



COUNCIL AGENDA STATEMENT

Meeting Date: October 12, 2021
To: Honorable Mayor and City Councilmembers
From: Carlos A. Solis P.E., Director of Public Works & Engineering
Through: George Garrett, City Manager

Agenda Item: **Resolution 2021-100**, Approval Of An Easement Agreement Between The City Of Marathon And Marathon Shopping Center 1718, LLC For An Easement In A Portion Of The Kmart Shopping Center For Installation Of A Bus Shelter; Authorizing The Mayor To execute The Easement Agreement; And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION: The City has long thought to provide a bus shelter along the US 1 frontage of the Kmart Shopping Center and has attempted to coordinate the installation with the Key West Transportation Department. Due to conflict with the existing FCAA transmission main in the area, it was determined that the bus shelter would need to encroach into the shopping center property to avoid impact to the water transmission main. As a result, the Key West Transportation Department was unable to participate due to limitation of the use of an easement in their grant funding. Therefore, the City will undertake the installation of the bus shelter and has negotiated an easement agreement with the owners of the shopping center. Once recorded, the City will proceed with the installation of the bus shelter.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	XX	___

FISCAL NOTE:

RECOMMENDATION: Council approve Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2021-100**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVAL OF AN EASEMENT AGREEMENT BETWEEN THE CITY OF MARATHON AND MARATHON SHOPPING CENTER 1718, LLC FOR AN EASEMENT IN A PORTION OF THE KMART SHOPPING CENTER FOR INSTALLATION OF A BUS SHELTER; AUTHORIZING THE MAJOR TO EXECUTE THE EASEMENT AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the “City”) wishes to provide a bus shelter along the US 1 frontage of the Kmart Shopping Center and has attempted to coordinate the installation with the Key West Transportation Department. Due to conflict with the existing FCAA transmission main in the area, it was determined that the bus shelter would need to encroach into the shopping center property to avoid impact to the water transmission main; and

WHEREAS, the City will undertake the installation of the bus shelter and has negotiated an easement agreement with the owners of the shopping center; and

WHEREAS, the City and the Marathon Shopping Center 1718, LLC desire to execute a easement agreement for the bus shelter within the Property owned by the Marathon Shopping Center 1718, LLC as depicted on Exhibit “A” to the easement agreement.

WHEREAS, the City Council finds that approval of the easement agreement for bus shelter is in the best interests of the City.

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 easement agreement between the City and Marathon Shopping Center 1718, LLC within the Property as depicted on Exhibit “A” to the easement agreement hereto is hereby approved.

Section 3. The City Manager is hereby authorized to execute the easement agreement.

Section 4. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12TH DAY OF OCTOBER, 2021.

THE CITY OF MARATHON, FLORIDA

Mayor Luis Gonzalez

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

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

Steve Williams, City Attorney

Prepared By: Cody Ward
After Recorded, Return To:
Steven T Williams, Esquire
City of Marathon
9805 Overseas Highway
Marathon, FL 33050

PUBLIC BUS STOP SHELTER EASEMENT AGREEMENT

This Public Bus Stop Shelter Easement Agreement (the "Easement Agreement") dated _____ between MARATHON SHOPPING CENTER 1718, LLC, a Florida limited liability company (the "Grantor") and THE CITY OF MARATHON, a municipal corporation (the "Grantee"). The following statements are a material part of this Agreement.

- A. Grantor is the owner of Grantor's Property described on Exhibit A, attached hereto and incorporated by reference (the "Shopping Center").
- B. Grantor wishes to grant, and Grantee wishes to receive an easement over and across the Shopping Center particularly described on Exhibit B, attached hereto and incorporated by reference (the "Easement Area").

Therefore, in consideration of \$10.00 and other valuable consideration, the receipt and sufficiency of which are acknowledged, the following grants, agreements, covenants, and restrictions are made:

1. GRANT OF EASEMENT

Grantor does hereby give and assign, a non-exclusive, perpetual easement with the right of entry in and across the Easement Area for the purpose of installing, operating and maintaining a public bus stop shelter (the "Bus Stop Shelter") and the right to construct, maintain, repair and replace facilities necessary for said purpose (the "Bus Stop Easement").

2. MAINTENANCE AND USE OF EASEMENT.

The design and initial construction of the Bus Stop Shelter (including any material alterations thereto in the future) is subject to Grantor's prior approval. Grantee agrees not to commence any construction or material alteration until it has first obtained the prior written consent of the Grantor, not to be unreasonably withheld, conditioned or delayed so long as such improvements or alterations (including the construction process and scheduling) will not unreasonably interfere with the normal business operations of the Shopping Center, including, but not limited to, the visibility of any signs or improvements on the Shopping Center. Grantee does hereby agree to clean, maintain, and keep in good condition and repair the Easement Area herein granted as well as any facilities constructed thereon. Should Grantee abandon and/or fail to maintain the Easement Area or Bus Stop Shelter, Grantor shall have the right to terminate this Agreement. Subject to any earlier termination as provided for in Section 7 herein, this Easement shall continue so long as Grantee, its successors or assigns, shall use the same for the purpose specified, but upon Grantee's discontinuance of said use, this Easement shall terminate upon sixty (60) days' notice to Grantee and shall thereafter be of no further force or effect. Grantee agrees that upon such termination, Grantee will execute a quit claim deed or other appropriate instrument evidencing the termination of the rights granted under this Easement Agreement.

In no event shall the Easement Area be used for advertising or marketing and no advertisements or signage shall be placed on or within the Easement Area (except for wayfinding and directional signage connected with the use of the Easement Area for a public transit bus stop).

3. WARRANTIES OF TITLE

Grantor does hereby covenant with Grantee that Grantor is lawfully seized and possessed of the Shopping Center.

4. GRANTEE'S INDEMNITY

Grantee, for itself and its successors and assigns, covenants and agrees to indemnify, defend, protect and hold harmless, the Grantor, against any and all costs, liability, and expenses in respect to any and all loss of life or property, or injury or damage to person or property, of any person, firm or corporation and against any and all claims, demands and actions in respect to such loss, injury or damage caused by or arising out of the use of the Easement, the existence of any of Grantee's facilities, and any construction, reconstruction, maintenance, repair, replacement, modification or other work performed by Grantee, its agents, representatives, employees, successors or assigns.

5. RUNNING OF BENEFITS

All provisions of this Agreement, including the benefits and burdens, run with the land are binding upon and inure to the benefit of the heirs, assigns, licensees, invitees, successors, tenants, employees, and personal representatives of the parties.

6. COMPLIANCE WITH LAWS AND REGULATIONS

Grantee, in the exercise of any rights hereunder, covenants and agrees to comply with all laws, rules, regulations and requirements of all public authorities, including without limitation, the Americans with Disabilities Act, money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect.

7. DEFAULT

If Grantee shall fail to keep, observe, perform and/or comply with any of the covenants, conditions, undertakings or provisions hereof or use the Easement for purposes not provided for in this Easement Agreement, Grantor at its sole election, may give written notice to Grantee that unless such use, failure, omission or breach shall, within thirty (30) days from the date of such notice be cured and remedied, Grantor may thereupon, by written notice, declare this Easement Agreement to be terminated and of no further force and effect. Grantee agrees that upon such termination, Grantee will execute a quit claim deed or other appropriate instrument evidencing the termination of the rights granted under this Easement Agreement. The terms and conditions of this Easement Agreement may be enforced by Grantor in any judicial proceeding seeking any remedy recognizable at law or in equity, including an action or lawsuit seeking damages, injunction, specific performance, or any other form of relief.

8. CONSTRUCTION

The rule of strict construction does not apply to this Easement Agreement. This Easement Agreement will be given a commercially reasonable construction so that the intention of the parties to convey a commercially usable right of enjoyment to Grantee is carried out.

9. NOTICE

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR THE GRANTOR:

Marathon Shopping Center 1718, LLC
c/o Kimco Realty Corporation
500 North Broadway, Suite 201
Jericho, New York 11753
Attn: Legal Department

With a copy to:

Marathon Shopping Center 1718, LLC
c/o Kimco Realty Corporation
1 Oakwood Blvd, Suite 70
Hollywood, Florida 33020
Attn: Peter S. Flint

FOR THE GRANTEE

City of Marathon
9805 Overseas Highway
Marathon, FL 33050
Attn: City Manager

With a copy to:

City of Marathon
9805 Overseas Highway
Marathon, FL 33050
Attn: City Attorney

10. ANTI-TERRORISM REPRESENTATION AND WARRANTY

Grantor and Grantee each represent and warrant that neither they nor the officers and directors controlling Grantor and Grantee, respectively, are acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by the United States Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity, or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and that they are not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity or nation. Each Party agrees that in the event of a breach of this provision or any applicable law relating to the subject of this provision, the non-breaching Party may take such action as may be necessary in order to comply with this provision and/or the applicable law, including but not limited to terminating this Easement Agreement.

11. WAIVER OF TRIAL BY JURY

Grantor and Grantee agree to waive any right to have a trial by jury with respect to any lawsuit based on or arising under this Easement Agreement or any course of conduct, course of dealing, statements or actions of Grantor and Grantee in connection with this Easement Agreement.

12. AUTHORITY TO SIGN

No employee or agent of Grantee (other than an authorized signatory) has authority to make any warranty, representation, agreement or undertaking. All negotiations, considerations, representations, and understandings between the parties are incorporated in this document and may be modified or altered only by agreement in writing between the parties, and no act or omission of any employee or agent of the parties, if any, will alter, change or modify any of the provisions of this Easement Agreement. The parties executing this Easement Agreement on behalf of Grantor and Grantee represent that they have authority and power to sign this Easement Agreement on behalf of Grantor and Grantee.

13. INVALIDITY

If any term or provision of this Easement Agreement or the application to any person or circumstance, to any extent, is or becomes invalid or unenforceable, then the remainder of this Easement Agreement, or the application of such term or provision to persons whose circumstances other than those as to which it is held invalid or unenforceable, will not be affected.

14. TERMINATION OF LIABILITY

Whenever a transfer of ownership of either the Shopping Center or Grantee's property takes place, the transferor will not be liable for a breach of this Easement Agreement occurring after a transfer.

See "Rider" attached hereto and made a part hereof

[SIGNATURES ON FOLLOWING PAGE]

To indicate their consent to this Easement Agreement, Grantor and Grantee, or their authorized representatives or officers, have signed this document.

GRANTOR:

GRANTEE:

MARATHON SHOPPING CENTER 1718, LLC.

THE CITY OF MARATHON,

a Florida limited liability company

a municipal corporation

By: KRCX Florida Realty, LLC, sole member

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

WITNESS:

WITNESS:

ACKNOWLEDGEMENT – MARATHON SHOPPING CENTER 1718, LLC

STATE OF NORTH CAROLINA

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this __ day of _____, _____, by Gary J. Bazydlo as Vice President for KRCX Florida Realty, LLC, sole member of Marathon Shopping Center 1718, LLC.

Carolina

Signature of Notary Public-State of North

(NOTARY SEAL)

Name of Notary Typed, Printed, or Stamped

Personally Known _____ OR Produced Identification _____

Type of Identification Produced: _____

ACKNOWLEDGMENT – CITY OF MARATHON

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online
notarization this ___ day of _____, _____, by _____ as
_____ for _____.

Signature of Notary Public-State of Florida

(NOTARY SEAL)

Name of Notary Typed, Printed, or Stamped

Personally Known _____ OR Produced Identification _____

Type of Identification Produced: _____

BUS STOP EASEMENT RIDER

This Rider is an integral part of the Public Bus Stop Shelter Easement Agreement (the "Easement Agreement") to which it is attached. In the event of a discrepancy or conflict between the provisions of the attached Easement Agreement and the provisions contained in this Rider, this Rider shall prevail and govern. "Grantor" as used herein means the grantor of the easement rights and any future owner of the property. "Grantee" means the grantee of the easement rights and any person exercising such rights. Any capitalized terms not herein defined shall have the meanings ascribed to them in the Easement Agreement.

1. Any construction, reconstruction, installation, operation, maintenance, repair, replacement, or removal by Grantee related to the Easement shall be at no cost to Grantor and shall be so performed as to interfere as little as possible with the use and enjoyment of the property by Grantor or persons occupying or lawfully on the Shopping Center. To effectuate this intent, Grantee shall (i) use commercially reasonable efforts to minimize any interference with access to stores and parking lots located in the Shopping Center; and (ii) keep the Easement Area and the Shopping Center free of materials and equipment (other than the Bus Stop Shelter structure) at all times, except when necessary because Grantee and/or Grantee's agents or contractors are actively working in the Easement Area.

2. If the surface of the Easement Area, the Shopping Center or any improvements thereon shall be disturbed by Grantee's construction, reconstruction, installation, operation, maintenance, repair, replacement, or removal, the surface and improvements shall be promptly restored by Grantee to the condition just prior to such disturbance.

3. There shall be no liability on Grantor, its successors and assigns, or persons occupying or present on the property for damage, if any, which may be caused by normal use of the Easement Area.

4. Grantee will not permit any mechanics', materialmen's or other liens to stand against Grantor's property for work or materials furnished in connection with the Easement rights, and Grantee agrees to defend, indemnify and hold Grantor harmless from the same (including attorneys' fees).

5. Grantee is self-insured for all liability claims and related expenses pursuant to the provisions of Section 768.28, Florida Statutes.

6. Grantor and its successors or assigns shall have the right to use the land within the limits of the Easement Area in any manner which does not interfere with the rights of Grantee, including without limitation, the right to install, maintain, replace, repair, remove, and operate utility lines, such as sanitary sewers, storm sewers, and gas lines.

7. Notwithstanding anything to the contrary stated in the Easement Agreement or in this Rider, Grantor for itself and its grantees (other than Grantee herein), its successors and assigns reserves the right, at Grantor's expense, to relocate the Easement Area and all or any part of the improvements constructed or installed therein to permit further development of Grantor's property.

8. Grantee shall have no right to assign, sublet or license to any other person or entity its rights granted under the Easement Agreement.

10. In the event that the Easement Area or any part thereof, or Grantee's Easement rights are taken under the power of eminent domain, any award for such a taking or damages paid as a result of the taking shall be the sole and exclusive property of Grantor. Grantee agrees to execute any instrument of assignment as may be required by Grantor for the recovery of damages and agrees to turn over to Grantor

any damage proceeds that may be recovered, but Grantee may recover for itself damages for labor costs incurred and for any items of property belonging to Grantee (such as pipes, wires, conduits, or equipment) which are so taken, provided Grantor's award is not reduced thereby.

11. The Easement is subject to all covenants, conditions, agreements and other matters of record.

12. Grantee, by its acceptance of the delivery of this grant of Easement, assumes and agrees to perform all of the promises, agreements, and obligations herein provided to be performed on the part of Grantee.

END OF RIDER

EXHIBIT A

LEGAL DESCRIPTION

The Shopping Center

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF MONROE, STATE OF FLORIDA, AND DESCRIBED AS FOLLOWS:

PARCEL A:

A PARCEL OF LAND IN A PART OF GOVERNMENT LOT 2, SECTION 11, TOWNSHIP 66 SOUTH, RANGE 32 EAST, ON KEY VACA, MONROE COUNTY, FLORIDA, AND BEING PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF GOVERNMENT LOT 2 WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1; THENCE SOUTH 74°20'00" WEST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1 A DISTANCE OF 981.25 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE SOUTH 74°20'00" WEST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1 A DISTANCE OF 450.0 FEET TO A POINT; THENCE SOUTH 15°40'00" EAST, 125.0 FEET TO A POINT; THENCE SOUTH 74°20'00" WEST 150.0 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY BOUNDARY LINE OF FLORIDA STATE HIGHWAY S-931; THENCE SOUTH 15°40'00" EAST, ALONG SAID RIGHT-OF-WAY BOUNDARY LINE 375.0 FEET TO A POINT; THENCE NORTH 74°20'00" EAST, 800.0 FEET TO A POINT; THENCE NORTH 15°40'00" WEST, 35.0 FEET TO A POINT; THENCE SOUTH 74°20'00" WEST, 85.0 FEET TO A POINT; THENCE NORTH 15°40'00" WEST 171.15 FEET TO A POINT; THENCE SOUTH 74°20'00" WEST, 12.0 FEET TO A POINT; THENCE NORTH 15°40'00" WEST, 103.85 FEET TO A POINT; THENCE SOUTH 74°20'00" WEST, 103.0 FEET TO A POINT; THENCE NORTH 15°40'00" WEST, 190.0 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY AS TO THE PORTION OF LAND DESCRIBED THEREIN WHICH LIES IN PARCEL A, AS CONVEYED IN SPECIAL WARRANTY DEED RECORDED IN BOOK 2291, PAGE 696:

A PARCEL OF LAND BEING A PORTION OF GOVERNMENT LOT 2, SECTION 11, TOWNSHIP 66 SOUTH RANGE 32 EAST, AT MARATHON KEY VACA, MONROE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF US HIGHWAY NO. 1 (STATE ROAD NO. 5) AND THE EASTERLY LINE OF SAID GOVERNMENT LOT 2, SECTION 11, TOWNSHIP 66 SOUTH, RANGE 32 EAST FOR A POINT OF REFERENCE; THENCE SOUTH 73° 48' 37" WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 781.47 FEET TO THE NORTHWESTERLY CORNER OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 659, PAGE 254, OF THE PUBLIC RECORDS OF MONROE

COUNTY, FLORIDA; THENCE SOUTH 16° 11' 23" EAST, PERPENDICULAR TO SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE WESTERLY LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 659, PAGE 254, 421.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED; THENCE CONTINUE SOUTH 16° 11' 23" EAST, ALONG SAID EASTERLY LINE, 79.00 FEET TO THE SOUTHERLY LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 659, PAGE 254; THENCE SOUTH 73° 48' 37" WEST, PARALLEL WITH SAID SOUTHERLY RIGHT-OF-WAY LINE, 37.00 FEET; THENCE NORTH 16° 11' 23" WEST, PARALLEL WITH THE WESTERLY LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 659, PAGE 254, 79.00 FEET; THENCE NORTH 73°48' 37" EAST 37.00 FEET TO THE POINT OF BEGINNING.

PARCEL D:

A PARCEL OF LAND IN A PART OF GOVERNMENT LOT 2, SECTION 11, TOWNSHIP 66 SOUTH, RANGE 32 EAST, ON KEY VACA, MONROE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF GOVERNMENT LOT 2 WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1; THENCE BEAR SOUTH 74°20'00" WEST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. HIGHWAY NO. 1 A DISTANCE OF 781.25 FEET TO A POINT; THENCE BEAR SOUTH 15°40'00" EAST, 421.0 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN BEING DESCRIBED; THENCE SOUTH 74°20'00" WEST 37.0 FEET TO A POINT; THENCE SOUTH 15°40'00" EAST 44.0 FEET TO A POINT; THENCE NORTH 74°20'00" EAST 37.0 FEET TO A POINT; THENCE NORTH 15°40'00" WEST, 44.0 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY AS TO THE PORTION OF LAND DESCRIBED THEREIN WHICH LIES IN PARCEL D, AS CONVEYED IN SPECIAL WARRANTY DEED RECORDED IN BOOK 2291, PAGE 696:

A PARCEL OF LAND BEING A PORTION OF GOVERNMENT LOT 2, SECTION 11, TOWNSHIP 66 SOUTH RANGE 32 EAST, AT MARATHON KEY VACA, MONROE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF US HIGHWAY NO. 1 (STATE ROAD NO. 5) AND THE EASTERLY LINE OF SAID GOVERNMENT LOT 2, SECTION 11, TOWNSHIP 66 SOUTH, RANGE 32 EAST FOR A POINT OF REFERENCE; THENCE SOUTH 73° 48' 37" WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 781.47 FEET TO THE NORTHWESTERLY CORNER OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 659, PAGE 254, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA; THENCE SOUTH 16° 11' 23" EAST, PERPENDICULAR TO SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE WESTERLY LINE

OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 659, PAGE 254, 421.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED; THENCE CONTINUE SOUTH 16° 11' 23" EAST, ALONG SAID EASTERLY LINE, 79.00 FEET TO THE SOUTHERLY LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 659, PAGE 254; THENCE SOUTH 73° 48' 37" WEST, PARALLEL WITH SAID SOUTHERLY RIGHT-OF-WAY LINE, 37.00 FEET; THENCE NORTH 16° 11' 23" WEST, PARALLEL WITH THE WESTERLY LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 659, PAGE 254, 79.00 FEET; THENCE NORTH 73°48' 37" EAST 37.00 FEET TO THE POINT OF BEGINNING.

PARCEL E:

A PARCEL OF LAND IN A PART OF GOVERNMENT LOT 2, SECTION 11, TOWNSHIP 66 SOUTH, RANGE 32 EAST, ON KEY VACA, MONROE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF GOVERNMENT LOT 2 WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1; THENCE BEAR SOUTH 74°20'00" WEST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF U. S. HIGHWAY NO. 1 A DISTANCE OF 781.25 FEET TO A POINT; THENCE SOUTH 15°40'00" EAST, 465.0 FEET TO A POINT; THENCE SOUTH 74°20'00" WEST, 68.0 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN BEING DESCRIBED; THENCE SOUTH 74°20'00" WEST, 17.0 FEET TO A POINT; THENCE NORTH 15°40'00" WEST, 24.0 FEET TO A POINT; THENCE NORTH 74°20'00" EAST 17.0 FEET TO A POINT; THENCE SOUTH 15°40'00" EAST, 24.0 FEET TO THE POINT OF BEGINNING.

PARCEL F:

NON-EXCLUSIVE EASEMENTS CONTAINED IN THE RECIPROCAL INGRESS-EGRESS EASEMENT BETWEEN FOOD FAIR, INC., A PENNSYLVANIA CORPORATION, KARATHON N.V., A NETHERLANDS ANTILLES CORPORATION, AND JM AGENCY CORPORATION, A TEXAS CORPORATION, DATED MAY 18, 1978, RECORDED IN O.R. BOOK 760, PAGE 1130, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.

EXHIBIT B

LEGAL DESCRIPTION

The Easement Area

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF GOVERNMENT LOT 2 WITH THE SOUTHERLY RIGHT-OF-WAY OF U.S. HIGHWAY NO1; THENCE SOUTH 74°20.00 WEST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID US HIGHWAY NO 1 A DISTANCE OF 1,144.00 FEET TO THE POINT OF BEGINNING OF THE EASMENT HEREIN DESCRIBED; THENCE SOUTH 15°40.00 EAST A DISTANCE OF 4 FEET; THENCE SOUTH 74°20.00 WEST A DISTANCE OF 12 FEET; THENCE NORTH 15°40.00 WEST A DISTANCE OF 4 FEET; THENCE NORTH 74°20.00 EAST A DISTANCE OF 12 FEET TO THE POINT OF BEGINNING OF SAID EASEMENT.