

**CITY OF MARATHON, FLORIDA
RESOLUTION 2021-38**

A RESOLUTION OF THE CITY COUNCIL OF MARATHON, FLORIDA, APPROVING SUBJECT TO CONDITIONS, A REQUEST BY ANDREW PONNOCK TO ABANDON THE PUBLIC RIGHT OF WAY LOCATED AT 58090 OVERSEAS HIGHWAY, KNOWN AS FLAGLER STREET, DESCRIBED AS BEING ADJACENT TO AND CONTIGUOUS WITH BLOCK 36, LOT 11, CRAINS SUBDIVISION, GRASSY KEY, HAVING REAL ESTATE NUMBER 00371040-000000. NEAREST MILE MARKER 58; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there presently exists a certain public right-of-way within the City of Marathon, Florida, Located At 58090 Overseas Highway, Described As Crains Subdivision, Plat book 1, Page 51, South Side of Flagler Street to Ocean, Lot 11, Block 36, Grassy Key, Nearest Mile Marker 58, Monroe County, Florida and as particularly described in the attached survey (Exhibit "A"); and

WHEREAS, Andrew Ponnock has requested that the City of Marathon, Florida (the "City"), in accordance with Section 26-1 of the City Code, abandon the Right-of-Way; and

WHEREAS, the City Council finds that the Right-of-Way is not needed and may be abandoned without adversely affecting the public interest; and

WHEREAS, the Right-of-Way lies wholly within the corporate boundaries of the City and within the City's ownership and authority to abandon; and

WHEREAS, a public hearing to vacate the Right-of-Way was held on June 8th 2021 the City has determined that no federal, state or county rights-of-way are involved or affected, and that granting the request for abandonment of the Right-of-Way subject to conditions will not be detrimental to the public health, safety and welfare; and

WHEREAS, the City has determined the Applicant's request meets all of the requirements of Section 26-1 of the City Code for the abandonment of the Right-of-Way.

WHEREAS, THE City Council has made the following findings of fact pursuant to Section 26-9 of the Code of the City of Marathon:

- a) The abandonment of this right-of-way will not adversely affect the operations and functions of the City because with a grant of utility easement to continue maintenance of its sewer facilities.
- b) Public access to water is not possible through this Right-Of-Way and therefore there is no impact to public access to the water.

- c) There will no adverse affect on surrounding traffic circulation or patterns.
- d) The abandonment will not adversely affect a public view corridor.
- e) The applicants own all of the properties adjacent to and abutting the right-of-way; therefore, this criterion does not apply.
- f) The proposed abandonment will not interfere with utility services being provided, or unreasonably affect any utility easement.

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 they and all conditions required of Applicants are hereby incorporated as if fully stated herein.

Section 2. Pursuant to the request by the Applicant to vacate the Right-of-Way, the City releases, vacates, abandons, discontinues, renounces and disclaims all rights of the City and the public in and to the Right-of-Way, as legally described on Exhibit "A", subject to the following conditions:

- (1) The Applicant will convey a utility easement to all utilities on, under Flagler Street Right-of Way described in Exhibit "B."
- (2) Said conditions as promulgated above shall be met by the applicant within sixty (60) days of the effective date of this Resolution.
- (3) Said conditions as promulgated above shall be met by the applicant within sixty (60) days of the effective date of this Resolution.


Section 3. The City Clerk shall forward a certified copy this Resolution to the Applicant, who shall be responsible for all costs incurred in recording this instrument in the public records of Monroe County, Florida. The Applicant shall provide the City evidence of the recording of this Resolution and the Easement within thirty (30) days of the effective date of this Resolution.

Section 4. The City reserves all rights to itself for the placement, operation and maintenance of all necessary City roads, structures and utilities including, but not limited to, stormwater and wastewater improvements and appurtenant facilities above and below that portion of the Right-of-Way not vacated by this Resolution.

Section 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8TH DAY OF JUNE, 2021.

THE CITY OF MARATHON, FLORIDA



Luis Gonzalez, Mayor

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

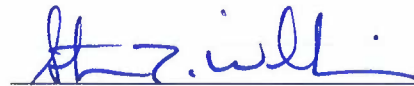
ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



Steven T. Williams, City Attorney

EXHIBIT "B"
UTILITY EASEMENT

**THIS INSTRUMENT PREPARED BY
AND SHOULD BE RETURNED TO:**

Brian Shea
CITY OF MARATHON
PLANNING DIRECTOR
9805 Overseas Hwy
Marathon, FL 33050
(305) 289-4100

Folio No. 00371040-000000

UTILITY EASEMENT

THIS UTILITY EASEMENT (this "Easement") is made this 15 day of June 2021, by **Andrew Ponnock**, whose address is **58090 Overseas Highway**, Marathon, Florida 33050 (hereinafter referred to as the "GRANTOR"), to and in favor of the **CITY OF MARATHON, a Florida municipal corporation**, having an address at **9805 Overseas Highway**, Marathon, Florida 33050 (hereinafter referred to as the "GRANTEE").

RECITALS:

GRANTOR owns fee simple title to certain real property located in Monroe County, Florida, as more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Property").

GRANTOR has agreed to grant to GRANTEE a non-exclusive, perpetual utility easement as well as ingress and egress in, over, under, and upon the Property for the purpose of installing, constructing, maintaining, operating, repairing and replacing overhead and underground utility facilities on the Property, subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the premises and the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. Recitals. The parties acknowledge that the foregoing recitals are true and correct and hereby incorporated into this Easement as if fully set forth herein.

2. Grant of Easement. GRANTOR does hereby grant and convey to the GRANTEE and its licensees, successors and assigns, the non-exclusive, perpetual right, power, privilege and easement to regularly or at any time and for any length of time to install, construct, maintain, operate, repair and replace overhead and underground electric utility facilities on the Property (including wires, poles, guys, raceways, cables, conduits and appurtenant equipment) to be installed from time to time; with the right to reconstruct, improve, add to, enlarge, change the voltage, as well as, the size of and remove such facilities or any of them. This Easement also includes the right to permit any other person, firm or corporation to attach wires to any facilities hereunder and lay cable and conduit within the Easement and to operate the same for communications purposes; the right of ingress and egress to said Property at all times; the right to clear the land and keep it cleared of all trees, undergrowth and other obstructions within the Property; to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous tress or limbs outside of the Property which might interfere with or fall upon the lines or systems of communications or power transmission or distribution; and further grants, to the fullest extent the undersigned has the power to grant, if at all, the rights hereinabove granted on the land heretofore described, over, along, under and across the roads, streets or highways adjoining or through said Property.

3. Warranties and Representations. GRANTOR does hereby covenant with the GRANTEE, that (a) it is lawfully seized and possessed of the Property; (b) it has good and lawful right to enter into this Easement and convey said Easement; (c) all applicable required authorizations, approvals or consents have been obtained and no other authorizations, approvals or consents are required to effectuate GRANTOR's execution and delivery of this Easement; and (d) it acknowledges that GRANTEE is materially relying on the representations as herein expressed.

4. Covenants Running with the Land. This Easement, and the rights and interests created herein shall run with the land and shall be binding upon and inuring to the benefit of the parties hereto and their respective successors and assigns.

5. Miscellaneous. This Easement shall be construed under the laws of the State of Florida. GRANTOR shall, at its cost and expense, record this Easement and any amendments hereto in the Public Records of Monroe County, Florida. This Easement may assigned in whole or in part by the GRANTEE for use in connection with any of the purposes authorized herein. This Easement may only be modified, supplemented or revised in writing signed by both parties, or their successors or assigns, and any modification shall be effective only upon recordation in the Public Records of Monroe County, Florida.


[Acknowledgments on following page]


IN WITNESS WHEREOF, GRANTOR has caused these presents to be executed by its duly authorized officer or representative as of the day and year first above written.

WITNESSES:

GRANTOR


Print Name: Mindy P. Moret



Print Name: Andrew Pennock
MMQR 58090, LLC


Print Name: L.J. Fineman

STATE OF FLORIDA)
 SS:
COUNTY OF MONROE)

THIS IS TO CERTIFY, that on this 15 day of June, 2021, before me, an officer duly authorized to take acknowledgements in the State and County aforesaid, personally appeared Andrew Pennock, who is personally known to me or produced _____ as identification.




NOTARY PUBLIC
Print Name: _____
My Commission Expires: _____

Sponsored by: Garrett

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THE CITY OF MARATHON, FLORIDA



Luis Gonzalez, Mayor

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

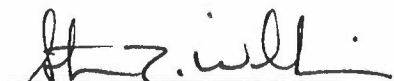
ATTEST:



Diane Clavier, City Clerk

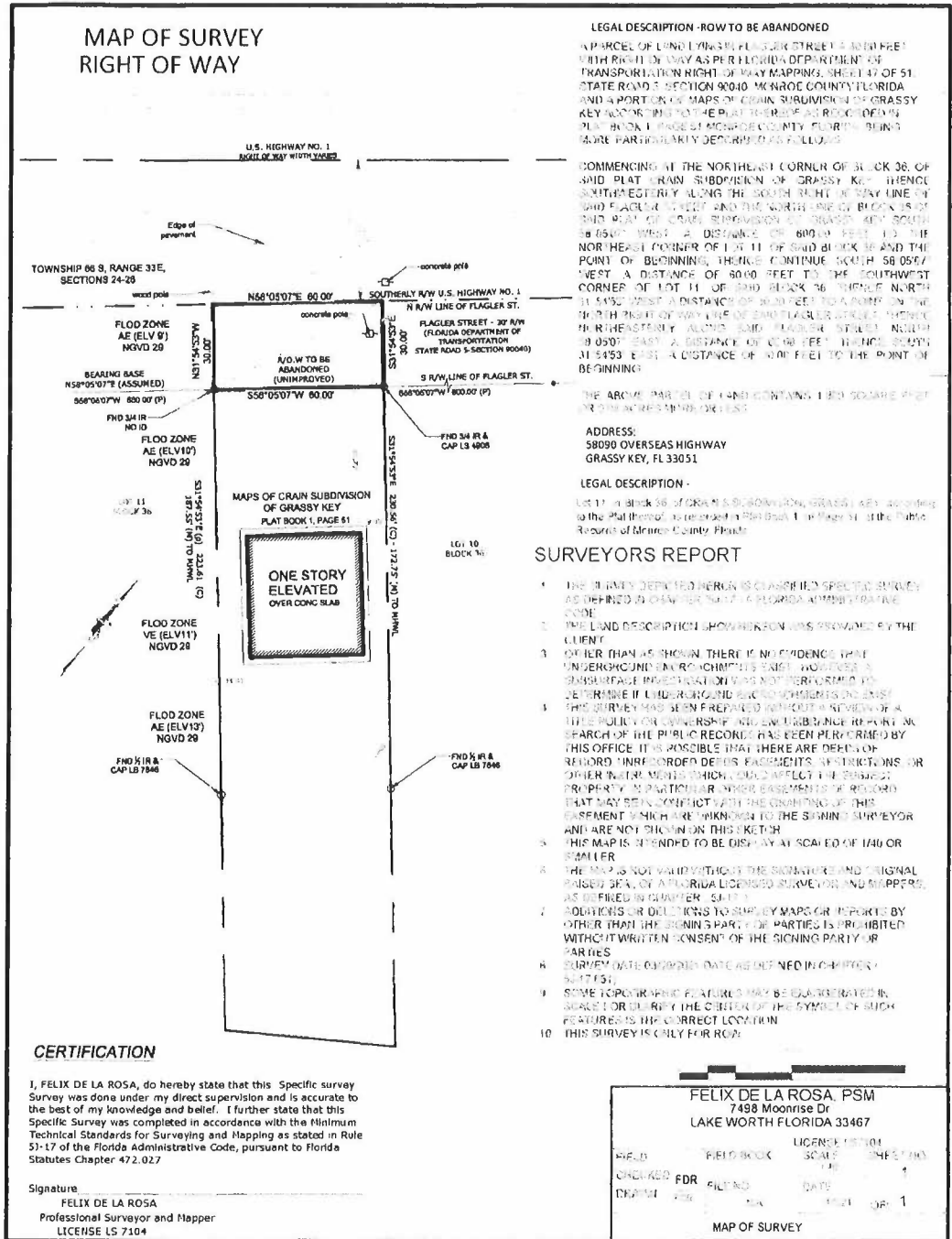
(City Seal)

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



Steven T. Williams, City Attorney

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



LEGAL DESCRIPTION - ROW TO BE ABANDONED
 A PARCEL OF LAND LYING IN FLAGLER STREET 1/4 ACRES FEET WITH RIGHT OF WAY AS PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAPPING, SHEET 47 OF 51, STATE ROAD 3 SECTION 9040 MCNACOE COUNTY FLORIDA AND A PORTION OF MAPS OF CRAIN SUBDIVISION OF GRASSY KEY ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1 PAGE 51 MCNACOE COUNTY FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF BLOCK 36 OF SAID PLAT CRAIN SUBDIVISION OF GRASSY KEY THENCE SUTHERLY ALONG THE SOUTH LINE OF R/W LINE OF SAID FLAGLER STREET AND THE NORTH LINE OF BLOCK 36 OF SAID PLAT OF CRAIN SUBDIVISION OF GRASSY KEY SOUTH 56°05'07" WEST A DISTANCE OF 600.00 FEET TO THE NORTHEAST CORNER OF LOT 11 OF SAID BLOCK 36 AND THE POINT OF BEGINNING, THENCE CONTINUE SOUTH 56°05'07" WEST A DISTANCE OF 600.00 FEET TO THE SOUTHWEST CORNER OF LOT 11 OF SAID BLOCK 36 THENCE NORTH 31°53'00" WEST A DISTANCE OF 600.00 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF SAID FLAGLER STREET THENCE NORTHEAST ALONG SAID FLAGLER STREET NUTHERLY 30°00'00" EAST A DISTANCE OF 600.00 FEET THENCE SOUTH 11°45'00" EAST A DISTANCE OF 600.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE PARCEL OF LAND CONTAINS 1.00 SQUARE FEET OR MORE ACRES MINOR OR LESS.
 ADDRESS:
 5809 OVERSEAS HIGHWAY
 GRASSY KEY, FL 33051

LEGAL DESCRIPTION -
 LOT 11 IN BLOCK 36 OF CRAIN SUBDIVISION OF GRASSY KEY according to the Plat thereof as recorded in Plat Book 1 Page 51 of the Public Records of Monroe County Florida.

SURVEYORS REPORT

1. THE BARELY DEPICTED HEREIN IS CLASSIFIED SPECIFIC SURVEY AS DEFINED IN CHAPTER 347, 6 FLORIDA ADMINISTRATIVE CODE.
2. THE LAND DESCRIPTION SHOWN HEREON WAS PROVIDED BY THE CLIENT.
3. OTHER THAN AS SHOWN THERE IS NO EVIDENCE THAT UNDERGROUND ENCROACHMENTS EXIST. THERE IS A SUBSURFACE INVESTIGATION WAS NOT PERFORMED. YOU WILL DETERMINE IF UNDERGROUND ENCROACHMENTS EXIST.
4. THIS SURVEY HAS BEEN PREPARED WITHOUT REFERENCE TO A TITLE POLICY OR SURVEYSHIP. NO LAND ENCUMBRANCE REPORT OR SEARCH OF THE PUBLIC RECORDS HAS BEEN PERFORMED BY THIS OFFICE. IT IS POSSIBLE THAT THERE ARE DEEDS OF RECORD UNRECORDED DEEDS, EASEMENTS, RESTRICTIONS, OR OTHER INSTRUMENTS WHICH COULD AFFECT THE SUBJECT PROPERTY. IN PARTICULAR OTHER EASEMENTS OF RECORD THAT MAY BE IN CONFLICT WITH THE GRANTING OF THIS EASEMENT WHICH ARE UNKNOWN TO THE SIGNING SURVEYOR AND ARE NOT SHOWN ON THIS SURVEY.
5. THIS MAP IS INTENDED TO BE DISPLAY AT SCALE OF 1/4" OR SMALLER.
6. THIS MAP IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL PHYSICAL SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPING AS DEFINED IN CHAPTER 347.
7. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
8. SURVEY DATE OR REPORT DATE AS DEFINED IN CHAPTER 347 (FS).
9. SOME TOPOGRAPHIC FEATURES MAY BE ELABORATED IN SCALE FOR CLARITY. THE CENTER OF THE SYMBOL OF SUCH FEATURES IS THE CORRECT LOCATION.
10. THIS SURVEY IS ONLY FOR ROW.

CERTIFICATION

I, FELIX DE LA ROSA, do hereby state that this Specific Survey was done under my direct supervision and is accurate to the best of my knowledge and belief. I further state that this Specific Survey was completed in accordance with the Minimum Technical Standards for Surveying and Mapping as stated in Rule 53-17 of the Florida Administrative Code, pursuant to Florida Statutes Chapter 472.027

Signature _____
 FELIX DE LA ROSA
 Professional Surveyor and Mapper
 LICENSE LS 7104

FELIX DE LA ROSA, PSM
 7498 Moonrise Dr
 LAKE WORTH FLORIDA 33467

FIELD	FIELD BOOK	SCALE	INSTRUMENT
		1" = 100'	1
CHECKED	FDR	FILED	DATE
DEPOSIT	FILED	DATE	FILED
			OP 1

MAP OF SURVEY