Exhibit 5.

Within the duration of the Agreement, the Owner's shall be required to provide annual reports to the City outlining progress toward completion of the approved development. The Owners shall meet certain additional milestones:

1. Submittal of construction plans within two (2) years of the effective date of this Agreement;
2. Initiation of construction within three (3) years of the effective date of this Agreement; and
3. Substantial Progress toward obtaining Certificate of Occupancy for all buildings under construction within four (4) years of the effective date of this Agreement.

C. Existing Development

City has recognized the following existing development on the Property relevant to the proposed redevelopment and this Agreement:

2,400 square foot convenience store and six station fuel dispensers on the Nomad property

Four (4) market rate building rights on the Nomad Property

Ten (10) market rate building rights on the JoJo's Property

The City has recognized certain additional development rights as existing on the Property, but such development rights are not necessary for the redevelopment proposed herein

D. Proposed Redevelopment Development.

The proposed redevelopment approved pursuant to this Agreement is as follows:

Rebuild the 2,400 square foot convenience store and six station fuel dispensers on the Nomad property;

Construct fourteen (14) single-family market rate homes and accessory pools/amenities using the existing entitlements from the Nomad Property and the JoJo's Property. The four (4) market rate building rights from the Nomad Property will be conveyed to JoJo's with the conveyance of the portion of the Nomad's Property by Nomad to JoJo's. The fourteen (14) single-family market rate homes will be subject to a mandatory homeowner's association in accordance with state law.

Construct the boat/trailer parking facility on the Nomad property as shown on the site plan.

Construct all required utility, access, storm water management, landscape and vehicular and pedestrian travel ways.

The proposed redevelopment is depicted on the proposed site plan dated April 29, 2014 signed by Richard J. Milelli, PE submitted by the parties to the City in connection with the Conditional Use Application for this redevelopment (the "Site Plan"). See Exhibit 5.

E. Density and Building Height.

Use and Intensity. The Owners plan a minor rearrangement of the Property boundaries as described in Section IV. A. above. The resulting JoJo's parcel area will be 182,086 square feet or 4.18 acres, and the Nomad parcel will be 39,602 square feet or 0.91 acres. The following table shows the development uses permitted on the Property, including population densities, and building intensities and height, and demonstrates that the project is compliant with Table 103.15.2 Density, Intensity, and Dimensions outlined in the LDRs.

	JoJo's Parcel		NOMAD Outfitter's Parcel	
	City Code Std	Proposed	City Code Std	Proposed
Density	Market Rate 6 units /acre	14 units= 56% 6 x 4.18=25 14 ÷ 25 = 56	Convenience Store w/Fuel FAR .25	2,400 s.f. = 24.3% FAR 39,602 x .25= 9,900 2,400 ÷ 9,900 = .24
Lot Area per Unit	NA		NA	

Setbacks Front	0 to 30	25'	0 to 30	25'
Setbacks Rear	20'	30' (shoreline)	20'	30' (shoreline)
Setbacks Side 1	0 to 10'	15'	0 to 10'	10'
Setbacks Side 2	5'	10'	5'	30'
Height	37'	32' ¾ "	37'	21'
Open Space	20% 36,417 s.f.	49.9% 90,810 s.f.	20% 7,920 s.f.	50% 19,908 s.f.

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 shall be addressed through impact fees, if any.
7. Stormwater Management. A stormwater management system that meets all applicable local, state and federal requirements shall be constructed on site as part of the site development of the Property. 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 Nearshore Waters.
8. Fire Protection. In connection with the Owners' development of the Property, Owners 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.
9. Concurrency. All public facilities identified above are available as of the date of this Agreement.
10. Impact Fees. Any increased impacts on public facilities or public services attributable to each unit developed on the Property , and the cost of capital improvements 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 applicable City of Marathon impact fees required by ordinance then in effect, as well as by payment by Owner of any applicable utility system development fees. Owners agree to pay impact

fees pursuant to any applicable impact fee ordinances adopted within twenty-four (24) months of the Effective Date of this Agreement, provided such ordinance applies equally and uniformly to all redevelopment in the City of Marathon.

G. Reservations or Dedications of Land for Public Purposes.

The parties anticipate that Owners may reserve or dedicate land for public purposes in connection with the development of the Property 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 dedications may include, by way of example, easements necessary for the provision of stormwater, utility and wastewater services to the Property.

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 all structures contemplated by this Agreement and all infrastructure improvements, land clearing and landscaping. At any time, any building permit is applied for, Owners 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).

J. Mutual Cooperation.

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

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

The redevelopment shall be developed in accordance with all required permits and in accordance with all applicable provisions of the Comprehensive Plan and LDRs 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 Owners have 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 Owners 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 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 new laws and policies are specifically anticipated and provided for in this Agreement;
- iv. The City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement; or
- v. 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.

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 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 Owners or their 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 Owners 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 Owners, prior to revoking this Agreement, the City shall serve written notice to Owners 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 Agreement to the contrary, neither party hereto shall be deemed to be in default under this Agreement where delay in the construction or performance of the obligations imposed by this 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 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:

Jo-Jo's of the Florida Keys, LLC
1101 Ben Tobin Drive
Hollywood, FL 33021

Harwin Tobin Keys, LLC
1101 Ben Tobin Drive
Hollywood, FL 33021

Nomad Outfitters LLC
59740 Overseas Highway
Marathon, FL 33050

With a copy by regular U.S. Mail to:
Erica Hughes Sterling, Esq.
Spottswood, Spottswood,
Spottswood & Sterling, PLLC
500 Fleming Street
Key West, FL 33040
(305)294-9558

John J. Wolfe, Esq.
Wolfe Stevens, PLLC
2955 Overseas Highway
Marathon, FL 33050
(305)743-9858

TO THE CITY:

City Manager
City of Marathon
9805 Overseas Highway
Marathon, FL 330050
(305)743-0033

With a copy by regular U.S. Mail to:
City Attorney, City of Marathon
9805 Overseas Highway
Marathon, FL 330050
(305)289-4130

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. Reinforcement.

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, 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/Attorney's 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.

AA. 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.

BB. 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.

CC. 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.

DD. Date of Agreement.


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

THE CITY OF MARATHON, FLORIDA



Steve Cook, Mayor

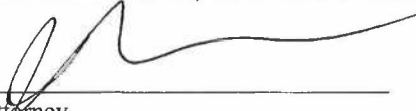
ATTEST:



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

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

WITNESSES:

OWNER:

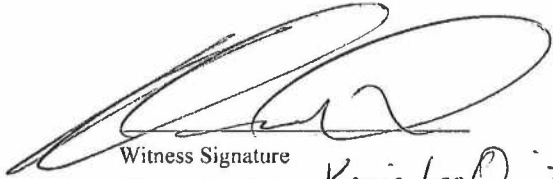
JO-JO'S OF THE FLORIDA KEYS, LLC,

a Florida limited liability company

By: HARWIN-TOBIN KEYS, LLC,

a Florida limited liability company

Its Sole Manager



Witness Signature

Witness Name Printed: Kenia Lee Quintana

By: 

Herbert A. Tobin,

Chief Executive Officer



Witness Signature

Witness Name Printed: Cynthia Blews

STATE OF FLORIDA
COUNTY OF MONROE

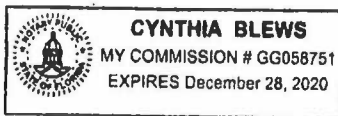
The following instrument was acknowledged before me this 12th day of March, 2020 by Herbert A. Tobin, Chief Executive Officer of HARWIN-TOBIN KEYS, LLC, a Florida limited liability company, the Manager of JO-JO'S OF THE FLORIDA KEYS, LLC, a Florida limited liability company, who is personally known to me or who has produced _____ as identification, and who did or did not take an oath.

(SEAL)

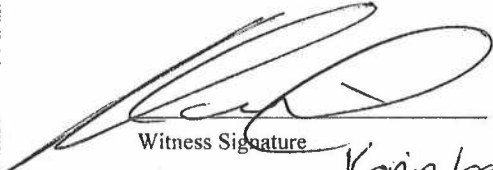


Notary Public

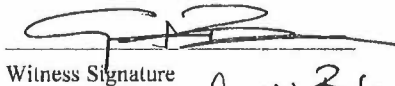
My Commission Expires: Dec. 28, 2020



WITNESSES:


Witness Signature

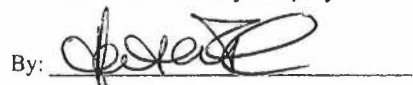
Witness Name Printed: Kenia Lee Quintana


Witness Signature

Witness Name Printed: Cynthia Blews

OWNER:

HARWIN-TOBIN KEYS, LLC,
a Florida limited liability company

By: 

Herbert A. Tobin,
Chief Executive Officer

STATE OF FLORIDA
COUNTY OF MONROE

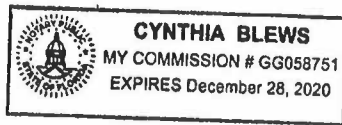
The following instrument was acknowledged before me this 12th day of March, 2020 by Herbert A. Tobin, Chief Executive Officer of HARWIN-TOBIN KEYS, LLC, a Florida limited liability company, who is personally known to me or who has produced _____ as identification, and who did or did not take an oath.

(SEAL)



Notary Public

My Commission Expires: Dec. 28, 2020



WITNESSES:

[Signature]
Witness Signature
Witness Name Printed: Nancy P. Hazelwood

[Signature]
Witness Signature
Witness Name Printed: H. Diane Johnson

OWNER:

NOMAD OUTFITTERS, LLC,
a Florida limited liability company

By: [Signature]
David Bates,
Managing Member

STATE OF FLORIDA
COUNTY OF MONROE

The following instrument was acknowledged before me this 12th day of March, 2020 by David Bates, Managing Member, NOMAD OUTFITTERS, LLC, a Florida limited liability company, who is personally known to me or who has produced drivers License as identification, and who did or did not take an oath.

(SEAL)

[Signature]
Notary Public
My Commission Expires:

H. Diane Johnson
Notary Public
Commonwealth of Virginia
My Commission Expires
October 31, 2021
#139806

EXHIBIT 1

LEGAL DESCRIPTION OF PROPERTY SUBJECT TO DEVELOPMENT AGREEMENT

Official Record Book 1815, Page 1844

A parcel of land in Government Lot 5, Section 20, Township 65 South, Range 34 East, Grassy Key, Monroe County, Florida, being more particularly described as follows:

BEGINNING at the intersection of the West line of said Government Lot 5 with the southeasterly right of way line of State Road No. 5 (US Highway No. 1), run thence North 68°38'00" East, along said Right of Way line for a distance of 332.20 feet; run thence South 21°22'00" East for a distance of 198.65 feet to a point; run thence for the following three (3) courses: 1). North 65°20'00" East, 26.65 feet; 2). South 75°05'40" East, 34.00 feet; 3). North 29°54'20" East, 40.00 feet to a point on the Mean High Water Line of the Atlantic Ocean; thence along the Mean High Water Line of the Atlantic Ocean for the following thirty-one courses:

1). South 0°30'18" West, 3.97 feet; 2). South 15°18'55" West, 16.66 feet; 3). South 65°32'55" East, 31.97 feet; 4). South 75°57'54" East, 41.09 feet; 5). South 76°44'19" East, 30.01 feet; 6). South 68°01'46" East, 17.94 feet 7). South 75°49'49" East, 42.08 feet; 8). South 79°59'37" East, 16.13 feet; 9). South 81°22'42" East, 8.01 feet; 10). South 50°52'22" East, 10.76 feet; 11). South 9°24 '53" East, 10.89 feet; 12). South 66°41'17" West, 14.08 feet; 13). North 57°13'49" West, 8.91 feet; 14). North 79°44'29" West, 20.53 feet; 15). North 75°38'15" West, 18.91 feet; 16). North 82°05'40" West, 18.42 feet; 17). South 73°46'38" West, 9.36 feet; 18). South 64°21'01" West, 8.71 feet; 19). South 46°17'09" West, 12.23 feet 20). South 29°24'20" West, 25.13 feet; 21). South 52°03'17 " West, 24.85 feet; 22). North 74°52'47" West, 22.30 feet; 23). North 67°48'27" West, 17.71 feet; 24). North 72°14'26" West; 19.18 feet; 25). North 74°40'26" West, 15.80 feet; 26). North 84°47'44" West, 17.91 feet; 27). South 71°11'58" West, 19.03 feet; 28). South 50°18'29" West, 12.61 feet; 29). South 28°55'09" West, 25.67 feet; 30). South 4°30'14" East, 8.41 feet; 31). South 57°08'46" West, 15.67 feet to an intersection with the original mean high water line of the Atlantic Ocean; Thence meander along the shoreline of the Atlantic Ocean in a Southwesterly direction for 287 feet more or less to an intersection with the Northeasterly line of the lands described by deed recorded in Official Record Book 927 at Page 1143 of the Public Records of Monroe County, Fla.; run thence North 60°48'17 " West for a distance of 152.59 feet to a point; run thence South 39°35'00" West for a distance of 93.55 feet to a point; run thence North 61°57'00" West for a distance of 13.86 feet to a point; run thence North 42°20'00" West for a distance of 72.85 feet more or less, to the intersection with the West line of Government Lot 5; run thence North 0°40'00" West for a distance of 389.34 feet more or less, to the POINT OF BEGINNING.

AND

OFFICIAL RECORDS BOOK 2186, PAGE 653

A PARCEL OF LAND IN GOVERNMENT LOT 5, SECTION 20, TOWNSHIP 65 SOUTH, RANGE 34 EAST, ON GRASSY KEY, MONROE COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF THE SAID GOVERNMENT LOT 5, WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NUMBER 5, (U.S. HIGHWAY NO. 1), RUN N 68°38' E ALONG SAID RIGHT-OF-WAY LINE FOR 332.2 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND. FROM THE SAID POINT OF BEGINNING RUNS 21° 22' E ALONG THE EASTERLY LINE OF THE LANDS DESCRIBED BY DEED RECORDED IN MONROE COUNTY, FLORIDA OFFICIAL RECORDS BOOK 494 AT PAGES 1039 AND 1040 FOR 198.65 FEET TO THE POINT OF BEGINNING OF THE PROPERTY BOUNDARY DESCRIBED BY QUIT CLAIM DEED AND FINAL JUDGMENT, (CASE NO. 80-157-CA-8), RECORDED IN MONROE COUNTY, FLORIDA OFFICIAL RECORDS BOOK 780 AT PAGE 3 AND 820 AT PAGES 1613 AND 1614; THENCE ALONG SAID PROPERTY BOUNDARY FOR THE FOLLOWING THREE (3) COURSES:

(1). N 65° 20' E, 26.65 FEET; (2). S 75°05'40"E, 34.00 FEET; (3). N 29°54'20" E, 40.00 FEET TO THE POINT OF ENDING OF SAID PROPERTY BOUNDARY, THE SAME BEING A POINT ON THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN; THENCE ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING SEVEN (7) COURSES:

(1). N 5°48'33" W, 16.92 FEET; (2). S 62°38'36" E, 3.11 FEET; (3). N 31°22'52" E, 68.32 FEET; (4). N 31°56'01" E, 42.33 FEET; (5). N 33°25'40" E, 21.49 FEET; (6). N 30°48'08" E, 46.12 FEET; (7). N 36°41'58" E, 31.09 FEET; THENCE ALONG THE "ORIGINAL MEAN HIGH WATER LINE" OF GRASSY KEY FOR THE FOLLOWING TWO (2) COURSES:

(1). N 27°59'58" E, 65.22 FEET; (2). N 42°06'23" E, 26.87 FEET TO THE SAID SOUTHEASTERLY RIGHT-OF-WAY LINE; THENCE S 66°38' W ALONG SAID RIGHT-OF-WAY LINE FOR 334.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND, CONTAINING 0.91 ACRES MORE OR LESS.

EXHIBIT 2

LEGAL DESCRIPTION OF PROPERTY OWNED BY
JO-JO'S OF THE FLORIDA KEYS, LLC
AND
HARWIN-TOBIN KEYS, LLC

Official Record Book 1815, Page 1844

A parcel of land in Government Lot 5, Section 20, Township 65 South, Range 34 East, Grassy Key, Monroe County, Florida, being more particularly described as follows:

BEGINNING at the intersection of the West line of said Government Lot 5 with the southeasterly right of way line of State Road No. 5 (US Highway No. 1), run thence North 68°38'00" East, along said Right of Way line for a distance of 332.20 feet; run thence South 21°22'00" East for a distance of 198.65 feet to a point; run thence for the following three (3) courses: 1). North 65°20'00" East, 26.65 feet; 2). South 75°05'40" East, 34.00 feet; 3). North 29°54'20" East, 40.00 feet to a point on the Mean High Water Line of the Atlantic Ocean: thence along the Mean High Water Line of the Atlantic Ocean for the following thirty-one courses:

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EXHIBIT 3

**LEGAL DESCRIPTION OF PROPERTY OWNED BY
NOMAD OUTFITTERS, LLC**

OFFICIAL RECORDS BOOK 2186, PAGE 653

A PARCEL OF LAND IN GOVERNMENT LOT 5, SECTION 20, TOWNSHIP 65 SOUTH, RANGE 34 EAST, ON GRASSY KEY, MONROE COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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Exhibit 4

CONVEYANCES AND EASEMENTS

BOAT PARKING PARCEL

JoJo's and Harwin will grant and convey to Nomad the enclosed site shown on the Site Plan as boat parking 12' x25', 7 spaces provided and boat parking 12' x32', 9 spaces provided, together with the area shown on the Site Plan

Access to the parking site shall be from the Nomad Property in the area of the Nomad Property closest to the boat ramp. Exit from the parking site shall be by the road way, which connects to the exit road from the JoJo's Property. JoJo's will execute an appropriate instrument granting such exit easement.

BOAT RAMP PARCEL

JoJo's is the owner of a portion of property which crosses over the boat ramp located on the Nomad property and as shown on the Site Plan.

The property contained therein, being a portion of the boat ramp and being necessary for the operation of the marina by Nomad, JoJo's will convey to Nomad, by Warranty Deed, the described property.

The Warranty Deed will make reference to a Use Agreement entered into by and between the parties hereto, and recorded in the Public Records of Monroe County, outlining the use of the conveyed property as a boat ramp and granting a non-exclusive easement across the Nomad Property for access to the boat ramp by JoJo's, Harwin and their assigns and their guests, licensees and invitees.

TRIANGLE PARCEL

The Site Plan shows a triangular piece of property, southwesterly of the wall dividing the Nomad property from the JoJo's Property. That triangular piece is presently owned by Nomad but, is essential to the development of the JoJo's Property. Nomad will convey to Tobin the triangular piece of property.

ACCESS TO FLOATING DOCK

In order to access the Floating Dock, the JoJo's and Harwin residents, their tenants, guests and licensees will need access across a portion of the Nomad property. Nomad will grant a perpetual access easement allowing the aforesaid parties to cross over from the JoJo's Property and to access the Floating Dock.

PEDESTRIAN WALKWAY

The Site Plan attached hereto contains a reference to a pedestrian walkway, which will be on the borderline of the JoJo's Property and Nomad Property, a gate which will open from the JoJo's Property on to the Nomad property. Nomad will grant an Easement for the opening of such gate on to the Nomad property and for pedestrian access across the Nomad property on to the boat ramp and the floating dock.

VEHICULAR ACCESS TO BOAT RAMP & FLOATING DOCK

In order for the residents of the JoJo's Property and the Harwin Property, their successors and assigns, to access the boat ramp and floating dock by automobile, they will need to pass over the Nomad property. Nomad will grant to JoJo's, Harwin, and their successors and assigns and the residents entitled to access to the floating dock, their successor, assigns, guests and invitees, an automobile access easement from Highway U.S. 1 across the designated areas of the Nomad property for access to the boat ramp and the floating dock.

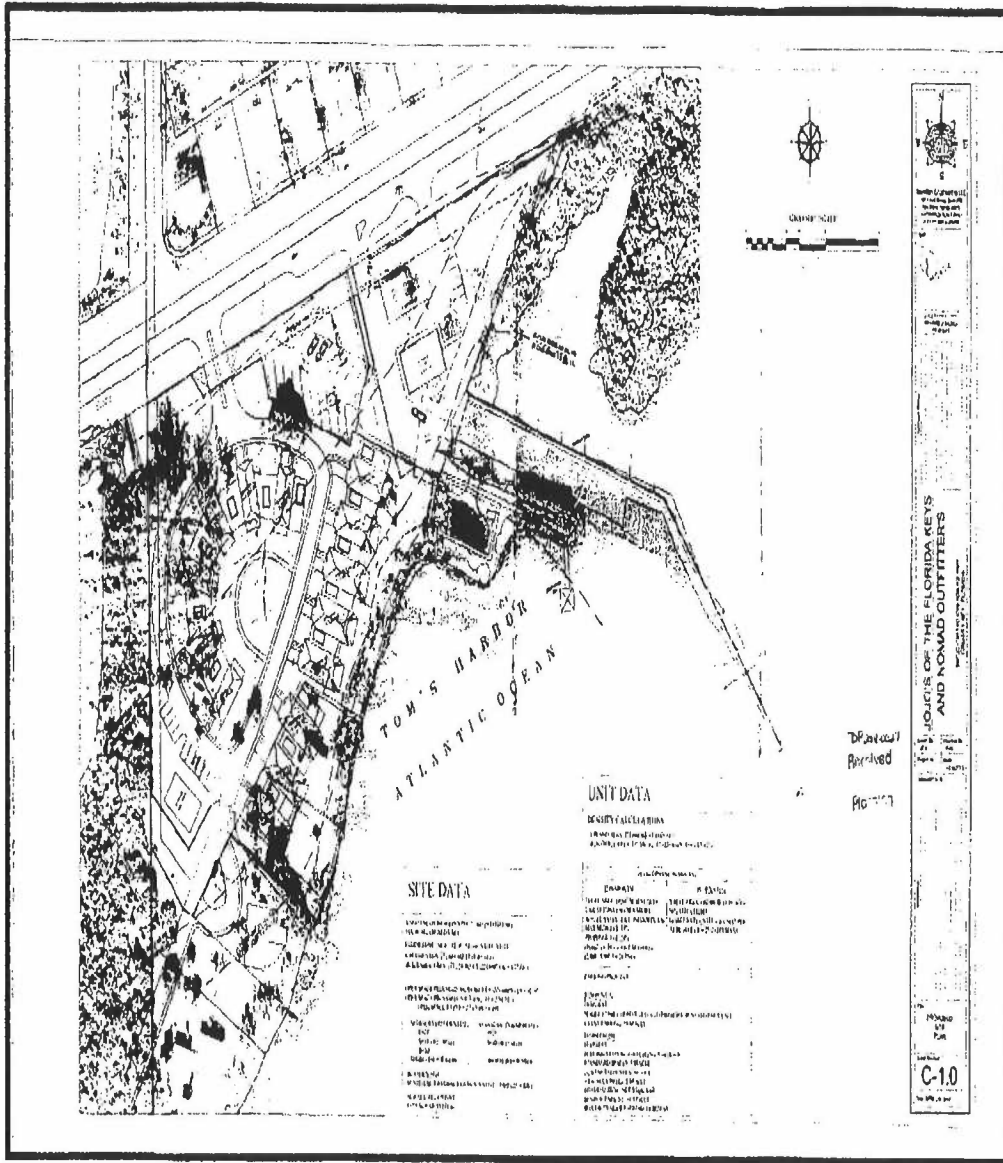


Exhibit 5