

CITY COUNCIL AGENDA STATEMENT



**Meeting Date:** August 11th, 2020  
**To:** Honorable Mayor and Council Members  
**From:** George Garrett, Planning Director  
**Through:** Chuck Lindsey, City Manager

Consideration Of A Request Of The City Council Of The City Of Marathon, Florida By Knight's Key Investors, LLC And Knight's Key Road, LLC For The Expansion Of An Existing Conditional Use Permit (Resolution 2015-94) And Development Agreement (Resolution 2015-96), Pursuant To Chapter 102, Articles 13 8 Respectively Of The City Of Marathon Land Development Regulations (LDRs), Seeking The Addition Of Ninety-six (96) Transient Residential Units (Hotel Rooms), Restaurant Space, And A Water Feature On An Existing 199 Room Resort Facility With Restaurants, Spas, Retail Space, And Pools; With Existing Densities Of Approximately 9.91 Transient Residential Units Per Acre; Located At 1 Knight's Key Blvd; Which Is Legally Described As Lot 1 And Part Of Lot 2 And Bay Bottom East Of And Adjacent To Government Lot 2, Section 8 And 17, Township 66 South, Range 32 East, Knights Key, Monroe County, Florida; Having Real Estate Number 00101800-000000, Nearest Mile Marker 47; And Providing For An Effective Date.

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**APPLICANT/ OWNER:** Knight's Key Investors, LLC and Knights Key Road, LLC  
**AGENT:** Smith Hawks, PL / Barton W. Smith, Esq. and Chelsea Vanadia, Esq.  
**LOCATION:** The project site is located at 1 Knights Keys Blvd and 11 Knights Key Blvd nearest mile marker 47. See Figure 1.

**Figure 1**  
**Project Site**



**REQUEST:** A Conditional Use Approval and Development Agreement for redevelopment of the subject property having the real estate number 00101800-000000, 00101800-000100, 00101800-002000.

**FUTURE LAND USE & ZONING MAP DESIGNATION:**  
Mixed Use Commercial (MUC). See Figure 2.

**Figure 2  
Future Land Use Map**



**Figure 3  
Zoning Map**



**LOT SIZE:**

Total acreage: 24.21 acres or 1,054,587 square feet

**SURROUNDING ZONING AND USES:**

	<u>Zoning</u>	<u>Use</u>
<b>North</b>	Conservation	Sunset Park Overseas Heritage Trail
<b>East</b>	Conservation	Mangroves
<b>South</b>	NA	Boot Key Channel
<b>West</b>	Residential High, Residential Medium, Mixed Use	Residential neighborhood of Kyle Way East & West, Sunset Grille

**EXISTING CONDITIONS:**

The development exists on the Property: Isla Bella, with one hundred and ninety-nine (199) hotel units, and twenty one thousand three hundred sixty two (21,362) square feet of commercial that is used by the spa, meeting building, restaurant, housekeeping & commissary building, market place, lobby, and burger shack.

Transient Units:	199 Units
Commercial Floor Area:	21,362 square feet
Wet Slips:	24 Slips
Affordable Units:	30 Units

**PROPOSED REDEVELOPMENT:**

Transient Units:	295 Units
Commercial Floor Area:	21,362 square feet

Workforce Housing:  
Wet Slips:

30 Units  
24 Slips

**Figure 4**  
**Proposed Redevelopment Site Plan**



City of Marathon, Florida  
Official Map Product





## **BACKGROUND:**

The proposed project is a redevelopment of commercial property to include additional transient units in the Mixed Use zoning classification. This report addresses the Conditional Use application. **All conditions of the Conditional Use approval will have to be met before any building permit will be approved.**

## **EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:**

The criteria for evaluating a Conditional Use Approval are outlined in Chapter 102, Article 13, Conditional Use Permits, in the City of Marathon Land Development Regulations.

## **CRITERIA**

### **A. The proposed use is consistent with the Comprehensive Plan and LDRs;**

The proposed redevelopment project is located within the Mixed Use (MU) Zoning District. Per Chapter 103, Article 2, Section 103.09 of the Land Development Regulations, the district is designed to “accommodate a wide variety of commercial and retail activities that will result in the most efficient and attractive use of the City’s historic business district and the US1 Corridor, in an effort to recognize the role of US1 as the City of Marathon’s ‘Main Street.’ The MU district also provides for large-scale retail and commercial business opportunities in other areas, including larger shopping center, specialty shopping centers, individual multi-tenant commercial buildings, automotive services and sales, fast food restaurants, affordable housing uses, transient lodging and other retail establishments that serve the community at large”.

The proposed project consists of the redevelopment of an existing commercial use and is consistent with the Mixed Use Zoning District. Section 103.15 establishes whether specific uses are allowed as of right, limited, accessory or conditional uses, through Table 103.15.2. That table shows that Hotel/Motel/Resort lodging uses are allowed as Conditional Uses in the MU district. Conditional Use review is intended to allow a broader view of the potential impacts of a project on adjacent uses and on City concurrency related resources such as road capacity, solid waste, sewer, and potable water availability.

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the MU district based on the types of uses proposed. Using the property area, the proposed uses only require 78% of the site (previous was 62%). Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use. For the purposes of review Commercial Recreation, the strictest FAR was used to assess the commercial square footage on the site as a whole. Even using this strictest criteria, the proposed project is compliant.

<b>Development Type</b>	<b>Existing</b>	<b>Proposed</b>	<b>Area Required</b>	<b>% Total Area</b>
Transient Units	199	295	513,890	49%
Commercial Floor Area:	13,840	20,423	136,152	13%
Restaurant	7,553	7,553	12,588	1.2%
Single Family Dwellings	30	30	87,120	8%
	Affordable	Affordable		
<b>Total</b>			<b>749,750</b>	<b>71%</b>

The project as proposed meets the basic definition of development in the MU zoning district.

Therefore, the request is ***in compliance*** with the requirements of these sections.

**B. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;**

The proposed project is located within the Mixed Use Commercial Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that the “principal purpose of the Mixed Use Commercial land use category is to provide for the establishment of mixed use development patterns and to recognize established mixed use development patterns within the City.” The proposed project includes a redevelopment of an existing conditional use (Hotel, Motel, Resort) Park), which is consistent with the Mixed Use classification.

The existing land use pattern in the project vicinity consists of mangroves in conservation land to the east, Boot Key Channel to the south, Sunset Park and mangroves to the north, and commercial and residential uses to the west.

Properties along Kyle Way West, South, and East consist of several single family residences, numerous duplex units, a small hotel and a large time share condominium. In addition, there is a restaurant on the corner of Key Way West and Knight’s Key Boulevard. The mixed residential and character of this area, including the restaurant are compatible with the proposed development. However, the Applicant proposes a major vegetative buffer along the western waterfront canal edge to buffer the two areas from one another.

Otherwise, the redevelopment of the site will result in significant improvement to the site development quality, including upgraded landscaping, stormwater management, and architecture. The improvements are expected to have a positive benefit on the surrounding uses and the City of Marathon.

Therefore, the request is ***in compliance*** with the requirements of these sections.

**C. The proposed use shall not adversely affect the health, safety, and welfare of the public;**

The proposed use is a redevelopment of an existing use which has not had any known impact to the health, safety and welfare of the public. No new impacts are expected to arise with the redevelopment. The infrastructure on the site will be upgraded and the site heavily landscaped, creating a substantial improvement to the southern end of Marathon.

Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain. Final review of floodplain compliance will occur as part of building permit issuance.

Therefore, the request is ***in compliance*** with the requirements of these sections.

**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:**

The existing conditions maps indicate the subject area is designated as developed. A portion of the property contains mangroves recognized as possible habitat for a state or federally listed animal species, the eastern indigo snake. Figure 5 shows that most of the site falls under the category of undeveloped land and exotics, because there is no physical building developed on it. The proposed redevelopment is encroaching less on the mangrove area than the existing construction.

In addition, though found within a ‘Species Focus Area’ as defined in the settlement agreement for the FEMA-FWS lawsuit, “undeveloped land” falls out of the considerations in the species assessment guides thus having a “not likely to adversely affect” designation on the species of concern, the Eastern Indigo Snake.

**Figure 9  
Species Focus Area Habitat**



Further improvements to water quality are expected to arise from stormwater improvements to the site, which should provide up-to-date treatment and eliminate any existing discharges to surface waters. The applicant has submitted preliminary stormwater plans suitable for the Conditional Use Application, and final plans are required prior to building permit issuance.

Site landscaping will be selected from Table 107.68.1, Appendix A, Article 8, Section 107 of the City of Marathon Code of Ordinances. The native vegetation will improve the environmental quality of the site and reduce irrigation needs. The applicant has submitted a detailed vegetation plan that is compliant with the landscaping requirements.

Therefore, with conditions, the request is ***in compliance*** with the requirements of these sections.

- Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.

**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 cases of fire or catastrophe;**

The applicant has provided a breakdown of the proposed occupancy of the onsite buildings. The “Trip Generation Analysis” schedule provided in the Traffic Study indicates that there will be an increase in trip generation from the existing use to the proposed use for the Motel/Hotel/Resort. The traffic study determined that based on the expected trip generation for the project, there would be no adverse effect on the operating characteristics of U.S. 1. The submitted study finds that the proposed expansion will not inhibit the safe flow of traffic traveling through the City of Marathon, and that no additional improvements are warranted on U.S. 1.

Land Use	Size	Basis	Daily Trips	PM Peak Hour Trips				Total
				In		Out		
				%	#	%	#	
<b>Existing</b> Hotel (Land Use #310)	199 rooms	Daily	1406	59%	63	41%	43	106
Apartment (Land Use #220)	30 units	Daily	200	65%	12	35%	7	19
Marina (Land Use #420)	24 wet slips	Daily	71	60%	3	40%	2	5
<b>Proposed</b> Hotel (Land Use #310)	96 additional rooms	Daily	678	59%	30	41%	21	51
<b>Proposed Total</b>			<b>2355</b>		<b>108</b>		<b>73</b>	<b>181</b>

Ingress and egress to the property is being provided through driveways onto Knight’s Key Boulevard. The proposed redevelopment would create an increase in trip generation by 678 trips.

Section 107.43 requires sight triangles where the access drive intersects with the street. Clear sight triangles must be shown on the site plan at time of building permit issuance.

Therefore, with conditions, the request is *in compliance* with the requirements of these sections.

- Clear sight triangles must be shown on the site plan at time of building permit issuance.
- Landscaping in the DOT or City ROW can blend with the landscaping for the project.

**2. Off-street parking and loading areas where required, with particular attention to item 1 above;**

Parking requirements are outlined in Section 107.46 (Parking Schedule). The following table shows the parking requirement for the commercial uses on the parcel:

Use	Code Citation	Requirement	Spaces Required
Hotel or Motel	107.46	1 per every 3 employees	25
		1 per guest room	295
		required parking for accessory uses	See Below
Marina		1 per 2 wet slips	12
Restaurant		1 per 3 seats	50
		plus 1 per every 2 employees	Shared from Hotel
Affordable Housing		1.5 per dwelling unit	45
		1 per 10 bedrooms	3
<b>Total Required</b>			<b>412</b>
<b>Total Provided</b>			<b>387</b>

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. Of the 257 required spaces, 12 handicapped spaces are provided, while the remaining 245 are standard spaces. Parking space sizes are 9' x 18' for 90 degree parking, and handicapped spaces are 12' x 21' as required by Code. The proposed site plan is consistent with the code requirements for parking and aisle width.

Share parking analysis was completed for this project per Section 107.50 of the code. Based upon this the parking requirement during the highest peak time is 385 spaces. The applicant is therefore proposing 387 parking spaces.

The Code also requires bicycle parking to be provided for educational facilities, multifamily dwellings, commercial, institutional and industrial uses, as well as all developments adjacent to a bike path, at a rate of one space for every ten parking spaces, per Section 107.48. The developer has proposed 36 bike racks for the project, which is more than the 26 required.

Therefore, with the conditions noted above, the request is ***in compliance*** with the requirements of these sections.

### **3. The noise, glare or odor effects of the conditional use on surrounding properties;**

The proposed project consists of redevelopment of an existing commercial use. New lighting will be necessary for this project. The applicant has provided a typical lighting plan which conforms to the

City of Marathon LDR's. A more detailed lighting plan must be submitted for permitting purposes. The applicant's detailed plans should achieve the net result of no detrimental noise, glare or odors being generated by any of the uses. In addition, the dense landscape buffering around the site will reduce the noise, odor and glare.

Therefore, with conditions, the request is **in compliance** with the requirements of this section.

- A detailed lighting plan must be submitted before the project is permitted.

**4. Refuse and service areas, with particular reference to locations, screening and Items 1 and 2 above;**

Section 107.39 requires that all dumpsters and recycling bins be fully enclosed and screened. The site plan indicates that the dumpster is screened.

Therefore, the request is **in compliance** with the requirements of this section.

**5. Utilities, with reference to location and availability;**

Chapter 107, Article 13, establishes the City's Concurrency Management and certification requirements. This Conditional Use constitutes the City's Concurrency Level of Service Certificate, as follows:

- Wastewater: At this time, we do not have the sewer capacity to support this development. Engineering is being done for a plant expansion, but the developer may have to participate in the expansion costs in order to move this project forward. Historically Knight's Key was to have its own treatment facility but somehow that went by the wayside. The current plant was not designed to encompass all of area 3 and all of Knight's Key.
- Water: The Florida Keys Aqueduct Authority currently provides potable water for the facility. Staff recommends a separate meter for irrigation, landscaping and pool
- Solid Waste: Marathon Garbage Service currently provides solid waste disposal.
- Surface Water: The applicant has provided stormwater design information suitable for the Conditional Use application review which demonstrates compliance with City standards. However, a final stormwater plan will be required for building permit issuance.
- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space since existing uses are being replaced and enhanced.
- Roadways: The applicant is redeveloping the site with a higher intensity than was contained within the prior development; therefore, a traffic study was completed to analyze the impact on transportation facilities.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities since existing uses are being replaced in kind.

Therefore, with conditions, the request is **not in compliance** with the requirements of these sections.

- City approval is required for the stormwater management system prior to Building Permit Approval.
- Developer will have to participate in the expansion costs associated with wastewater in order to move this project forward.

**6. Screening and buffering with reference to type, dimensions and character;**

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered to the west by properties zoned RM. Therefore a High buffer type is required. The preliminary landscape plans show that this buffer is maintained. The final landscape plans must be approved by the City Biologist.

Section 107.71 A. requires that parcels with a MU zoning designation provide a Type 1 Streetscape Treatment for all parcels along US 1. The proposed landscape plan exceeds the minimum requirements. According to the Code, four canopy trees shall be planted in and about access points. In addition smaller accent trees shall be planted every 120 feet and staggered midway between the large canopy trees. Additionally all parking not located to the rear of buildings shall be screened from the right-of-way by a landscaped buffer along US1, including a continuous hedge or combination hedge and earth berm providing a three-foot high visual screen within two (2) years of planting.

Table 103.15.2 outlines setback requirements in the MU district as follow: front yard 0 – 30’; side yard 1, 0 – 10; interior side yard, 10; and, street side, 0-5’. Accessory structures, including pools, have a 10’ setback.

Table 106.28.1 outlines setbacks requirements for a principal structure on a manmade canal as 20’ measured from the Mean High Water Line, and that a principal structure on open water altered shoreline with a mangrove fringe is 30’ measured from MHWL or the landward extent of the mangrove fringe.

This plan shows a 50’ setback on the front yard, 54’ setback on the western side, and 42’ setback on the eastern side and 30’ rear yard setback.

<b>Setback</b>	<b>Minimum Required</b>	<b>Required Landscape</b>	<b>Proposed</b>	<b>Compliant</b>
Front	0-30	10	50	Yes
East Side	20	20	42	Yes
West Side	20	20	54	Yes
Rear	30	NA	30	Yes

Parking area landscaping is required by Section 107.66 of the Code. The City Biologist has reviewed the submitted parking area landscape plan and has found it to be in compliance with the code.

Therefore, the request is ***in compliance*** with the requirements of these sections.

**7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding uses;**

A review of sign requirements at this stage in development approval is not necessary. Signs for the project will be reviewed prior to issuance of a building permit according to Chapter 107, Article 7,



Signs.

Article 107.54 establishes criteria for lighting, including light pole light limitations and other technical criteria. Final lighting plans will be submitted along with final landscaping plans, and will include verification from the landscape architect that all provisions of the article are met.

Therefore, the request is ***in compliance*** with the requirements of these sections.

- All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
- A final lighting plan must be submitted prior to building permit issuance.
- A final landscaping plan must be submitted prior to building permit issuance.

#### **8. Required yards and other open space;**

Section 106.16 established required open space for the project. The site is scarified; therefore, a twenty percent open space requirement applies. According to calculations provided by the applicant, 624,675 square feet of pervious area (including landscape area), or 59% of the site, is provided as open space. This exceeds the open space requirement.

Therefore, the request is ***in compliance*** with the requirements of these sections.

#### **9. General compatibility with surrounding properties; and**

The project is a redevelopment of long standing existing use in an area of the City which has been acknowledged as an area suitable for redevelopment. Adjacent uses include a commercial establishment and residential uses. A redevelopment of the existing hotel is expected to be fully compatible with these uses. The proposed project represents improvement to the current state of prior development, and is expected to increase compatibility with surrounding properties.

Section 107.40 restricts the height of buildings to 42' as measured from the crown of the roadway or unimproved grade.

Therefore, the request is ***in compliance*** with the requirements of these sections.

#### **10. Any special requirements set forth in the LDRs for the particular use involved.**

Section 104.25 Hotels or Motels contains special requirements.

The following criteria are applicable to this redevelopment:

- As the City understands it, the Applicant will dedicate the area of Knight's Key Boulevard to the City. An agreement to transfer the property to the City satisfactory to the City Attorney will be required prior to final permitting. If Applicant conveys Knight's Key Boulevard to the City, subject to a landscape easement in favor of Applicant in which Applicant agrees to maintain the landscaping on both sides of Knight's Key Boulevard, City shall waive the Parks, Safety, and Conservation land impact fees.

- There is no parking for boats/trailers on the property and it is not planned. Boating customers are sent to the Coral Lagoon property by agreement between the two entities.
- As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
- Applicant has provided 30 workforce/employee housing units as depicted on the site plan dated August 12, 2015. The applicant also purchased and converted the units at 2401 Overseas Highway into additional workforce housing. The City finds the workforce/employee housing complies with the City's Comprehensive Plan and Land Development Regulations, as they exist and are currently being amended.
- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

Therefore, with the conditions noted above, the request is **in compliance** with the requirements of this section.

### **CONCLUSION:**

The Conditional Use Approval is intended 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. Conditional uses shall not be allowed where the conditional use would create a nuisance, traffic congestion, a threat to the public health, safety or welfare of the community.

The proposed redevelopment consists of the replacement and enhancement of a long standing existing commercial use. As such the development, including the overall upgrading and improvement of the site, furthers the policies for development in the City and is consistent with the Comprehensive Plan and Land Development Regulations. The project is compatible with surrounding uses, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety or welfare.

### **RECOMMENDATION:**

Planning staff previously recommended conditional approval of the project to the Planning Commission with the conditions set out below. Many of the conditions still apply, those that are no longer relevant have been struck through, and additional conditions have been added.

#### Conditions of Approval

1. Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
2. Clear sight triangles must be shown on the site plan at time of building permit issuance.
3. Developer and City shall use commercially reasonable efforts to apply to FDOT for a FDOT right of way permit to install a left turn lane from Knight's Key Road on to US

Highway 1. Developer shall be required to obtain approval or denial of the application for a ROW permit during the term of the development agreement. Should Developer obtain an approval of the ROW permit, it shall be required to complete the improvements prior to issuance of a CO for the new development contemplated under the amendment to the conditional use approval. Should the ROW permit be denied by FDOT, Developer shall have no further obligations under this condition.

4. A detailed lighting plan must be submitted before the project is permitted.
5. City approval is required for the stormwater management system prior to Building Permit Approval.
6. The City recommends a separate meter for irrigation, landscaping and pool.
7. Developer will have to participate in the expansion costs associated with wastewater in order to move this project forward.
8. The City will require civil plans for capacity requirements, anticipated flows, including pool and accessory structures, needs a restaurant seating plan, details including number of washers for laundry facility. The plans should show pipes and line sizes, method of transmission, and NPDES, notice of intent.
9. The plans have to be submitted to the City in order to be reviewed by our engineers, Wade Trim, for approval prior to sending to DEP.
- ~~10. Demo plans to show abandonment of existing systems and possible grease trap.~~
11. Make sure that the landscaping does not interfere with the sewer pipes in the ROW.
12. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
13. The billboard is on private property, it can be taken off the DOT permitting, change it to a City permit and it can be refaced. The lighting needs to be adjusted as to not interfere with drivers coming off the bridge as it does now.
14. A final lighting plan must be submitted prior to building permit issuance.
15. A final landscaping plan must be submitted prior to building permit issuance.
16. As the City understands it, the Applicant will dedicate the area of Knight's Key Boulevard to the City. An agreement to transfer the property to the City satisfactory to the City Attorney will be required prior to final permitting. If Applicant conveys Knight's Key Boulevard to the City, subject to a landscape easement in favor of Applicant in which Applicant agrees to maintain the landscaping on both sides of Knight's Key Boulevard, City shall waive the Parks, Safety, and Conservation land impact fees.
- ~~17. Applicant shall continue to provide reasonable access to the Pigeon Key ferry, with such access subject to Pigeon Key continuing to agree to repair and maintain the seawall and access used by Pigeon Key, and also subject to reasonable rules and regulations created and enforced by Applicant. The terms of the access, maintenance and repair agreement may be evidenced by a recordable easement executed by both Applicant and Pigeon Key.~~
18. There is no parking for boats/trailers on the property and it is not planned. Boating customers are sent to the Coral Lagoon property by agreement between the two entities.
19. Applicant has agreed to provide 30 workforce/employee housing units as depicted on the site plan dated August 12, 2015. The applicant also purchased and converted the units at 2401 Overseas Highway into additional workforce housing. The City finds the workforce/employee housing complies with the City's Comprehensive Plan and Land Development Regulations, as they exist and are currently being amended.
20. The applicant will obtain any required permits from SFWMD and FDOT prior to building permit issuance.

21. The applicant will obtain any required permits from ACOE and DEP prior to building permit issuance.
22. The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal.
23. The applicant will meet all floodplain related requirements as part of the Building Permit process.
24. As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
25. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.





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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY KNIGHT'S KEY INVESTORS, LLC AND KNIGHT'S KEY ROAD, LLC FOR THE EXPANSION OF AN EXISTING CONDITIONAL USE PERMIT (RESOLUTION 2015-94) AND DEVELOPMENT AGREEMENT (RESOLUTION 2015-96), PURSUANT TO CHAPTER 102, ARTICLES 13 AND 8 RESPECTIVELY OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS), SEEKING THE ADDITION OF NINETY-SIX (96) TRANSIENT RESIDENTIAL UNITS (HOTEL ROOMS), RESTAURANT SPACE, AND A WATER FEATURE ON AN EXISTING 199 ROOM RESORT FACILITY WITH RESTAURANTS, SPAS, RETAIL SPACE, AND POOLS; WITH EXISTING DENSITIES OF APPROXIMATELY 9.91 TRANSIENT RESIDENTIAL UNITS PER ACRE; LOCATED AT 1 KNIGHT'S KEY BLVD; WHICH IS LEGALLY DESCRIBED AS LOT 1 AND PART OF LOT 2 AND BAY BOTTOM EAST OF AND ADJACENT TO GOVERNMENT LOT 2, SECTION 8 AND 17, TOWNSHIP 66 SOUTH, RANGE 32 EAST, KNIGHTS KEY, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00101800-000000, NEAREST MILE MARKER 47; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Knight's Key Investors, LLC And Knight's Key Road, LLC, (The "Applicant") filed an Application on March 05, 2020 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/expand the existing 199 unit Hotel into up to 295 hotel/resort units, adding 6,583 square feet of commercial space; 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 20th day of July, 2020, the City of Marathon Planning Commission (the "Commission") conducted a properly advertised public hearing (the "Public Hearings") regarding the request submitted by the Applicant, for a Development Agreement pursuant to Chapter 102, Article 8 of the LDRs; and

**WHEREAS**, and on the 11th day of August, 2020 and the 8th day of September, 2020, 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 encourage the redevelopment of hotels and motels in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

**WHEREAS,** the purpose of the 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 2020-06, a copy of which is attached hereto as Exhibit “A”, granting a Conditional Use Permit to Knight’s Key Investors, LLC And Knight’s Key Road, LLC for the redevelopment of the existing 199 unit Hotel into up to 295 hotel/resort units, adding 6,583 square feet of commercial space. 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 11<sup>th</sup> DAY OF AUGUST, 2020.**

**THE CITY OF MARATHON, FLORIDA**

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**Steve Cook, Mayor**

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

(City Seal)

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

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City Attorney





**CITY OF MARATHON, FLORIDA  
CONDITIONAL USE  
DEVELOPMENT ORDER # 2020-06**

**A DEVELOPMENT ORDER APPROVING THE REQUEST BY KNIGHT'S KEY INVESTORS, LLC AND KNIGHT'S KEY ROAD, LLC FOR THE EXPANSION OF AN EXISTING CONDITIONAL USE PERMIT (RESOLUTION 2015-94) AND DEVELOPMENT AGREEMENT (RESOLUTION 2015-96), PURSUANT TO CHAPTER 102, ARTICLES 13 AND 8 RESPECTIVELY OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS), SEEKING THE ADDITION OF NINETY-SIX (96) TRANSIENT RESIDENTIAL UNITS (HOTEL ROOMS), RESTAURANT SPACE, AND A WATER FEATURE ON AN EXISTING 199 ROOM RESORT FACILITY WITH RESTAURANTS, SPAS, RETAIL SPACE, AND POOLS; WITH EXISTING DENSITIES OF APPROXIMATELY 9.91 TRANSIENT RESIDENTIAL UNITS PER ACRE; LOCATED AT 1 KNIGHT'S KEY BLVD; WHICH IS LEGALLY DESCRIBED AS LOT 1 AND PART OF LOT 2 AND BAY BOTTOM EAST OF AND ADJACENT TO GOVERNMENT LOT 2, SECTION 8 AND 17, TOWNSHIP 66 SOUTH, RANGE 32 EAST, KNIGHTS KEY, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00101800-000000, NEAREST MILE MARKER 47; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** Knight's Key Investors, LLC And Knight's Key Road, LLC, (The "Applicant") filed an Application on June 31, 2020 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/expand the existing 199 unit Hotel into up to 295 hotel/resort units, adding 6,583 square feet of commercial space; 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 20th day of July, 2020, the City of Marathon Planning Commission (the "Commission") conducted a properly advertised public hearing (the "Public Hearings") regarding the request submitted by the Applicant, for a Development Agreement pursuant to Chapter 102, Article 8 of the LDRs; and

**WHEREAS,** and on the 11th day of August, 2020 and the 8th day of September, 2020, 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 encourage the redevelopment of hotels and motels in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

**WHEREAS,** the purpose of the 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,

**FINDINGS OF FACT:**

1. The OWNER is proposing to redevelop the existing 199 unit Hotel into up to 295 hotel/resort units, adding 6,583 square feet of commercial space.
  
2. In accordance with Section 102.77 of the LDRs, the Commission and Council considered and determined that the OWNER 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

10. The allocation and transfer of transient residential units (TRUs).
11. Obligations to provide adequate workforce housing.
12. Any special requirements set forth in the LDRs for the Proposed Use involved.

**CONDITIONS IMPOSED:**

Granting approval of the Conditional Use Permit is subject to the following conditions:

1. Staff requires that upon planning review, if the redevelopment is found to have any effect on the Eastern Indigo Snake Habitat, then the prescribed protection measures must be undertaken, and the information poster posted on site.
2. Clear sight triangles must be shown on the site plan at time of building permit issuance.
3. Developer and City shall use commercially reasonable efforts to apply to FDOT for a FDOT right of way permit to install a left turn lane from Knight's Key Road on to US Highway 1. Developer shall be required to obtain approval or denial of the application for a ROW permit during the term of the development agreement. Should Developer obtain an approval of the ROW permit, it shall be required to complete the improvements prior to issuance of a CO for the new development contemplated under the amendment to the conditional use approval. Should the ROW permit be denied by FDOT, Developer shall have no further obligations under this condition.
4. A detailed lighting plan must be submitted before the project is permitted.
5. City approval is required for the stormwater management system prior to Building Permit Approval.
6. The City recommends a separate meter for irrigation, landscaping and pool.
7. Developer will have to participate in the expansion costs associated with wastewater in order to move this project forward.
8. The City will require civil plans for capacity requirements, anticipated flows, including pool and accessory structures, needs a restaurant seating plan, details including number of washers for laundry facility. The plans should show pipes and line sizes, method of transmission, and NPDES, notice of intent.
9. The plans have to be submitted to the City in order to be reviewed by our engineers, Wade Trim, for approval prior to sending to DEP.
10. Make sure that the landscaping does not interfere with the sewer pipes in the ROW.
11. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
12. The billboard is on private property, it can be taken off the DOT permitting, change it to a City permit and it can be refaced. The lighting needs to be adjusted as to not interfere with drivers coming off the bridge as it does now.
13. A final lighting plan must be submitted prior to building permit issuance.
14. A final landscaping plan must be submitted prior to building permit issuance.
15. As the City understands it, the Applicant will dedicate the area of Knight's Key Boulevard to the City. An agreement to transfer the property to the City satisfactory to the City Attorney will be required prior to final permitting. If Applicant conveys Knight's Key Boulevard to the City, subject to a landscape easement in favor of Applicant in which Applicant agrees to

maintain the landscaping on both sides of Knight's Key Boulevard, City shall waive the Parks, Safety, and Conservation land impact fees.

16. There is no parking for boats/trailers on the property and it is not planned. Boating customers are sent to the Coral Lagoon property by agreement between the two entities.
17. Applicant has agreed to provide 30 workforce/employee housing units as depicted on the site plan dated August 12, 2015. The applicant also purchased and converted the units at 2401 Overseas Highway into additional workforce housing. The City finds the workforce/employee housing complies with the City's Comprehensive Plan and Land Development Regulations, as they exist and are currently being amended.
18. The applicant will obtain any required permits from SFWMD and FDOT prior to building permit issuance.
19. The applicant will obtain any required permits from ACOE and DEP prior to building permit issuance.
20. The applicant will provide fire protection plans in accordance with fire protection requirements as outlined by the City Fire Marshal.
21. The applicant will meet all floodplain related requirements as part of the Building Permit process.
22. As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
23. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

### **VIOLATION OF CONDITIONS:**

The OWNER 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 City Code and LDRs, the Council may revoke this approval upon a determination that the OWNER or its successor or designee is in non-compliance with this Resolution, City Code, or LDRs. Failure to adhere to the terms and conditions of approval contained herein is a violation of the City 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 LDRs, 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 CUP Amendment 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 CUP granted herein shall be subject to appeal as provided in the LDRs. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

\_\_\_\_\_  
Date

\_\_\_\_\_  
George Garrett  
Director of Planning

This Development Order was filed in the Office of the City Clerk of this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
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 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 Economic Opportunity 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 Economic Opportunity. 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 \_\_\_\_\_,  
this \_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Diane Clavier City Clerk

ATTACHMENT A  
Project Plans



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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE REQUEST BY KNIGHT'S KEY INVESTORS, LLC AND KNIGHT'S KEY ROAD, LLC FOR THE EXPANSION OF AN EXISTING CONDITIONAL USE PERMIT (RESOLUTION 2015-94) AND DEVELOPMENT AGREEMENT (RESOLUTION 2015-96), PURSUANT TO CHAPTER 102, ARTICLES 13 & 8 RESPECTIVELY OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS), SEEKING THE ADDITION OF NINETY-SIX (96) TRANSIENT RESIDENTIAL UNITS (HOTEL ROOMS), RESTAURANT SPACE, AND A WATER FEATURE ON AN EXISTING 199 ROOM RESORT FACILITY WITH RESTAURANTS, SPAS, RETAIL SPACE, AND POOLS; WITH EXISTING DENSITIES OF APPROXIMATELY 9.91 TRANSIENT RESIDENTIAL UNITS PER ACRE; LOCATED AT 1 KNIGHT'S KEY BLVD; WHICH IS LEGALLY DESCRIBED AS LOT 1 AND PART OF LOT 2 AND BAY BOTTOM EAST OF AND ADJACENT TO GOVERNMENT LOT 2, SECTION 8 AND 17, TOWNSHIP 66 SOUTH, RANGE 32 EAST, KNIGHTS KEY, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBER 00101800-000000, NEAREST MILE MARKER 47; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Knight's Key Investors, LLC And Knight's Key Road, LLC, (The "Applicant") filed an Application on March 05, 2020 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/expand the existing 199 unit Hotel into up to 295 hotel/resort units, adding 6,583 square feet of commercial space; 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 20<sup>th</sup> day of July, 2020, the City of Marathon Planning Commission (the "Commission") conducted a properly advertised public hearing (the "Public Hearings") regarding the request submitted by the Applicant, for a Development Agreement pursuant to Chapter 102, Article 8 of the LDRs; and

**WHEREAS**, and on the 11<sup>th</sup> day of August, 2020 and the 8<sup>th</sup> day of September, 2020, the City Council (the “Council”) conducted properly advertised public hearings (the “Public Hearings”) regarding the request submitted by the Applicant, for a Development Agreement pursuant to Chapter 102, Article 8 of the LDRs; and

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

**WHEREAS**, the purpose of the Development Agreement is to security in his/her long term development plans and to insure the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:**

**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** The Development Agreement between the City and Knight’s Key Investors, LLC And Knight’s Key Road, LLC, a copy of which is attached hereto as Exhibit “A,” is hereby approved. The Mayor is authorized to execute this Development Agreement on behalf of the City.

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

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 11<sup>TH</sup> DAY OF AUGUST, 2020.**

**THE CITY OF MARATHON, FLORIDA**

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**Steve Cook, Mayor**

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

**ATTEST:**

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Diane Clavier  
City Clerk

(City Seal)

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

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City Attorney

*This instrument prepared by:*

Barton W. Smith, Esq.  
SMITH HAWKS, PL  
138 Simonton Street  
Key West, Florida 33040

Parcel I.D. Nos.:  
Knight's Key Road, LLC  
00101800-000000, 00101800-002000 & 00101800-001000

*(Space reserved for recording)*

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**AMENDED AND RESTATED DEVELOPMENT AGREEMENT  
FOR  
KNIGHT'S KEY INVESTORS, LLC and KNIGHT'S KEY ROAD, LLC**

**THIS AGREEMENT** is entered into by and between KNIGHT'S KEY INVESTORS, LLC, a Florida limited liability company and KNIGHT'S KEY ROAD, LLC, a Florida limited liability company (collectively, "Owner") and the CITY OF MARATHON, a Florida municipal corporation ("City"), pursuant to Sections 102.29, 102.30, 102.31 and 102.32 of the City Code, and the Florida Local Government Development Agreement Act, Sections 163.3220-163.3243, Florida Statutes (20), and is binding on the "Effective Date" set forth herein.

**WITNESSETH:**

**WHEREAS**, Owner is the owner of approximately 24.21 acres of contiguous uplands in the corporate limits of the City consisting of three parcels of land, Parcel A, located at 11 Knight's Key Blvd. and bearing Monroe County Real Estate No. 00101800-002000 (hereinafter referred to as the "Affordable Housing Parcel" or "Parcel A"), and Parcel B, located at 1 Knight's Key Blvd. and bearing Monroe County Real Estate No. 00101800-000000 (hereinafter referred to as the "Hotel Resort Parcel" or "Parcel B"), and Parcel C, bearing Monroe County Real Estate No. 00101800-001000 (hereinafter referred to as the "Road Parcel" or "Parcel C"). Parcel A, Parcel B, and Parcel C are more particularly described in the legal descriptions

attached hereto as **Exhibit A** (Parcel A, Parcel B, and Parcel B together, the “Property”). A copy of the vesting Deeds for the Property is attached hereto as **Exhibit B**; and

**WHEREAS**, the Development Agreement for CXA-10 Corporation and Contracted Purchasers Knight’s Key Investors, LLC and Knight’s Key Road, LLC recorded in Monroe County Official Records Book 2764, Page 1417 on October 9, 2015 (the “Original Development Agreement”) authorized the redevelopment of the Property, and is incorporated herein by reference; and

**WHEREAS**, by Resolution 2015-96, incorporated herein by reference, the City Council of the City granted a Conditional Use Permit authorizing the redevelopment of the Property as a resort hotel with One Hundred Ninety-nine (199) Tourist Housing Units on the Hotel Resort Parcel and Thirty (30) affordable workforce housing units on the Affordable Housing Parcel; and

**WHEREAS**, the Property is currently developed with the existing structures described in Section C.3.f. of this Agreement; and

**WHEREAS**, the City desires to encourage development and redevelopment of tourist housing properties, as that term is defined in Chapter 110 Article 3, to attract tourism, and enhance the economy of the City for the benefit of its residents; and

**WHEREAS**, the Land Use District (Zoning) of the Property is Mixed Use (MU) which permits the development of hotels and other transient uses; and

**WHEREAS**, the proposed redevelopment is permissible and appropriate for the City’s Comprehensive Plan Future Land Use designation, Mixed Use Commercial (MUC) applicable to the Property, which allows mixed use development along with various types of residential and non-residential uses; and

**WHEREAS**, the Code of Ordinances for the City of Marathon Section 107.13, *et seq.* allows for the transference of lawfully established transient unit building rights from one site (“Sender Site”) to another site (“Receiver Site”); and

**WHEREAS**, Owner desires to transfer up to Ninety-six (96) transient unit building rights from Sender Site(s) to the Property; and

**WHEREAS**, Owner desires to develop an expansion of the existing hotel adding up to Ninety-six (96) Tourist Housing Units on the Hotel Resort Parcel; and

**WHEREAS**, Owner desires to develop a water feature and structures ancillary to the water feature on the Hotel Resort Parcel; and

**WHEREAS**, Knights Key Housing, LLC, a Florida limited liability company (“Knights Key Housing”), developed Thirty (30) affordable housing dwelling units on the Affordable Housing Parcel and executed a Declaration of Affordable Housing Deed Restriction covering the Thirty (30) affordable housing dwelling units has been recorded in the Monroe County Public Records Book 2925, Page 1545 on September 6, 2018, incorporated herein by reference; and

**WHEREAS**, Owner purchased the Affordable Housing Parcel from Knights Key Housing and the Special Warranty Deed was recorded in Monroe County Public Records Book 2954, Page 2454 on March 25, 2019; and

**WHEREAS**, Owner has provided public notice of the parties’ intent to consider entering into this Agreement by publishing an advertisement in a newspaper of general circulation and readership in the City, posting the Property subject to this Agreement, and mailing notices to the property owners lying within 300 feet of the boundaries of the Property subject to this Agreement; and

**WHEREAS**, the City Planning Commission has held a public hearing on March 16, 2020, to consider this Agreement, and the City Council held two public hearings on March 24, 2020 and April 14, 2020 to consider this Agreement; and

**WHEREAS**, the City has determined that this Agreement is in the public interest and will further the health, safety, welfare, of the residents of the City of Marathon.

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

**A. RECITALS.** The recitals set forth in the preceding “Whereas” clauses are incorporated herein and form a material part of this Agreement.

**B. DEFINITIONS.** For the purposes of this Agreement, the following terms shall have the following meanings. Terms not defined in this Agreement shall be as defined in the City Code, in Chapter 163, Florida Statutes, or, if not defined in the Code or Statute, shall be understood by their usual and customary meaning.

1. **“Agreement”** shall refer to this Amended and Restated Development Agreement for Knight’s Key Investors, LLC, as the same may be subsequently amended, modified or supplemented pursuant to its terms and provisions and pursuant to the provisions of Sections 163.3220-163.3243, inclusive, Florida Statutes.

2. **“Building Permit Allocation System” or “BPAS”** shall refer to those terms defined in Chapter 107, Article 1 of the City Code.

3. **“City Code”** shall refer to the Code of Ordinances of the City of Marathon in existence on the Effective Date of this Agreement.

4. **“Comprehensive Plan”** shall refer to the City’s Comprehensive Plan, effective July 5, 2005, as amended to the submittal date of this Agreement to the City.

5. **“Dwelling Unit”** shall refer to a dwelling unit as defined in Chapter 110, Article 3. - Defined Terms of the City Code.

6. **“Effective Date”** shall refer to the date this Agreement becomes effective, as set forth in this Agreement.



7. **“Florida Department of Economic Opportunity (DEO) and “state land planning agency”** shall mean and refer to the “state land planning agency” as defined in Chapter 163, Part II, Florida Statutes.

8. **“Hotel or Motel”** A building designed to provide overnight accommodations (not to exceed 30 days) to the general public for compensation, with or without meals, which has common facilities for reservations and cleaning services, combined utilities and on-site management and reception.

9. **“Land Development Regulations”** (LDRs) shall mean Appendix A of Part II of the City Code in existence on the Effective Date of this Agreement.

10. **“Owner”** shall refer to Knight’s Key Investors, LLC, a Florida limited liability company, the owner of the Property described in **Exhibit A**.

11. **“Property”** shall refer to the two parcels of real property located in the City that is the subject of this Agreement as described on **Exhibit A** attached hereto and made a part hereof.

12. **“Public facilities”** means those facilities identified in Section 163.3221, Florida Statutes (2019), and as set forth in this Agreement.

14. **“Tourist Housing Unit”** A dwelling unit used as transient housing for tenancies of less than 28 days duration, such as a hotel or motel, public lodging establishment, rooming housing, vacation rental, room or space for parking a recreational vehicle or travel trailer or units that are advertise and held out to the public for such use. Tourist housing shall include the rental, lease, sublease, or assignment of existing dwelling units for tenancies of less than 28 days duration.

### **C. TERMS OF AGREEMENT.**

**1. Legal Description and Ownership.** The legal description of the Property subject to this Agreement is attached hereto as **Exhibit A** and is incorporated herein, along with **Exhibit B**, the vesting Deeds for Parcel A, Parcel B, and Parcel C.

## **2. Duration of Agreement; Agreement Renewal.**

This Agreement shall remain in effect for an initial period of ten (10) years, commencing on the Effective Date set forth below. This Agreement may be renewed or extended as provided herein.

## **3. Existing Development.**

**a. Existing Development.** The following development exists on the Property:

- (i) Thirty (30) one bedroom affordable housing dwelling units;
- (ii) Resort Hotel with One Hundred Ninety-nine (199) Tourist Housing Units consisting of One Hundred Nine (109) one bedroom and Ninety (90) two bedroom suites and including associated accessory structures limited to Hotel guests as follows:
  - a) Seven Thousand Seventy-six (7,076) square foot lobby/reception/office building;
  - b) Seven Thousand Six Hundred Fifty (7,650) square foot maintenance and housekeeping building;
  - c) Four (4) Eight Hundred (800) square foot swimming pools;
  - d) Four Thousand Eight Hundred Twenty (4,820) square foot fitness and spa building;
  - e) Four Thousand Five Hundred-two (4,502) square foot resort swimming pool;
  - f) Eight Hundred Seventy (870) square foot pool snack bar;
  - g) Five Thousand Three Hundred Forty (5,340) square foot meeting building;
- (iii) Five Thousand Four Hundred (5,400) square foot marketplace;
- (iv) Five Thousand (5,000) square foot restaurant;
- (vi) One Thousand (1,000) square foot tiki bar;

(vii) Twenty-four (24) boat slips;

(viii) Other amenities.

#### **4. Plan Approval, including Densities and Intensities.**

**a. Approval of Conceptual Site Plan; Minor Revisions; Final Site Plan.** The Property shall be redeveloped and operated as a resort Hotel consisting of the following development:

(i) Up to Two Hundred Ninety-five (295) Tourist Housing Units operating as resort Hotels consisting of an existing building with One Hundred Ninety-nine (199) Tourist Housing Units consisting of One Hundred Nine (109) one bedroom and Ninety (90) two bedroom suites and an additional building with up to Ninety-six (96) Tourist Housing Units, and associated accessory uses limited to resort guests as follows:

- a) Existing Seven Thousand Seventy-six (7,076) square foot lobby/reception/office building;
- b) Existing Seven Thousand Six Hundred Fifty (7,650) square foot maintenance and housekeeping building;
- c) Existing Four (4) Eight Hundred (800) square foot swimming pools;
- d) Existing Four Thousand Eight Hundred Twenty (4,820) square foot fitness and spa building;
- e) Existing Four Thousand Five Hundred-two (4,502) square foot resort swimming pool;
- f) Existing Eight Hundred Seventy (870) square foot pool snack bar;
- g) Existing Five Thousand Three Hundred Forty (5,340) square foot meeting building;

- h) Proposed up to One and a half (1.5) acre water feature and ancillary structures;
  - i) Proposed up to Three Thousand Five Hundred (3,500) square foot kids club;
  - j) Proposed up to Seven Thousand (7,000) square feet offices and restaurants
- (ii) Existing Five Thousand Four Hundred (5,400) square foot marketplace;
  - (iii) Existing Five Thousand (5,000) square foot restaurant;
  - (iv) Existing One Thousand (1,000) square foot tiki bar;
  - (v) Existing Thirty (30) one bedroom affordable housing dwelling units;
  - (vi) Existing Twenty-four (24) existing boat slips;
  - (vii) Existing turn around for city buses on the Western side of Knight's Key Boulevard.

All as depicted on the Conceptual Site Plan for Knights Key dated February 8, 2020 attached hereto as **Exhibit C**. The Conceptual Site Plan is hereby approved by the City, and any subsequent site plans, site plan approvals and building permits shall substantially comply with this Conceptual Site Plan; provided, however, that the Final Site plan submitted for building permits may deviate from the Conceptual Site Plan to accommodate: (1) refinements to the development plan including minor shifts in location of fifteen (15) percent or less in the Hotel, accessory uses, Restaurant/Bar, Watersports building, and residential structures, roadways, pathways, and swimming pool configurations; (2) changes to the building type or number of units, so long as the density set forth in this Agreement is not exceeded; (3) changes to the proposed restaurant, recreation and accessory uses so long as the density and intensity set forth in the Agreement is not exceeded; or (4) modifications that are necessary to meet regulatory requirements imposed by any other governmental entity. The site plan meets all applicable

setback, open space, landscape bufferyard, parking and building height requirements established in City Code and such requirements shall not be varied unless Owner obtains a variance pursuant to applicable provisions of the City Code.

**b. Building Height.** The height of any new structure associated with the redevelopment of the Property shall not exceed 42 feet, except as provided by City Code, as amended. For purposes of determination of grade of the Property, grade for all structures shall be 5.3 feet NGVD identified as the crown of the road on Knight's Key Boulevard at the entrance to the Property, resulting in a maximum building height of 47.3 feet NGVD, except those exceptions provided for in Section 107.41 of the City Code. **The Planning Director has determined the roof features situated up to 50 feet NGVD are minor decorative architectural features as defined by City Code Section 107.41 and are approved under this Agreement.**

**c. Exempt Dwelling Units under this Agreement.** Pursuant to the Original Development Agreement, One Hundred Ninety-nine (199) Tourist Housing Units and three (3) market rate dwelling units existed on the Property prior to the redevelopment and are exempt from the requirements of the City's Building Permit Allocations System (BPAS) as Tourist Housing Units and market rate dwelling units, respectively. The Three (3) BPAS-exempt market rate dwelling unit building rights were transferred off of the Property on May 8, 2018 pursuant to City Code Chapter 107, Article 2, and the Deed of Transfer is recorded in Monroe County Public Records Book 2905, Page 1688. Ten (10) additional BPAS-exempt Tourist Housing Unit building rights were transferred onto the Property on November 9, 2017 pursuant to City Code Chapter 107, Article 2, and the Warranty Deed for Transfer of Building Rights is recorded in Monroe County Public Records Book 2878, Page 1878.

**d. Additional Building Rights.** Owner may acquire up to Ninety-six (96) Tourist Housing Unit building rights on the open market pursuant to City Code Chapter 107, Article 2, and add the Tourist Housing Units to the Property so long as the additions are in compliance

with the Conceptual Site Plan and applicable density standards in Table 103.15.2 of the City Code.

**e. Site Plan.** The development of the up to Ninety-six (96) Tourist Housing Units and the One and a half (1.5) acre water feature and ancillary structures, including up to Seven Thousand (7,000) square feet of offices and restaurants, a Three Thousand Five Hundred (3,500) Square Foot Kids Club, all of which are ancillary to the hotel use, in addition to the existing structures, as depicted on the Conceptual Site Plan is approved by this Agreement.

**f. Structures.** The development depicted on the Conceptual Site Plan, and listed below, is approved by this Agreement. **Exhibit C**, incorporated by reference herein, depicts the building schematics for the Tourist Housing Units. The list of structures to be provided on the Property includes but is not limited to the following:

1. 295 Tourist Housing Units in the resort Hotels
2. 30 affordable housing dwelling units
3. Resort swimming pool and 4 smaller pools
4. Restrooms, fitness and spa building
5. Marina including docks, seawalls, mooring piles and 24 boat slips
6. Water feature and ancillary structures
7. Three Thousand Five Hundred (3,500) square foot kid's club
8. Sidewalks, pathways, rip rap and retaining walls.
9. Upland beaches
10. Roadways and parking, including a turn around for city buses on the Western side of Knight's Key Boulevard
11. Reception, lobby and office buildings
12. Maintenance and housekeeping building
13. Stormwater management system
14. Utilities infrastructure inclusive of sanitary sewer, potable water, electric and landscape irrigation systems
15. Gazebos, pergolas and other landscape structures
16. Restaurant, bar and kitchen buildings, and outdoor seating
17. Lighting and signage
18. Refuse collection enclosures
19. Marketplace
20. Seven Thousand (7,000) square feet of restaurants and offices ancillary to the hotel use
20. Any and all other structures necessary to operate the resort Hotels

**g. Commercial Floor Area Approved Under This Agreement.** A total of Twenty One Thousand Three Hundred Sixty-two (21,362) square feet has been developed as commercial floor area on the Property pursuant to the Original Development Agreement.

**h. Permits from Other Regulatory Entities.** Other agency permits may be required as provided by applicable law prior to the City's issuance of building permits for development as approved in this Agreement. The Owner shall obtain all necessary permits from other local, regional, State and federal regulatory entities and provide copies of each to the City within a reasonable time after such permits are issued.

**i. Affordable Housing Dwelling Units.** Knights Key Housing developed and Owner has maintained Thirty (30) middle income affordable housing dwelling units on the Affordable Housing Parcel. A Declaration of Affordable Housing Deed Restrictions accepted by the City was recorded in the public records of Monroe County in Book 2925, Page 1545 on September 6, 2018, and shall be effective for fifty (50) years from the date of the certificate of occupancy and shall automatically renew for two (2) 50-year periods. Knights Key Housing obtained issuance of a Certificate of Occupancy for all thirty (30) affordable housing dwelling before the Certificate of Occupancy was issued for the Hotel in accordance with the Original Development Agreement. Owner acquired the Affordable Housing Parcel from Knights Key Housing in accordance with the Original Development Agreement. Pursuant to the Original Development Agreement, Owner retains the ability to sell the Property as two separate parcels of land.

**j. Temporary Housing.** The use of Thirty (30) temporary housing units for construction personnel will be permitted by the City through the completion of construction and will be reduced as need allows. Such housing units shall meet all City Code requirements for such temporary housing.

**k. Additional Conditions by Mutual Agreement.** Nothing in this Agreement shall preclude the parties from applying additional conditions, by mutual written consent, during the



final permitting approval process, without requiring an amendment to this development agreement.

**5. Public facilities; Concurrency; Impact Fees.** The following identifies the public facilities that are required and that will service the development authorized by this Agreement; 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.

**a. Potable Water.** Domestic potable water is provided by the Florida Keys Aqueduct Authority.

**b. Electric Service.** Electric service is provided by Florida Keys Electric Cooperative.

**c. Solid Waste.** Solid waste service is provided by Marathon Garbage Service or its successors and assigns, as determined by the City Council.

**d. Fire Service.** Fire service is provided by the Marathon Fire Department.

**e. Wastewater.** Wastewater mains collection and treatment is provided by the City of Marathon.

**f. Public Recreational facilities.** Public recreational facilities shall be addressed through impact fees, if any.

**g. Concurrency.** All public facilities identified above are available as of the date of this Agreement, and capacity for each is projected to be available concurrent with the impacts of development.

**h. Impact Fees.** Any increased impacts on public facilities or public services attributable to each unit of the development, and the cost of capital improvements to meet the associated 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 impact fees required by ordinance then in effect, as well as by payment by the Owner of any applicable utility system development fees.

**6. Reservations or Dedications of Land for Public Purposes.** There is no reservation or dedication of land for public purposes contemplated by this Agreement.

**7. US 1 Signage.** The Property currently has signage located on the Property. The Parties agree that Owner shall may relocate the signage on the Property and shall be permitted to erect a sign in compliance with City Code as a monument sign.

**8. All Local Development Permits Approved or Needed.**

**a. Development Approvals.** The following City development approvals are needed for the development authorized by this Agreement:

**1. Conditional Use Approval.** Conditional Use approval by the City Council confirming compliance with this Agreement and applicable City Code requirements.

**2. Site Plan.** Final site plan application and approval by the City building official, fire marshal, and planning staff confirming compliance with this Agreement and applicable City Code requirements.

**3. Building Permits.** As of right building permits will be issued, as provided pursuant to the City Code.

**b. Review.** No further review or discretionary review will be required by the City, it being agreed that the development, as depicted on the approved Conceptual Site Plan attached hereto, requires only the above development approvals so long as the final site plan substantially complies with the Conceptual Site Plan approved under this Agreement.

**c. Compliance.** Nothing in this Agreement shall be deemed to obviate the Owner's compliance with terms and provisions of each such identified approval.

**d. Completeness.** The parties acknowledge that the Owner has submitted all information necessary for review under the City Code.

**9. Mutual Cooperation.** The City agrees to cooperate with the Owner in a timely manner in providing and/or granting all permits, licenses, approvals, or consents necessary or appropriate to

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

**10. Development to Comply with Permits and City Comprehensive Plan and Code Provisions.** The development described in and authorized by this Agreement shall be constructed in accordance with all specified permit conditions, and in accordance with all applicable provisions of the City's Comprehensive Plan and City Code, as applicable. No certificate of occupancy for an individual building shall be issued until the City has assured itself that, subsequent to approved plans; the Owner has complied with all conditions in the permits issued by the City and other regulatory entities for that building.

**11. Finding of Consistency.** The City of Marathon finds that the development authorized herein is consistent with the City's Comprehensive Plan and Land Development Regulations, as applicable.

**12. Compliance with Permits, Terms, Conditions, and Restrictions not identified herein.** The failure of this Agreement to address a particular permit requirement, condition, term, or restriction shall not relieve the Owner of the necessity of complying with the laws governing said permitting requirements, conditions, terms, or restrictions.

**13. Governing Laws.**

**a. Controlling Regulations.** For the duration of this Agreement, all approved development on the Property shall comply with and be controlled by this Agreement and by the provisions of the Comprehensive Plan and City Code, as applicable. The parties do not anticipate the application of subsequently adopted laws and policies to the Property except as expressly provided in this Agreement.

**b. State or Federal Laws.** If State or federal laws enacted after the effective date of this Agreement preclude any party's compliance with the terms of this Agreement, this Agreement shall be modified as is 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 or statutory law.

**14. Amendments, Renewal, Revocation and Termination.** This Agreement may be amended, renewed, or terminated as follows:

**a. Amendments.** 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; an instrument in writing signed by the parties or their successors shall accomplish an amendment under this provision.

**b. Renewal.** As provided in Section 163.3229, Florida Statutes, this Agreement may be renewed by the mutual consent of the parties, subject to the following public hearing requirements in Section 163.3225, Florida Statutes: 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 seven (7) days before each public hearing in a newspaper of general circulation and readership in Monroe County, Florida, 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.

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

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

**e. Termination by Mutual Consent.** This Agreement may be terminated by mutual consent of the parties.

## **15. Breach of Agreement and Cure Provisions.**

**a. Written Notice on the Owner.** If the City concludes there has been a material breach of this Agreement, prior to revoking this Agreement the City shall serve written notice on the Owner, identifying the term or condition the City contends has been materially breached and providing the Owner ninety (90) days from the date of receipt of the notice to cure the breach or negotiate an amendment to the Agreement. Each of the following events, unless caused by fire, storm, flood, other Act of God, or events beyond the control of the Owner, shall be considered a material breach of this Agreement: (a) failure to comply with the provisions of this Agreement; or (b) failure to comply with terms and conditions of permits issued by the City of Marathon or other regulatory entity for the development authorized by this Agreement.

**b. Written Notice on the City.** If the Owner concludes that there has been a material breach in the terms and conditions of this Agreement, the Owner shall serve written notice on the City, identifying the term or condition the Owner contends has been materially breached and providing the City thirty (30) days from the date of receipt of the notice to cure the breach. The following events, unless caused by fire, storm, flood, other Act of God, or events beyond the control of the City, shall be considered a material breach of this Agreement: (a) failure to comply with the provisions of this Agreement, or (b) failure to timely process any application for site plan approval or other development approval required to be issued by the City for the development authorized by this Agreement.

**c. Option to Terminate.** If a material breach of this Agreement occurs and is not cured within the time periods provided above, the party that provided notice of breach may elect to terminate this Agreement or may seek to enforce this Agreement as provided herein.

**d. Waiver of Breach.** If either party waives a material breach in this Agreement by the other party, such a waiver shall not be deemed a waiver of any subsequent breach.

**16. 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 any one of the following methods: (a) personal delivery; (b) deposit with the United States Postal Service as certified or registered mail, return receipt requested, postage prepaid; or (c) 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 THE OWNER:**

Knights Key Investors, LLC  
C/O Noah Singh  
1010 Kennedy Drive, Suite 310  
Key West, Florida 33040

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

Smith Hawks, PL  
138 Simonton Street  
Key West, Florida 33040  
Telephone: (305) 296-7227  
E-mail: Bart@smithhawks.com

**TO THE CITY:**

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

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

City Attorney  
City of Marathon  
9805 Overseas Highway  
Marathon, Florida 3350  
Telephone: (305) 743-0033

**17. 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 Sections 163.3220-163.3243, Florida Statutes.

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

**19. 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.

**20. 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 the validity of the remaining provisions of this Agreement.

**21. Applicable Law.** 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.

**22. Litigation; Attorney's Fees; Venue; Waiver of Right to Jury Trial.** In the event of any litigation arising out of this Agreement between the City and Owner, 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 such reasonable attorneys' 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 or initiated under this Agreement.

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

**24. 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.

**25. 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 the Agreement.

**26. 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.

**27. Recording; Effective Date.** The Owner shall record this Agreement in the public records of Monroe County, Florida, within fourteen (14) days after the date of execution of 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 by hand delivery, 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. The Owner shall also provide a copy of the recorded Agreement to the City within the same time period. This

Agreement shall become effective thirty (30) days after the date it is received by the state land-planning agency.

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

**[Rest of page intentionally left blank; Signature pages to follow]**

**IN WITNESS WHEREOF**, the parties hereto, by their duly authorized representatives, have set their hands and seals on the dates below written.

**KNIGHT’S KEY INVESTORS, LLC,**  
a Florida limited liability company

By: \_\_\_\_\_  
Noah Singh, authorized representative

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_day of \_\_\_\_\_, 2020 by Noah Singh, authorized representative of Knight’s Key Investors, LLC, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced \_\_\_\_\_ as identification.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

KNIGHT'S KEY ROAD, LLC,  
a Florida limited liability company

By: \_\_\_\_\_  
Noah Singh, authorized representative

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_ day of \_\_\_\_\_, 2020 by Noah Singh, authorized representative of Knight's Key Road, LLC, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced \_\_\_\_\_ as identification.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

CITY OF MARATHON

\_\_\_\_\_ By: \_\_\_\_\_  
Date STEVE COOK, MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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

\_\_\_\_\_  
CITY ATTORNEY

**EXHIBITS TO KNIGHT'S KEY INVESTORS, LLC and KNIGHT'S KEY ROAD, LLC  
DEVELOPMENT AGREEMENT**

**EXHIBIT A: LEGAL DESCRIPTION OF PROPERTY**

**EXHIBIT B: VESTING DEEDS OF PROPERTY**

**EXHIBIT C: CONCEPTUAL SITE PLAN**

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PROPERTY**

**EXHIBIT B**  
**VESTING DEEDS OF PROPERTY**



**EXHIBIT C**  
**CONCEPTUAL SITE PLAN**