

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2021-105**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA AMENDING AND REPLACING CITY OF MARATHON, FLORIDA RESOLUTION 2020-92 AND THE DEVELOPMENT AGREEMENT ATTACHED THERETO TO CONFORM TO THE DECEMBER 8, 2020 CITY COUNCIL VOTE REGARDING APPROVAL OF A REQUEST BY BOAT WORKS INVESTMENTS, LLC (COMPASS POINTE) FOR A REVISION TO THE APPROVED DEVELOPMENT AGREEMENT (RESOLUTION 2006-185 & ASSOCIATED EXTENSIONS, RESOLUTIONS 2016-32, 2017-46, & 2018-64), PURSUANT TO CHAPTER 102, ARTICLE 8 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“THE CODE”) ENTITLED “DEVELOPMENT AGREEMENT”, IN CONSIDERATION OF A RECENTLY APPROVED CONDITIONAL USE PERMIT (RESOLUTION 2018-88) INVOLVING BOAT WORKS INVESTMENTS, LLC AND TRI-STAR AFFORDABLE DEVELOPMENT, LLC; THIS REVISION THEREBY CONSIDERING THE APPROVAL OF TWENTY (20) MARKET RATE DWELLING UNITS, 15,000 SQUARE FEET OF COMMERCIAL SQUARE FOOTAGE, AND THIRTY-FOUR (34) WET SLIPS; ON PROPERTIES LOCATED AT AND ADJACENT TO 39<sup>TH</sup> STREET GULF AND 747 THROUGH 999 41<sup>ST</sup> STREET GULF AND 3905 LOUISA STREET, WHICH ARE LEGALLY DESCRIBED AS PART OF BLOCK 2 & ALL OF BLOCK 5, LOTS 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18 & 19 AND FILLED BAY BOTTOM NORTH OF AND ADJACENT TO MARATHON BEACH SUBDIVISION, BLOCK 1, LOT 1 OF LINCOLN MANOR SUBDIVISION, KEY VACCA, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00337270-000000, 00337280-000000, 00337290-000000, 00337300-000000, 00337310-000000, 00337330-000000, 00103480-000100, 00337380-000000, 00337390-000000, AND 00337470-000000. NEAREST MILE MARKER 49.**

**WHEREAS**, City of Marathon, Florida Resolution 2020-92 dated December 8, 2020 contained errors and did not reflect the true motion and vote of the City Council at the December 8, 2020 City Council meeting; and

**WHEREAS**, this Resolution is passed by the City Council to amend and replace Resolution 2020-92 to conform to the December 8, 2020 City Council vote regarding approval of a Development Agreement between the City of Marathon, Florida and Boat Works Investments, LLC (“Developer”); and

**WHEREAS**, Developer is the owner of approximately 4.02 acres of contiguous uplands in the corporate limits of the City consisting of Parcel ID Numbers 00337390-000000, 00103480-000100, 00337290-000000, 00337300-000000, 00337310-000000 and 00337330-000000 more particularly described in the legal description, provided in the Agreement as **Exhibit A** (herein, the “Property”). Copies of the Warranty Deeds are attached in the Agreement hereto as **Exhibit B**; and

**WHEREAS**, the Property, along with contiguous real property parcels previously owned by Developer, which was recently sold to AGPM Acquisitions, LLC (“AGPM Parcel”) pursuant to the Special Warranty Deed recorded January 19, 2019 at Book 2943, Page 2230 of the Official Records of Monroe County, Florida, was subject to the Development Agreement recorded on December 21, 2006 at Book 2260 Page 1727 of the Official Records of Monroe County, Florida, pursuant to Resolution 2006-185, as extended by Resolutions 2016-32, 2017-46 and 2018-64 (collectively, the “Initial Development Agreement”); and

**WHEREAS**, the development of Property and AGPM Parcel is currently subject to City Resolution 2018-88 and Conditional Use Development Order #2018-11, in which the Property and AGPM Parcel have been approved for the development of 52 affordable and 20 market rate dwelling units (“AGPM Development Approvals”); and

**WHEREAS**, the Initial Development Agreement recognized that the Property (which at that time included the AGPM Parcel) is entitled to 83,374 square feet of vested commercial floor area (including a marine docking and services facility known as Keys Boat Works), fifty-two (52) vested market rate residential dwelling units, thirty-four (34) wet boat slips, which contained thirty-two (32) (twenty-two (22) transient and ten (10) permanent) live-aboard vessels, and associated 1,690 linear feet of boat dockage, vacant land, and miscellaneous equipment and storage structures located on or over the bay bottom; and

**WHEREAS**, as confirmed in the affidavit attached to the Agreement as **Exhibit C**, the thirty-two (32) (twenty-two (22) transient and ten (10) permanent) live-aboard vessels were established prior to 1985 and the liveaboard vessels were in place on the Property until 2006 and served as residences for the people that stayed on such liveaboards; and

**WHEREAS**, in connection with Developer’s conveyance of the AGPM Parcel, Developer also conveyed forty (40) market rate residential dwelling units to the AGPM Parcel pursuant to the Warranty Deed for Development Rights recorded on January 9, 2019 at Book 2943 Page 2234 of the Official Records of Monroe County, Florida (“Development Rights Deed”), while retaining all other vested rights recognized in the Initial Development Agreement; and

**WHEREAS**, the Developer wishes to redevelop the Property with up to twenty (20) market rate dwelling units, thirty-four (34) wet boat slips, a clubhouse/community center, swimming pool(s), and other accessory uses and up to 15,000 square feet of commercial floor area; and

**WHEREAS**, the Property’s Land Use District (Zoning) is predominantly Mixed Use (MU), with a small portion being Residential High (RH) each of which permit the development of single family homes, duplexes or multifamily as of right or as a conditional use; and

**WHEREAS**, pursuant to City Code, the twenty-two (22) transient boat slips and ten (10) permanent boat slips which were liveaboards existing on the Property are exempt from the requirements of the City’s Building Permit Allocations System (BPAS) process as boat slips; and

**WHEREAS**, the upland land area on the Property is sufficient under the City Code to accommodate the redevelopment approved in this Agreement; and

**WHEREAS**, the Developer has provided public notice of the parties’ intent to consider entering into this Agreement by advertisement published in a newspaper of general circulation and readership in the City, posting the Property subject to this Agreement, and mailed notice to the persons and entities shown on the most recent Monroe County Tax Roll to be the owners of property lying within 300 feet of the boundaries of the Property subject to this Agreement; and

**WHEREAS**, the City Council held an advertised public hearing on November 10, 2020 and again on December 8, 2020 to consider the amendment to the Initial Development Agreement and to accept and encourage public input with respect to the proposal of the Developer contained in this Agreement, and has the considered the staff report and all public input; and

**WHEREAS**, the City has determined that this Agreement is in the public interest, is consistent with the City’s Comprehensive Plan and LDRs, and will further the health, safety and welfare of the residents 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 Development Agreement is amended and replaced with the attached Agreement provided as Exhibit A.

**Section 3.** This Resolution shall take effect immediately upon adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 9<sup>th</sup> DAY OF NOVEMBER 2021.**

**THE CITY OF MARATHON, FLORIDA**

\_\_\_\_\_  
**Mayor**

YES:  
NOES:  
ABSENT:  
ABSTAIN:

**ATTEST:**

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

(City Seal)

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

\_\_\_\_\_  
Steve Williams, City Attorney

## **DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (“Agreement”) is entered into by and between the City of Marathon (the “City”), a Florida municipal corporation, and Boat Works Investments LLC, a Florida limited liability company (“Boat Works Investments” or the “Developer”), pursuant to Sections 102.29, 102.30, 102.31 and 102.32 of the Code of Ordinances for the City of Marathon (“City Code”), and the Florida Local Government Development Agreement Act, Sections 163.3220-163.3243, Florida Statutes (2018), and is binding on the “Effective Date” set forth herein as binding on the Effective Date set forth therein.

### WITNESSETH:

WHEREAS, Developer is the owner of approximately 4.02 acres of contiguous uplands in the corporate limits of the City consisting of Parcel ID Numbers 00337390-000000, 00103480-000100, 00337290-000000, 00337300-000000, 00337310-000000 and 00337330-000000 more particularly described in the legal description attached hereto as **Exhibit A**, (herein, the “Property”). A copy of the Warranty Deeds are attached hereto as **Exhibit B**;

WHEREAS, the Property, along with contiguous real property parcels previously owned by Developer, which was recently sold to AGPM Acquisitions, LLC (“AGPM Parcel”) pursuant to the Special Warranty Deed recorded January 19, 2019 at Book 2943, Page 2230 of the Official Records of Monroe County, Florida, was subject to the Development Agreement recorded on December 21, 2006 at Book 2260 Page 1727 of the Official Records of Monroe County, Florida, as extended by Resolutions 2016-32, 2017-47 and 2018-64 (collectively, the “Initial Development Agreement”);

WHEREAS, the development of Property and AGPM Parcel is currently subject to City Resolution 2018-88 and Conditional Use Development Order #2018-11, in which the Property and

AGPM Parcel have been approved for the development of 52 affordable and 20 market rate dwelling units (“AGPM Development Approvals”);

WHEREAS, the Initial Development Agreement recognized that the Property (which at that time included the AGPM Parcel) is entitled to 83,374 square feet of vested commercial floor area (including a marine docking and services facility known as Keys Boat Works), fifty-two (52) vested market rate residential dwelling units, thirty-four (34) wet boat slips, which contained thirty-two (32) (twenty-two (22) transient and ten (10) permanent) live-aboard vessels, and associated 1,690 linear feet of boat dockage, vacant land, and miscellaneous equipment and storage structures located on or over the bay bottom;

WHEREAS, as confirmed in the affidavit attached as **Exhibit C**, the thirty-two (32) (twenty-two (22) transient and ten (10) permanent) live-aboard vessels were established prior to 1985 and the liveaboard vessels were in place on the Property until 2006 and served as residences for the people that stayed on such liveaboards;

WHEREAS, in connection with Developer’s conveyance of the AGPM Parcel, Developer also conveyed forty (40) market rate residential dwelling units to the AGPM Parcel pursuant to the Warranty Deed for Development Rights recorded on January 9, 2019 at Book 2943 Page 2234 of the Official Records of Monroe County, Florida (“Development Rights Deed”), while retaining all other vested rights recognized in the Initial Development Agreement i.e. twelve (12) the original fifty-two (52) vested market rate residential dwelling units, thirty-four (34) wet boat slips (with vested rights related to the thirty-two (32) [twenty-two (22) transient and ten (10) permanent] live-aboard vessels), and associated 1,690 linear feet of boat dockage and 83,374 square feet of vested commercial floor area;

WHEREAS, the Developer wishes to redevelop the Property with up to twenty (20) market

rate dwelling units, thirty-four (34) wet boat slips, a clubhouse/community center, swimming pool(s), and other accessory uses and up to 15,000 square feet of commercial floor area; and

WHEREAS, the Property's Land Use District (Zoning) is predominantly Mixed Use (MU), with a small portion being Residential High (RH) each of which permit the development of single family homes, duplexes or multifamily as of right or as a conditional use;

WHEREAS, the upland land area on the Property is sufficient under the City Code to accommodate the redevelopment approved in this Agreement;

WHEREAS, the Developer has provided public notice of the parties' intent to consider entering into this Agreement by advertisement published in a newspaper of general circulation and readership in the City, posting the Property subject to this Agreement, and mailed notice to the persons and entities shown on the most recent Monroe County Tax Roll to be the owners of property lying within 300 feet of the boundaries of the Property subject to this Agreement;

WHEREAS, the City Council held an advertised public hearing on November 10, 2020 and again on December 8, 2020 to consider this Agreement and the recommendation of the Planning Commission, and to accept and encourage public input with respect to the proposal of the Developer contained in this Agreement, and has considered the Planning Commission recommendation, staff report, and public input; and

WHEREAS, the City has determined that this Agreement is in the public interest, is consistent with the City's Comprehensive Plan and LDRs, and will further the health, safety and welfare of the residents of the City.

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

**I. Recitals.** The foregoing Recitals are a part of this Agreement on which the parties have relied and are incorporated into this Agreement by reference.

**II. 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.:

A. *Agreement* shall refer to this Development Agreement, 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.

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

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

D. *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

E. *Development* shall refer to the development of the Property for uses permitted by the Comprehensive Plan and the City Code, subject to the conditions, obligations, restrictions and terms contained in this Agreement.

F. *Dwelling Unit* shall refer to a dwelling unit as defined in Chapter 110, Article 3. - Defined Terms of the City Code: “A single unit providing complete and independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, cooking (meaning a food preparation area larger than a one (1) bin wet bar, that was intended or designed to be used for cooking or the preparation of food and a range, oven or utility connections for such) and sanitation. The term is applicable to both permanent and transient residential development.

G. *Effective Date* shall refer to the date this Agreement becomes effective, as set forth herein.

H. *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.

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

J. *Property* shall refer to one or more of the parcels of real property located in the City that are subject to this Agreement (collectively one development parcel), including additional parcels that may be acquired and subjected by the Developer to the terms and conditions of this Agreement through a subsequent amendment to this Agreement.

K. *Public Facilities* shall refer to those facilities that are specifically described in Section 163.3221, Florida Statutes, and as set forth in this Agreement.



### III. Terms of Agreement.

#### A. Legal Description; Ownership and Equitable Interests in the Properties.

Developer is the owner of that portion of the Property referenced by RE Nos. 00337390-000000, 00103480-000100, 00337290-000000, 00337300-000000, 00337310-000000 and 00337330-000000, also known or described as 999 41<sup>st</sup> Street, 783 41<sup>st</sup> Street, 784 41<sup>st</sup> Street, City of Marathon, Florida. The Property is collectively described in the legal description attached as composite **Exhibit A** and incorporated herein.

B. Development Agreement Governing Property. This Agreement supersedes and replaces the AGPM Development Approvals and Initial Development Agreements in regard to the Property.

#### C. Unity of Title; Form of Ownership.

1. Unity of Title. The Developer shall execute instruments in a form acceptable to the City uniting one or more of the upland parcels described in **Exhibit A** for the purposes of the development authorized in this Agreement. The Developer shall record same in the public records of Monroe County, Florida. Prior to redevelopment of unified portions of the property. If requested by the Developer, the Developer shall be released from this Unity of Title requirement if the City subsequently adopts an ordinance authorizing a transfer of development or building rights that obviates the need for this requirement.

2. Form of Ownership of Property. Condominium, cooperative, homeowners association or similar form of ownership of all or a portion of the Property, and the submission of the Property to the condominium, cooperative, homeowners association or similar form of ownership (and recordation of a corresponding declaration of condominium, homeowners association or similar instrument), or the sale of individual residential dwelling units or boat slips

therein shall not be prohibited or violative of the terms and provisions of this Agreement.

D. Duration of Agreement; Renewal.

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

E. Statutory and Code Requirements.

The parties recognize the binding effect of the Florida Local Government Development Agreement Act, Sections 163.3221, *et seq.*, Florida Statutes, and the City Code as to the form and content of this Agreement and in accordance therewith set forth and agree to the terms of this Agreement.

F. Vested Development. The following residential and non-residential development exists and is vested on the Properties, which said vested development rights shall not expire:

<b>Existing Development</b>	<b># of Slips</b>	<b># of Units</b>	<b>Square Feet</b>
Non-residential (Keys Boat Works)			80,755
Non-residential (store)			2,619
Residential permanent dwelling units (apartments and mobile homes)		12 <sup>1</sup>	
Wet Slips (which contained the twenty-two (22) transient units and ten (10) permanent units per liveaboard vessels)	34		

<sup>1</sup> Twelve (12) of the original fifty-two (52) vested market rate residential dwelling units remaining after the conveyance contained in the Development Rights Deed

The majority of the previously existing development on the Property was largely dilapidated or substandard and has been demolished. All of the Property is completely scarified.

G. Permitted Uses; Approval of Conceptual Site, including Densities and Intensities.

1. Development Authorized. The residential and commercial development authorized by this Agreement is summarized in the following table and more fully described below:

<b>Development Authorized</b>	<b># of Slips</b>	<b># of Units</b>	<b>Square Feet</b>
Residential dwelling units (market rate)		20	
Non-residential/commercial floor area			15,000
Wet slips	34		

a. Declaration Restricting Wet Slips to No Liveboards. Owner shall record the Declaration of Restriction attached as **Exhibit D** to this Development Agreement restricting the use of any wet slips developed on the property’s privately owned submerged land or adjacent State of Florida sovereign submerged lands to No Liveboards in perpetuity.

2. Approval of Conceptual Site Plan; Minor Revisions; Final Site Plan. The development authorized by this Agreement is depicted on the Conceptual Site Plan prepared by D’Asign Source of Marathon, Florida (the “Conceptual Site Plan”), attached hereto as **Exhibit E**. 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 Site Plan; provided, however,

that the Final Site plan submitted for building permits may deviate from the Site Plan to accommodate: (1) to accommodate refinements to the development plan made by the Developer, including configuration of structures, roadways, pathways, and swimming pool(s); (2) to change the type and number of residential dwelling units, so long as the maximum density set forth in this Agreement is not exceeded; (3) changes to the proposed clubhouse, pool, recreation and accessory uses so long as the density and intensity set forth in the Agreement is not exceeded or (4) to accommodate modifications that are necessary to meet regulatory requirements. The Conceptual 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 Developer obtains a variance pursuant to applicable provisions of the City Code.

3. Market Rate Residential. The following market rate residential development/redevelopment is authorized on the Property, as shown on the Conceptual Site Plan:

a. Twenty (20) market rate single family residential dwelling units. Provided, however, that the Developer may elect to develop fewer than twenty market rate residential dwelling units on the property. The difference between the twenty-two (22) vested residential dwelling units on site on the date of this Agreement, and the actual number of residential dwelling units constructed and ultimately certified for occupancy on site, are recognized as vested residential dwelling units and BPAS-exempt dwelling unit allocations attributed to the Property for density and allocation purposes. Vested dwelling units may be developed on site at any time during the effectiveness of this Agreement, or may be transferred off-site in accordance with any existing or subsequently adopted City ordinance authorizing a transfer of dwelling units or dwelling unit allocations. These transfers may also be permitted administratively wherever this is lawful, suitable, and in furtherance of this Agreement.

b. Accessory uses including swimming pools, detached storage and parking structures appurtenant to designated residential units.

4. Commercial Floor Area Approved Under This Agreement. Developer is permitted to redevelop a total of fifteen thousand (15,000) square feet of commercial floor area without being subject to nonresidential BPAS requirements as depicted on the Conceptual Site Plan. The remaining 68,374 square feet of the vested 83,374 square feet of vested commercial floor area not being redeveloped on-site and any of the fifteen thousand (15,000) above which Developer elects not to develop on the Property can be transferred off-site in accordance with any existing or subsequently adopted City ordinance authorizing a transfer of commercial floor area.

5. Additional Nonresidential Development Authorized by Agreement. The following non-residential development is authorized on the Property, as shown on the Conceptual Site Plan:

- a. 34 wet slips restricted to NO LIVEBOARDS.
- b. Club house/community center and other accessory structures.
- c. Ancillary and accessory facilities and structures (including, but not limited to, garbage and pool equipment).

6. 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 redevelopment of the Property. The Developer 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.

7. Development Controlled by Agreement, Comprehensive Plan and Code.

For the duration of this Agreement, the parties agree that any and all of the approved development shall adhere to, conform to, and be controlled by this Agreement, the exhibits attached hereto and incorporated by reference, the City LDRs and the Comprehensive Plan governing the development of the Property on the effective date of this Agreement. In the event that all or a portion of the existing or authorized development subject to this Agreement should be destroyed by storm, fire, or other common disaster, the Developer, its grantees, successors, or assigns shall have the absolute right to rebuild or repair the affected structure(s) and reinitiate the prior approved use so long as such development is in compliance with this Agreement. The Developer may, at its discretion, elect to apply subsequently-adopted ordinances in lieu of current regulations with respect to particular aspects of the redevelopment authorized by this Agreement.

8. Applicable Density, Intensity and Building Heights. Density and intensity

shall be as provided in this Agreement. The height of any new structure associated with the redevelopment of the Property shall not exceed 37 feet, except as provided by City Code, as amended. For purposes of determination of grade of the Property, grade for all structures shall be 6.92 feet NGVD identified as the crown of the road on \_\_\_\_\_ at the entrance to the Property, resulting in a maximum building height of 48.92 feet NGVD, except those exceptions provided for in Section 107.41 of the City Code.

H. Additional Development Conditions.

The following additional conditions, terms, restrictions, and other requirements have been determined by the City of Marathon to be necessary for the public health, safety, and welfare of its citizens.

1. Setbacks and Buffers:

a. Buffers. None required.

b. Setbacks. The City acknowledges that there is no undisturbed or unaltered shoreline on the Property. Pursuant to the City Code, setbacks shall be as follows:

c. Shoreline: twenty (20) feet.

d. From side lines adjoining neighboring properties: ten (10) feet (except that one side may be five (5) feet).

e. Front: twenty-five (25) feet.

f. Rear: twenty (20) feet.

g. Between on-site structures: with the recordation of any Unity of Title instrument as set forth herein, internal setbacks shall not be required for such unified portions of the property, other than a minimum of ten (10) feet between the exterior walls of each building for fire safety, as determined by the City's Fire Marshall.

2. Variances. The parties acknowledge that it may be necessary for the Developer to seek a variance from the front, side, and rear yard setbacks in order to develop the housing in the location depicted on the Conceptual Site Plan. Nothing in this Agreement shall be deemed to discourage or prohibit such a variance.

3. Utilities, Lighting and Signage. Utilities, lighting, and signage shall comply with all applicable requirements of the City Code, including the waterfront lighting criteria in the City Code.

4. Landscaping. The Developer shall utilize the best practices of landscaping throughout the development.

5. Internal Infrastructure. The roads, landscaping, and other internal Developer-provided infrastructure serving residential dwelling units shall be completed before a certificate of occupancy may be issued for the dwelling unit(s) served.

6. Fire Safety. The Developer shall provide such fire wells and other fire protection facilities as required by the Life Safety Code administered by the City Fire Department.

7. Open Space Ratio. Pursuant to Section 106.16 of the City Code, the Developer shall maintain a minimum twenty percent (20%) open space ratio on the Property.

8. Stormwater Management. The development shall comply with the stormwater management criteria in City Code Article 11, and shall meet all applicable federal, state, and regional stormwater management requirements.

9. Additional Conditions by Mutual Consent. Nothing in this Agreement shall preclude the parties from applying additional conditions by mutual agreement during final site plan review or permitting.

I. 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.



1. Potable Water. Domestic potable water is provided by the Florida Keys Aqueduct Authority.
2. Electric Service. Electric service is provided by Florida Keys Electric Cooperative.
3. Solid Waste. Solid waste service is provided by Marathon Garbage Service or its successors and assigns, as determined by the City Council.
4. Fire Service. Fire service is provided by the Marathon Fire Department
5. Wastewater. Wastewater mains collection and treatment is provided by the City of Marathon.
6. Recreational Facilities. The Property includes recreational facilities for residents and guests, including swimming and boating opportunities. Therefore, redevelopment of the Property will have no impact on public recreation facilities.
7. 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.
8. 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 Developer of any applicable utility system development fees.

J. All Local Development Permits Approved or Needed.

1. Development Approvals. The following is a list of all development permits approved or needed to be approved for the development of the Property as specified and requested in this Agreement:

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

b. 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.

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

d. Development Agreement. This Development Agreement.

K. 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.

L. Reservations or Dedications of Land for Public Purposes.

There is no reservation or dedication of land for public purposes contemplated by this Agreement.

M. Mutual Cooperation. The City and the Developer agree to cooperate fully with and assist each other in the performance of the provisions of this Agreement.

N. Development to Comply with Permits and City Comprehensive Plan and Code Provisions. The development described in and authorized by this Agreement shall be developed in accordance with all required permits, and in accordance with all applicable provisions of the City's Comprehensive Plan and City Code in effect on the date of execution of this Agreement. No certificate of occupancy for an individual building shall be issued until all plans for that building are approved by the City and the Developer has complied with all conditions in permits issued by the City and other regulatory entities for that building.

O. Compliance With Permits, Terms, Conditions, and Restrictions Not Identified Herein. The failure of this Agreement to address a particular permit, condition, term, or restriction shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions.

P. Governing Laws.

1. 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.

2. 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.

Q. Amendment, Renewal, and Termination. This Agreement may be amended, renewed, or terminated as follows:

1. 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.

2. 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 within 300 feet of the Property before the first public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing. The notice shall specify the location of the land subject to the Agreement, the development uses on the Property, the population densities, and the building intensities and height and shall specify a place where a copy of the Agreement can be obtained.

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

4. 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.

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

R. Breach of Agreement and Cure Provisions.

1. Written Notice on the Developer. If the City concludes that there has been a material breach in this Agreement by the Developer, prior to revoking this Agreement, the City shall serve written notice on the Developer identifying the term or condition the City contends has been materially breached and providing the Developer with ninety (90) days from the date of receipt of the notice to cure the breach or negotiate an amendment to this Agreement. Each of the following events, unless caused by fire, storm, flood, other Act of God, or events beyond the control of the Developer, shall be considered a material breach of this Agreement: (1) failure to comply with the provisions of this Agreement; and (2) failure to comply with terms and conditions of permits issued by the City or other regulatory entity for the development authorized by this Agreement.

2. Written Notice on the City. If the Developer concludes that there has been a material breach in the terms and conditions of this Agreement by the City, the Developer shall serve written notice on the City identifying the term or condition the Developer contends has been

materially breached and providing the City with 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: failure to comply with the provisions of this Agreement; failure to timely process any application for site plan approval or other development approval required to be issued by the City for the development/redevelopment authorized by this Agreement.

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

4. Waiver of Breach. If either party waives a material breach in this Agreement, such a waiver shall not be deemed a waiver of any subsequent breach.

S. 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) by personal delivery; (b) by deposit with the United States Postal Service as certified or registered mail, return receipt requested, postage prepaid; or (c) by deposit with an overnight express delivery service with a signed receipt required. Notice shall be effective upon receipt. The addresses and telephone numbers of the parties are as follows:

To the Developer:

Mr. Amedeo D'Ascanio  
Boat Works Investments LLC  
11500 Overseas Highway  
Marathon, Florida 33050  
Telephone: (305) 743-7130

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

Smith Hawks, PL  
138 Simonton Street  
Key West, FL 33040  
Telephone: (305) 296-7227

TO THE CITY:

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

T. 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.

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

V. 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.

W. 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.

X. 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.

Y. Litigation; Attorney's Fees; Venue; Waiver of Right to Jury Trial. As between the City and the Developer, in the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred with respect to such litigation, including reasonable attorney's fees. This includes, but is not limited to, reimbursement for 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.

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

AA. 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.

BB. 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.

CC. 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.

DD. Recording; Effective Date. The Developer shall record this Agreement in the public records of Monroe County, Florida, within fourteen (14) days after the date of this Agreement. A copy of the recorded Agreement showing the date, page and book where recorded shall be submitted to the Florida Department of Economic Opportunity (DEO) 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 Developer 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 recorded in the public records of Monroe County, Florida, and received by the State Land Planning Agency.

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

FF. Redevelopment Timelines. Any redevelopment timelines related to the property as provided for in any prior conditional use approval or the like are hereby terminated and are of no further form and effect.

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

Boat Works Investments LLC, a Florida limited liability company

By \_\_\_\_\_

Name: Amedeo D'Ascanio

Title: Manager

Date: \_\_\_\_\_

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

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_ 202\_, by Amedeo D'Ascanio as Manager of Boat Works Investments LLC, a Florida limited liability company, who is personally known to me or who produced \_\_\_\_\_ as identification, and who did/did not take an oath.

\_\_\_\_\_  
Notary Public, State of Florida At Large

My commission expires: \_\_\_\_\_

On the \_\_\_\_ day of \_\_\_\_\_, 202\_, the City Council of the City of Marathon approved this Agreement by Resolution No. \_\_\_\_\_.

CITY OF MARATHON

By \_\_\_\_\_  
\_\_\_\_\_, MAYOR

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

APPROVED AS TO FORM AND LEGAL

SUFFICIENCY:

\_\_\_\_\_  
Steven Williams, City Attorney

**EXHIBIT A**

**Legal Description**

**EXHIBIT B**  
**Warranty Deeds**

**EXHIBIT C**

**Affidavit**

**EXHIBIT D**

**Declaration of Restrictions on Live-Aboard Vessels**

**EXHIBIT E**  
**Conceptual Site Plan**



## LEGAL DESCRIPTIONS

### **RE NO. 00337390-000000**

Lots 15, 16, 17, 18 and 19, Block 5, a Resubdivision of Marathon Beach, according to the Plat thereof as recorded in Plat Book 2, Page 21, of the Public Records of Monroe County, Florida.

ALSO: A parcel of bay bottom land in the Bay of Florida, North of and adjacent to Lots 17, 18 and 19, Block 5, a "Resubdivision of a part of Block 2 and all of Block 5 of Marathon Beach Subdivision" as recorded in Plat Book 2, Page 21, of the Public Records of Monroe County, Florida, same being on Key Vaca, Monroe County, Florida and more particularly described as follows:

Commencing at the intersection of the East line of Government Lot 3, Section 10, Township 66 South, Range 32 East, and the Northwesterly right-of-way line of Old State Highway No. 4A, run Southwesterly along the Northwesterly right-of-way line of Old State Highway 4A, for a distance of 697.39 feet to a point; thence at right angles and Northwesterly along the Northeasterly right-of-way line of Second Street, of said Subdivision for a distance of 750 feet, more or less, to a point on the shoreline of the Bay of Florida, said point also to be known as the Point of Beginning of the bay bottom land hereinafter described; from said Point of Beginning, continue Northwesterly along Northeasterly right-of-way line of Second Street, extended, for a distance of 300 feet, more or less, to a point; thence at right angles and Northeasterly for a distance of 300 feet to a point; thence at right angles and Southeasterly along the Northeasterly line of Lot 17, Block 5, of the aforementioned subdivision, extended Northwesterly, for a distance of 100 feet, more or less, to a point on the shoreline of the Bay of Florida; thence meander the shoreline of the Bay of Florida in a Southwesterly, Northwesterly, Northerly and Southwesterly direction back to the Point of Beginning.

### **RE NO. 00103480-000100**

Situated in the County of Monroe and State of Florida and known as being the northerly portion of a parcel of submerged land (now filled) located in Section 10, Township 66 South, Range 32 East as described in a conveyance recorded in Official Records Book 339, at Pages 472 & 473 of Monroe County Public Records, more particularly described as follows:

Commencing on the westerly line of First Street at the southeasterly corner of Lot 9, Block 2, of Marathon Beach Subdivision as recorded in Plat Book 2, Page 21, of Monroe County Public Records; Bear North 15 degrees, 40 minutes, 00 seconds West along the said westerly line of First Street and northerly prolongation thereof, 166.82 feet to the POINT OF BEGINNING of the parcel of land herein intended to be described; thence continue bearing North 15 degrees, 40 minutes, 00 seconds West along said prolongation 148.18 feet to the northeasterly corner of the submerged land described in Official Records Book 339, as aforesaid; thence bear South 74 degrees, 20 minutes, 00 seconds West along the northerly line 200.00 feet to the northwesterly corner of the said submerged land described as aforesaid; thence bear South 15 degrees, 40 minutes, 00 seconds East along the westerly line of said submerged land 148.18 feet; thence bear

North 74 degrees, 20 minutes, 00 seconds East 200.00 feet to the Point of Beginning and containing 0.68 Acres of Land above Mean High Water.

**RE NO. 00337290-000000; 00337300-000000**

All of Lots 6 and 7, Block 5, MARATHON BEACH SUBDIVISION, according to the Plat thereof as recorded in Plat Book 2, Page 21, of the Public Records of Monroe County, Florida.

a/k/a 783 41st St. Gulf, Units 1 and 2, Marathon, Florida 33050

**RE NO. 00337330-000000**

Situated in the County of Monroe and State of Florida and known as being a parcel of land consisting of all of Lots 9 and 10, Block 5, of the resubdivision of part of Block 2, and all of Block 5 of Marathon Beach, a subdivision of part of Government Lot 3, Section 10, Township 66 South, Range 32 East on Key Vaca as shown by plat recorded in Plat Book 2, Page 21 of Monroe County, Florida, Public records, and a parcel of contiguous, filled bay bottom land in the Gulf of Mexico, bounded and described together as follows:

Beginning on the Westerly line of First Street at the Southeasterly corner of Lot 9, Block 5, of Marathon Beach Subdivision recorded as aforesaid, bear North 15°40'00" West along the said Westerly line of First Street, and Northerly prolongation thereof 166.82 feet; said prolongation being also a portion of the Easterly line of a parcel of submerged land described in Official Records Book 339, Pages 472 & 473 of Monroe County Public Records; thence bear South 74°20'00" West 200.00 feet to a point on the Westerly line of said submerged lands described in Official Records Book 339, Pages 472 & 473 as aforesaid; thence bear South 15°40'00" East along the said Westerly line of said submerged lands and the Westerly lines of said Lots 10 and 9, Block 5 of Marathon Beach Subdivision recorded as aforesaid, 166.82 feet to the Southwesterly corner of said Lot 9, Block 5; thence bear North 74°20'00" East along the Southerly line of said Lot 9, 200.00 feet back to the point of beginning and containing 0.765 acres of land above mean high water.

**RE NO. 00337310-000000**

Lot No. 5, of Block 5, according to the Resubdivision of part of Block 2 and all of Block 5, of Marathon Beach as recorded in Plat Book 2, at Page 21, in the Office of the Clerk of the Circuit Court in and for Monroe County, Florida.

a/k/a 747 41st Street Gulf, Marathon, Florida

Lot 8, less the rear 25 feet, thereof, Block 5, MARATHON BEACH SUBDIVISION, according to the Plat thereof as recorded in Plat Book 2, Page 21, of the Public Records of Monroe County, Florida.

TOGETHER WITH: The rear Twenty Five Feet of Lot 8, in Block Five, according to a RE-SUBDIVISION, of part of Block Two, and all of Block Five, of Marathon Beach, Subdivision, Plat of which is duly recorded in Plat Book Two, on Page Twenty-One, Monroe County, Florida records.

a/k/a 785 41st Street Gulf, Marathon, Florida

**LESS AND EXCEPT:**

BEGIN AT THE SOUTHWEST CORNER OF LOT 16, BLOCK 5, "A RE-SUBDIVISION OF A PART OF BLOCK 2 OF MARATHON BEACH SUBDIVISION" AS RECORDED IN PLAT BOOK 2, PAGE 21, PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, SAID POINT ALSO BEING ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SECOND STREET, ALSO KNOWN AS 39TH STREET, THENCE BEAR N15°40'00"W, ALONG SAID RIGHT-OF-WAY LINE AND THE WESTERLY LINE OF SAID BLOCK 5 FOR A DISTANCE OF 279.58 FEET TO A POINT; THENCE BEAR N74°20'00"E FOR A DISTANCE OF 82.00 FEET TO A POINT OF CURVATURE, SAID CURVE HAVING FOR ITS ELEMENTS A RADIUS OF 143.91 FEET, A CHORD BEARING N52°19'29"E A CHORD DISTANCE OF 107.86 FEET AND A DELTA ANGLE OF 44°01'02"; THENCE ALONG SAID ARC IN A NORTHEASTERLY DIRECTION FOR AN ARC LENGTH OF 110.56 FEET TO A POINT; THENCE BEAR N74°20'00" FOR A DISTANCE OF 318.00 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 7, SAID POINT ALSO BEING ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF FIRST STREET, ALSO KNOWN AS 41ST STREET, OF SAID PLAT; THENCE BEAR S15°40'00"E, ALONG SAID RIGHT-OF-WAY LINE AND THE EASTERLY LINE OF SAID BLOCK 5 FOR A DISTANCE OF 350.00 FEET TO A POINT, SAID POINT BEING THE NORTHEASTERLY CORNER OF LOT 14, BLOCK 5, OF SAID PLAT; THENCE BEAR S15°40'00"W FOR A DISTANCE OF 200.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 14, SAID POINT ALSO BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF LOUISA STREET OF SAID PLAT; THENCE BEAR S74°20'00"W, ALONG SAID RIGHT-OF-WAY LINE AND THE SOUTHERLY LINE OF SAID BLOCK 5 FOR A DISTANCE OF 150.00 FEET BACK TO THE POINT OF BEGINNING.

Doc# 1578091 04/25/2006 4:54PM  
Filed & Recorded in Official Records of  
MONROE COUNTY DANNY L. KOLHAGE

Prepared by and return to:  
Jerry Coleman, Esq.

JERRY COLEMAN, P.L.  
201 Front Street Suite 203  
Key West, FL 33040-8347  
305-292-3095  
File Number: BW-LeBaron  
Will Call No.:

04/25/2006 4:54PM  
DEED DOC STAMP CL: PW \$22,435.00

Doc# 1578091  
Bk# 2203 Pg# 1638

[Space Above This Line For Recording Data]

## Special Warranty Deed

**This Special Warranty Deed** made as of the 13th day of April, 2006 between Juanita I. LeBaron, a married woman, joined by her husband, Floyd R. Edgecome and Ralph Olson, a single person, as Tenants in Common whose post office address is 2360 N.W. 66th Street, Miami, FL 33147, grantor, and Boat Works Investments LLC, a Florida Limited Liability Company whose post office address is 11500 Overseas Highway, Marathon, FL 33050, grantee:

(Whenever used herein the terms grantor and grantee include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

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

See Exhibit "A" attached.

Parcel Identification Number: 00337330-000000

**Together** with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

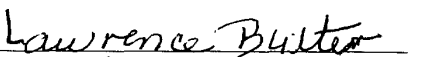
**To Have and to Hold**, the same in fee simple forever.

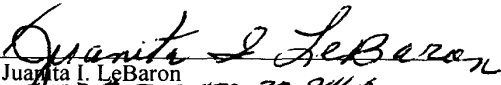
**And** the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby specially warrants the title to said land, subject to those permitted exceptions set forth in Exhibit "B" attached hereto, and will defend the same against the lawful claims of all persons claiming by, through or under grantors.

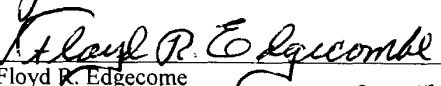
**In Witness Whereof**, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

  
Witness Name: Cheryl Madison

  
Witness Name: Lawrence Butler

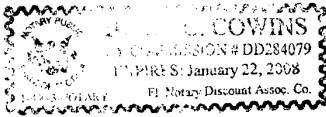
  
Juanita I. LeBaron  
F.L.D. # E322432-30-94-0

  
Floyd R. Edgecome  
FL. DL. LLC # E322-256-29-170-0

State of Florida  
County of Miami-Dade

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of April, 2006 by Juanita I. LeBaron and Floyd R. Edgecome, who  are personally known or  have produced a driver's license as identification.

[Notary Seal]



G. Cowins  
Notary Public

Printed Name: G. Cowins

My Commission Expires: 1/22/08

Signed, sealed and delivered in our presence:

Nancy Sabor  
Witness Name: Nancy Sabor

Ralph Olson  
Ralph Olson

Sandra Dagenais  
Witness Name: Sandra Dagenais

State of MICHIGAN  
County of DELTA

The foregoing instrument was acknowledged before me this 11 day of April, 2006 by Ralph Olson, who  is personally known or  has produced a driver's license as identification.

[Notary Seal]

Hope I. Rudden  
Notary Public

Printed Name: Hope I. Rudden

My Commission Expires: May 6, 2008

**EXHIBIT A**

Situated in the County of Monroe and State of Florida and known as being a parcel of land consisting of all Lots 9 and 10, Block 5 of the resubdivision of part of Block 2, and all of Block 5 of Marathon Beach, a subdivision of part of Government Lot 3, Section 10, Township 66 South, Range 32 East on Key Vaca, as shown by plat recorded in Plat Book 2, Page 21, of the Monroe County, Florida, Public Records, and a parcel of contiguous, filled bay bottom land in the Gulf of Mexico, bounded and described together as follows:

Beginning on the Westerly line of First Street at the Southeasterly corner of Lot 9, Block 5 of Marathon Beach Subdivision recorded as aforesaid, bear North 15°40'00" West along the said Westerly line of First Street; and Northerly prolongation thereof 166.82 feet; said prolongation being also a portion of the Easterly line of a parcel of submerged land described in Official Records Book 339, Pages 472 and 473 of Monroe County Public Records; thence bear South 74°20'00" West 200.00 feet to a point on the Westerly line of said submerged lands described in Official Records Book 339, Pages 472 and 473 as aforesaid; thence bear South 15°40'00" East along the said Westerly line of said submerged lands and the Westerly lines of said Lots 10 and 9, Block 5 of Marathon Beach Subdivision recorded as aforesaid, 166.82 feet to the Southwesterly corner of said Lot 9, Block 5; thence bear North 74°20'00" East along the Southerly line of said Lot 9, 200.00 feet back to the point of beginning and containing 0.765 acres of land above mean high water.

RE No. 00337330-000000

**EXHIBIT B**

1. The lien of all taxes for the year 2006 and thereafter, which are not yet due and payable. Note: Real Estate Taxes for the year 2005 were paid on 11/23/05 in the amount of \$26,346.22 under Alternate Key No. 1414981.
2. Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the lands insured hereunder, including submerged, filled and artificially exposed lands and lands accreted to such lands.
3. Rights of the United States of America and/or the State of Florida to any portion of said land which has been created by artificial means or has accreted to any such portion as so created.
4. Those portions of the property herein described being artificially filled in land in what was formerly navigable waters, are subject to the right of the United States Government arising by reason of the United States Government control over navigable waters in the interest of navigation and commerce.
5. The rights, if any, of the public to use as a public beach or recreation area any part of the land lying or formerly lying between the body of water abutting the subject property and the natural line of vegetation, bluff, extreme high-water line or other apparent boundary lines separating the publicly used area from the upland private area, as it may have existed prior to the construction, if any, of sea wall or bulkhead thereon.
6. Any portion of the insured parcel lying waterward of the mean-high water line of the Atlantic Ocean.
7. State Law under Chapter 76-190 and Chapter 22F-8.02 of the Florida Administrative Code for Land Planning for the Florida Keys Area of Critical State Concern, recorded in O.R. Book 668, Page 43, of the Public Records of Monroe County, Florida.
8. Restrictions, conditions, reservations, easements and other matters contained on the Plat of Marathon Beach Subdivision, as recorded in Plat Book 2, Page(s) 21, of the Public Records of Monroe County, Florida.
9. Subject to a reservation by the Trustees of the Internal Improvement Fund of the State of Florida, and their successors, to an undivided 1/2 interest in all petroleum and petroleum products, and title to an undivided 3/4 interest in all other minerals which may be found on or under the subject land, with privilege to mine and develop the same. NOTE: The right to entry and exploration has been released by the provisions of Florida Statute 270.11(2).
10. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey or inspection of the premises.
11. Any lien provided by County Ordinance or by Ch. 159, F.S., in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the land described herein; and any lien for waste fees in favor of any county or municipality.

Doc# 1531070 07/26/2005 4:03PM  
Filed & Recorded in Official Records of  
MONROE COUNTY DANNY L. KOLHAGE

This Instrument Prepared by and Return to:  
JOHN M. SPOTTSWOOD, JR.  
SPOTTSWOOD, SPOTTSWOOD & SPOTTSWOOD  
500 FLEMING STREET  
Key West, FL 33040

07/26/2005 4:03PM  
DEED DOC STAMP CL: PW \$7,000.00

Parcel ID Number: 00337290-000000 00337300-000000

Doc# 1531070  
Bk# 2136 Pg# 954

# Warranty Deed

This Indenture, Made this 18th day of July, 2005 A.D., Between  
AURA ENTERPRISES, LLC, a Florida limited liability company

of the County of Miami-Dade, State of Florida, grantor, and  
BOAT WORKS INVESTMENTS LLC, a Florida limited liability company

whose address is: 11500 Overseas Highway, Marathon, FL 33050

of the County of Monroe, State of Florida, grantee.

Witnesseth that the GRANTOR, for and in consideration of the sum of  
-----TEN DOLLARS (\$10)----- DOLLARS,  
and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has  
granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate,  
lying and being in the County of Monroe, State of Florida to wit:

All of Lots 6 and 7, Block 5, MARATHON BEACH SUBDIVISION, according to  
the Plat thereof as recorded in Plat Book 2, Page 21, of the Public  
Records of Monroe County, Florida

Subject to conditions, limitations, restrictions and easements of  
record and taxes for the year 2005 and subsequent years.

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

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

Signed, sealed and delivered in our presence:

AURA ENTERPRISES, LLC, a Florida  
limited liability company

*Erica N. Hughes*  
Printed Name: Erica N. Hughes  
Witness

By: *Bruce True Dell* (Seal)  
BRUCE TRUEDELL, Manager  
P.O. Address: 6538 Collins Avenue #445, Miami Beach, FL 33141

*Sarah L. Vega*  
Printed Name: SARAH L. VEGA  
Witness

By: *Ada True Dell* (Seal)  
ADA TRUEDELLE, Manager  
P.O. Address: 6538 Collins Avenue #445, Miami Beach, FL 33141

STATE OF Florida  
COUNTY OF Monroe

The foregoing instrument was acknowledged before me this 18th day of July, 2005 by  
BRUCE TRUEDELLE, Manager and ADA TRUEDELLE, Manager of AURA  
ENTERPRISES, LLC, a Florida limited liability company  
who are personally known to me or who have produced their Florida driver's license for my verification.

MONROE COUNTY  
OFFICIAL RECORDS

*Sarah L. Vega*  
Notary Public  
Printed Name: Sarah L. Vega  
My Commission Expires: 07/26/2007  
#00152870



1

Doc# 1605093 09/27/2006 11:15AM  
Filed & Recorded in Official Records of  
MONROE COUNTY DANNY L. KOLHAGE

09/27/2006 11:15AM  
DEED DOC STAMP CL: LINDAR \$47,162.50

Doc# 1605093  
Bk# 2240 Pg# 1496

Prepared by and return to:  
John J. Wolfe  
Attorney at Law  
John J. Wolfe, P.A.  
2955 Overseas Highway  
Marathon, FL 33050  
305-743-9858  
File Number: 04-390  
Will Call No.:

Parcel Identification No. 00337390/00103480-000100

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# Warranty Deed

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

This Indenture made this 25th day of September, 2006 between

**Keys Boat Works, Inc., a Florida corporation**  
whose post office address is 700 39th Street Gulf, Marathon, FL 33050  
of the County of Monroe, State of Florida, grantor\*, and

**Boat Works Investments LLC, a Florida limited liability company**  
whose post office address is 11500 Overseas Highway, Marathon, FL 33050  
of the County of Monroe, State of Florida, grantee\*,

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

**Lots 15, 16, 17, 18 and 19, Block 5, a RESUBDIVISION of Part of Block 2 and all of Block 5 of MARATHON BEACH SUBDIVISION, according to the Plat thereof, recorded in Plat Book 2, Page 21, of the Public Records of Monroe County, Florida.**  
**ALSO**

**A parcel of bay bottom land in the Bay of Florida, North of and adjacent to Lots 17, 18 and 19, Block 5 of a RESUBDIVISION of part of Block 2 and all of Block 5 of MARATHON BEACH SUBDIVISION, as recorded in Plat Book 2, Page 21, Public Records of Monroe County, Florida, same being on Key Vaca, Monroe County, Florida and more particularly described as follows:**

**Commencing at the intersection of the East line of Government Lot 3, Section 10, Township 66 South, Range 32 East, and the northwesterly right of way line of Old State Highway No. 4A run southwesterly along the northwesterly right-of-way line of Old State Highway 4A for a distance of 697.39 feet to a point; thence at right angles and northwesterly along the Northeasterly right of way line of Second Street, of said subdivision, for a distance of 750 feet, more or less, to a point on the shoreline of the Bay of Florida, said point also to be known as the point of beginning of the bay bottom land hereinafter described; from said point of beginning, continue Northwestery along the Northeasterly right of way line of Second Street, extended, for a distance of 300 feet, more or less, to a point; thence at right angles and Northeasterly for a distance of 300 feet to a point; thence at right angles and southeasterly along the Northeasterly line of Lot 17, Block 5, of the aforementioned subdivision, extended Northwestery, for a distance of 100 feet, more or less, to a point on the shoreline of the Bay of Florida; thence meander the shoreline of the Bay of Florida in a Southwesterly, Northwestery, Northerly and Southwesterly direction back to the point of beginning. Containing 1.15 acres, more or less, and lying and being in the County of Monroe, in the State of Florida.**

**AND**

**Situated in the County of Monroe and State of Florida and known as being the northerly portion of a parcel of submerged land (now filled) located in Section 10, Township 66 South, Range 32 East as described in a conveyance recorded in Official Record Book 339 at pages 472-473 of Monroe County Public Records, more particularly described as follows:**

**Commencing on the westerly line of First Street at the southeasterly corner of Lot 9, Block 2, of a RESUBDIVISON of part of Block 2 and all of Block 5 of Marathon**

Beach Subdivision as recorded in Plat Book 2, Page 21 of Monroe County Public Records; Bear North 15 degrees 40 minutes, 00 seconds West along the said westerly line of First Street and northerly prolongation thereof, 166.82 feet to the POINT OF BEGINNING of the parcel of land herein intended to be described; thence continue bearing North 15 degrees, 40 minutes, 00 seconds West along said prolongation 148.18 feet to the northeasterly corner of the submerged land described in Official Record Book 339 as aforesaid; thence bear South 74 degrees, 20 minutes, 00 seconds West along the northerly line 200.00 feet to the northwesterly corner of the said submerged land described as aforesaid; thence bear South 15 degrees, 40 minutes, 00 seconds East along the westerly line of said submerged land 148.18 feet; thence bear North 74 degrees, 20 minutes, 00 seconds East 200.00 feet to the Point of Beginning and containing 0.68 Acres of Land above Mean High Water.

**ALSO**

Three parcels of filled, formerly submerged land lying in Section 10, Township 66 South, Range 32 East, Monroe County, Florida, as follows:

**Parcel "A":**

A parcel of filled bay bottom land situated in Florida Bay Northerly of Lots 17, 18 and 19, Block 5, of a "Resubdivision of part of Block 2 and all of Block 5 of MARATHON BEACH, a subdivision of Part of Government Lot 3, Section 10, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida", as shown by plat recorded in Plat Book 2, Page 21 of Monroe County Florida Public Records. Said parcel of filled bay bottom land being also Northerly of a parcel of bay bottom land conveyed by the Trustees of the Internal Improvement Fund of the State of Florida to A.C. Bayles and Ruth N. Bayles by Deed No. 20030 dated April 30, 1952. The filled bay bottom land being more particularly described as follows:

COMMENCING at a steel pipe monument found on the Southwesterly corner of Block 5 of MARATHON BEACH, a subdivision recorded in Plat Book 2, Page 21 of Monroe County, Florida Public Records, said Southwesterly corner being also the intersection of the Northwesterly right-of-way line of Louisa Street and the Easterly right-of-way line of Second Street a.k.a. 39th Street, as shown by the said plat of MARATHON BEACH recorded as aforesaid, bear North 15 degrees 38 minutes 06 seconds West along the said Easterly right-of-way line of Second Street and the Northerly prolongation thereof 656.10 feet to a point on the mean high water line formed by the waters of Florida Bay on the Southerly face of a concrete seawall and Point of Beginning of the parcel of filled, formerly submerged land in Florida Bay herein intended to be described; from said Point of Beginning, bear South 70 degrees 46 minutes 21 seconds East along said mean high water line on the face of said seawall 5.75 feet; thence continue along said mean high water line on the face of said seawall on the following descriptive courses bearing North 76 degrees 24 minutes 09 seconds East, 11.83 feet; thence North 12 degrees 30 minutes 24 seconds West, 61.32 feet; thence North 76 degrees 42 minutes 36 seconds East, 44.54 feet; thence South 16 degrees 51 minutes 55 seconds East, 15.17 feet; thence South 15 degrees 28 minutes 18 seconds East, 11.15 feet; thence North 76 degrees 12 minutes 58 seconds East, 80.13 feet; thence North 74 degrees 33 minutes 29 seconds East, 83.37 feet; thence South 16 degrees 00 minutes 38 seconds East, 46.91 feet; thence North 75 degrees 09 minutes 50 seconds East, 44.06 feet; thence South 15 degrees 53 minutes 03 seconds East, 35.09 feet to the intersection of said mean high water and seawall with the Northerly line of a parcel of bay bottom land conveyed to A.C. Bayles and Ruth N. Bayles by Deed No. 20030 granted by the Trustees of the Internal Improvement Fund of the State of Florida; thence bear North 74 degrees 21 minutes 54 seconds East along said Northerly line of the bay bottom lands conveyed as aforesaid, 27.29 feet to the Northeasterly corner thereof; thence bear North 15 degrees 38 minutes 22 seconds West along the Northerly prolongation of the Easterly line of the bay bottom lands conveyed to Bayles as aforesaid, 134.35 feet to a point on the mean high water line formed by the waters of Florida Bay upon the Northerly bank of the said filled, formerly submerged land, in Florida Bay; thence meander said mean high water line upon the bank of said earth fill on the following descriptive courses, bearing first South 82 degrees 17 minutes 27 seconds West, 58.56 feet; thence South 71 degrees 09 minutes 37 seconds West, 72.11 feet; thence North 84 degrees 28 minutes 43 seconds West, 8.58 feet; thence South 66 degrees 08 minutes 07 seconds West, 43.44 feet; thence South 79 degrees 24 minutes 06 seconds West, 35.14 feet; thence South 82 degrees 06 minutes 19 seconds West, 22.20 feet;

thence South 86 degrees 44 minutes 51 seconds West, 20.48 feet; thence South 47 degrees 46 minutes 30 seconds West, 11.18 feet; thence South 75 degrees 38 minutes 44 seconds West, 21.95 feet; thence South 72 degrees 38 minutes 06 seconds West, 7.29 feet; thence South 23 degrees 40 minutes 04 seconds West, 4.28 feet to the intersection of said mean high water line with the Northerly prolongation of the said Easterly right-of-way line of Second Street a.k.a. 39th Street, said right-of-way prolongation being also the Northerly prolongation of the Westerly line of the bay bottom lands conveyed to Bayles as aforesaid; thence bear South 15 degrees 38 minutes 06 seconds East along said prolongation, 81.59 feet, back to the Point of Beginning and containing 20,448.65 square feet of earth filled formerly submerged land in Florida Bay.

**Parcel "B":**

A parcel of filled bay bottom land situated in Florida Bay Westerly of and adjacent to the Northerly prolongation of the Westerly line of that certain parcel of bay bottom land conveyed to A.C. Bayles and Ruth N. Bayles by Deed No. 20030 granted by the Trustees of the Internal Improvement Fund of the State of Florida on April 30, 1952. Said parcel of filled bay bottom land being also Northerly of the Northerly terminus of Second Street a.k.a. 39th Street as shown on the plat of a "Re-subdivision of part of Block 2 and all of Block 5 of MARATHON BEACH, a subdivision of Part of Government Lot 3, Section 10, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida", as shown by plat recorded in Plat Book 2, Page 21 of Monroe County, Florida, said parcel being more particularly described as follows:

COMMENCING at a steel pipe monument found on the Southwesterly corner of Block 5 of MARATHON BEACH, a subdivision recorded in Plat Book 2, page 21, of Monroe County Florida Public Records, said Southwesterly corner being also the intersection of the Northerly right-of-way line of Louisa Street and the Easterly right-of-way line of Second Street a.k.a. 39th Street as shown by the said plat of MARATHON BEACH recorded as aforesaid, bear North 15 degrees 38 minutes 06 seconds West along the said Easterly right-of-way line of Second Street and the Northerly prolongation thereof, 656.10 feet to the Point of Beginning on the mean high water line formed by the waters of Florida Bay upon the Southerly face of a concrete seawall retaining a portion of the filled, formerly submerged land in Florida Bay herein intended to be described. The Northerly prolongation of the said Easterly right-of-way line of Second Street being also the Westerly line of those bay bottom lands described in the State of Florida Internal Improvement Fund Deed No. 20030 and a Northerly prolongation thereof. From said Point of Beginning bear North 70 degrees 46 minutes 21 seconds West along said mean high water line on the Southerly face of said seawall 4.84 feet to a Southwesterly corner thereof; thence continue on said mean high water line along the Westerly end of said seawall bearing North 12 degrees 46 minutes 08 seconds East, 2.01 feet, to its intersection with the mean high water line formed by the waters of Florida Bay upon the Westerly bank of the said filled formerly submerged land in Florida Bay; thence meander said mean high water line upon the bank of said earth fill on the following described courses, bearing first North 56 degrees 53 minutes 50 seconds West, 3.93 feet; thence North 20 degrees 06 minutes 59 seconds West, 9.09 feet; thence North 01 degrees 19 minutes 25 seconds West, 15.26 feet North 32 degrees 27 minutes 12 seconds West, 12.82 feet; thence North 01 degrees 52 minutes 09 seconds East, 20.59 feet; thence North 25 degrees 01 minutes 52 seconds West, 15.40 feet; thence North 23 degrees 40 minutes 04 seconds East, 4.06 feet to the intersection of said mean high water line with said Northerly prolongation of the said Easterly right-of-way line of Second Street a.k.a. 39th Street; said right-of-way prolongation being also the Northerly prolongation of the Westerly line of bay bottom lands conveyed to A.C. Bayles and Ruth N. Bayles by Deed No. 20030 granted as aforesaid; thence bear South 15 degrees 38 minutes 06 seconds East along said prolongation, 77.61 feet back to the Point of Beginning and containing 284.92 square feet of earth filled formerly submerged land in Florida Bay.

**Parcel "C":**

A parcel of filled bay bottom land situated in Florida Bay Westerly of and adjacent to the Westerly line of that certain parcel of bay bottom land conveyed to A.C. Bayles and Ruth N. Bayles by Deed No. 20030 granted by the Trustees of the Internal Improvement Fund of the State of Florida on April 30, 1952. Said parcel of

filled bay bottom land being also Northerly of the Northerly terminus of Second Street a.k.a. 39th Street as shown by the plat of a "Re-subdivision of part of Block 2 and all of Block 5 of MARATHON BEACH, a subdivision of Part of Government Lot 3, Section 10, Township 66 South, Range 32 East, on Key Vaca, Monroe County, Florida", as shown by plat recorded in Plat Book 2 page 21, of the Public Records of Monroe County, Florida, said parcel being more particularly described as follows:

COMMENCING at a steel pipe monument found on the Southwesterly corner of Block 5 of MARATHON BEACH, a subdivision recorded in Plat Book 2, Page 21, of Monroe County Florida Public Records, said Southwesterly corner being also the intersection of the Northerly right-of-way line of Louise Street and the Easterly right-of-way line of Second Street a.k.a. 39th Street as shown by the said Plat of MARATHON BEACH recorded as aforesaid, bear North 15 degrees 38 minutes 06 seconds West along the said Easterly right-of-way line of Second Street and the Northerly prolongation thereof, 574.42 feet to the Point of Beginning on the mean high water line formed by the waters of Florida Bay upon the Southerly bank of the parcel of filled, formerly submerged land in Florida Bay herein intended to be described. The Northerly prolongation of the said Easterly right-of-way line of Second Street being also the Westerly line of those bay bottom lands described in the State of Florida Internal Improvement Fund Deed. No. 20030. From said Point of Beginning meander said mean high water line in the bank of said earth fill on the following descriptive courses, bearing first South 88 degrees 28 minutes 18 seconds West, 10.80 feet; thence North 72 degrees 27 minutes 10 seconds West, 13.13 feet; thence North 52 degrees 50 minutes 27 seconds East, 14.20 feet; thence North 88 degrees 10 minutes 26 seconds East, 8.50 feet to the intersection of said mean high water line with the said Northerly prolongation of the Easterly right-of-way line of Second street; thence bear South 15 degrees 38 minutes 06 seconds East along said prolongation, 13.00 feet, back to the Point of Beginning and containing 139.51 square feet of earth filled formerly submerged land in Florida Bay. Containing 0.479 acres, more or less.

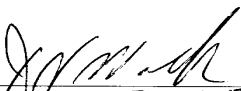
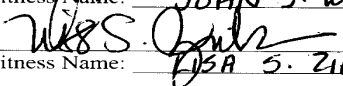
LESS AND EXCEPT any of the above described lands (Parcels "A", "B" and "C") which are or may hereafter become located water ward of the line of mean high water of Florida Bay, it being the express intent of the Grantor to retain and reserve such lands within the sovereign ownership of the State of Florida.

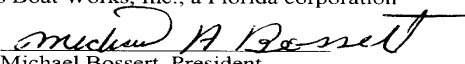
and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

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

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

Signed, sealed and delivered in our presence:

  
Witness Name: JOHN J. WOLFE  
  
Witness Name: LISA S. ZIELES

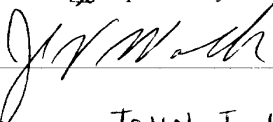
Keys Boat Works, Inc., a Florida corporation  
By:   
Michael Bossert, President

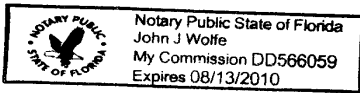
(Corporate Seal)

State of Florida  
County of Monroe

The foregoing instrument was acknowledged before me this 25th day of September, 2006 by Michael Bossert, President of Keys Boat Works, Inc., a Florida corporation, on behalf of the corporation. He/she  is personally known to me or  has produced a driver's license as identification.

[Notary Seal]

  
\_\_\_\_\_  
Notary Public  
Printed Name JOHN J. WOLFE  
My Commission Expires: 8-13-2010



MONROE COUNTY  
OFFICIAL RECORDS

**AFFIDAVIT OF MICHAEL A. BOSSERT**

STATE OF FLORIDA        )  
  ) SS  
COUNTY OF MONROE     )

BEFORE ME, the undersigned, duly authorized to administer oaths and take acknowledgments, personally appeared this day MICHAEL A. BOSSERT, who, after first being duly cautioned and sworn, and states as follows:

1. My name is MICHAEL A. BOSSERT, and I am over the age of eighteen years and I have personal knowledge of the facts in this Affidavit.

2. I am the President of Keys Boat Works, Inc, a Florida corporation ("Keys Boat Works"). I have been President of Keys Boat Works since 1988 and prior to this position I was the President of Mercier Boat Works, Inc. f/k/a as Bayles Boatyard, Inc. between the years of 1983-1988.

3. I am familiar with and have knowledge of the real property located in the city of Marathon, Monroe County, Florida as further described in Exhibit "A" ("Property").

4. This knowledge is based on my positions as President of both Keys Boat Works and Mercier Boat Works, Inc. f/k/a as Bayles Boatyard, Inc.

5. Attached as Exhibit "B" is the Quit Claim Deed from 1988 as recorded in the Public Records of Monroe County, Florida Book 1067, Page 1103 in which Key Boat Works was conveyed the Property from Mercier Boat Works, Inc. a Florida corporation, formerly known as Bayles Boatyard, Inc., a Florida corporation which, through its principals, obtained the Property in 1952 and such principals conveyed to Mercier Boat Works, Inc. a Florida corporation, formerly known as Bayles Boatyard, Inc., a Florida corporation in 1987, pursuant to the deeds attached as Exhibit "C".

6. Keys Boat Works owned the Property from September 14, 1988 until September 25, 2006. On September 25, 2006 the Property was conveyed from Keys Boat Works to Boat Works Investments LLC, a Florida limited liability company as evidenced by the Warranty Deed recorded in the Public Records of Monroe County, Florida Book 2240, Page 1496 attached as Exhibit "D".

7. Since I have been involved with the operations on the Property since 1983 and when the Property was purchased by Keys Boat Works in 1988, up to the time it was conveyed in 2006, the wet slips located on the Property were used for live-aboard vessels. During this time there were thirty-two (32) live-aboard slips at the Property. The thirty-two live-aboard slips were comprised of twenty-two (22) transient and ten (10) permanent live-aboards. The live-aboard vessels did not leave the Property and served as residences for those people that stayed on them.

8. My direct knowledge of the foregoing is based on my being involved in the day-to-day activities of the Property on behalf of Keys Boat Works and Mercier Boat Works, Inc. f/k/a as Bayles Boatyard, Inc. since 1983.

(signature page to follow)

**FURTHER AFFIANT SAYETH NAUGHT.**

*Michael A. Bossert*  
MICHAEL A. BOSSERT

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of MAY, 2019, by MICHAEL A. BOSSERT, who is personally known to me and who did take an oath.

IN WITNESS THEREFORE, I have hereunto set my hand affixed my official seal at Key West, Monroe County, Florida this 31<sup>st</sup> day of MAY, 2019.

Official Seal:

*Mary E. Lewis*  
Notary Public, State of Florida-Signature

MARY E. LEWIS  
Notary Public, State of Florida-Printed Name



**Exhibit "A"**  
**FURTHER DESCRIPTION OF PROPERTY**

PARCEL ID: 00337390-000000

LEGAL DESCRIPTION:

Lots 17,18,19, Block 5, a resubdivision of MARATHON BEACH, according to the Plat thereof as recorded in Plat Book 2, Page 21, of the Public Records of Monroe County, Florida.

ALSO:

ALSO:

A parcel of bay bottom land in the Bay of Florida, north of and adjacent to Lots 17, 18 and 19, Block 5 of a "re-subdivision of a part of Block 2 and all of Block 5 of Marathon Beach Subdivision" as recorded in Plat Book 2, Page 21, Public Records of Monroe County, Florida, same being on Key Vaca, Monroe County, Florida and more particularly described as follows:

Commencing at the intersection of the east line of Government Lot 3, Section 10, Township 66 South, Range 32 East, and the northwesterly right-of-way line of Old State Highway No. 4A, run southwesterly along the northwesterly right-of-way line of Old State Highway 4A for a distance of 697.39 feet to a point; thence at right angles and northwesterly along the northeasterly right-of-way line of Second Street, of said Subdivision, for a distance of 750 feet, more or less, to a point on the shoreline of the Bay of Florida, said point also to be known as the point of beginning of the bay bottom land hereinafter described; from said point of beginning, continue northwesterly along the northeasterly right-of-way line of Second Street, extended, for a distance of 300 feet, more or less, to a point; thence at right angles and northeasterly for a distance of 300 feet to a point; thence at right angles and southeasterly along the northeasterly line of Lot 17, Block 5 of the aforementioned Subdivision, extended northwesterly, for a distance of 100 feet, more or less, to a point on the shoreline of the Bay of Florida; thence meander the shoreline of the Bay of Florida in a southwesterly, northwesterly, northerly and southwesterly direction back to the point of beginning.



**Exhibit "B"**  
QUIT CLAIM DEED RECORDED IN THE PUBLIC RECORDS OF MONROE COUNTY,  
FLORIDA BOOK 1067, PAGE 1103

559006

REC 1067 PAGE 103

QUIT-CLAIM DEED FROM CORPORATION

RAMCO FORM 42

This Quit-Claim Deed, Executed this 14<sup>th</sup> day of September A. D. 19 88, by BAYLES BOATYARD, INC., a Florida corporation, now known as MERCIER BOAT WORKS, INC., a Florida corporation a corporation existing under the laws of State of Florida, and having its principal place of business at 700 39th Street, Marathon, Florida 33050 first party, to

KEYS BOAT WORKS, INC., a Florida corporation whose postoffice address is 700 39th Street, Marathon, Florida 33050

second party:

(Wherever used herein the terms "first party" and "second party" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

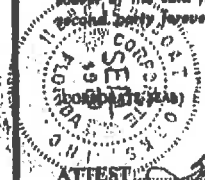
Witnesseth, That the said first party, for and in consideration of the sum of \$ TEN DOLLARS in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claims and demand which the said first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Monroe State of Florida to wit:

See attached legal description on Schedule "A" hereto

FILED FOR RECORD 88 SEP 28 11 54 DANNY L. KOLHAGE CLERK CIRCUIT COURT MONROE COUNTY, FLA.

This deed is given as a distribution of corporate property in the corporate dissolution of the party of the first part herein. The party of the second part is a sole shareholder of the grantor in complete dissolution.

To Have and to Hold the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.



In Witness Whereof the said first party has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

BAYLES BOATYARD, INC., now known as MERCIER BOAT WORKS, INC.

ATTEST: Sharon Bossert Secretary Sharon Bossert

Signed, sealed and delivered in the presence of:

Linda Cantub

By Michael A. Bossert Michael Bossert, President

DB Paid 554 Date 9-28-88

MONROE COUNTY DANNY L. KOLHAGE, CLERK CIR. CT.

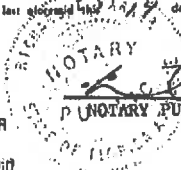
STATE OF FLORIDA COUNTY OF MONROE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared MICHAEL BOSSERT and SHARON BOSSERT

well known to me to be the President and Secretary respectively of the corporation named as first party in the foregoing deed, and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

Recorded in Office of the Clerk in Monroe County, Florida. DANNY L. KOLHAGE Clerk Circuit Court

NOTARY PUBLIC STATE OF FLORIDA NO. 11091 EXP. 12-31-91



This instrument prepared by: Address

PREPARED BY RICHARD E. WARNER P. O. Box 930 Marathon, Florida 33060

Exhibit "B"

Schedule A to Deed

Lots 15, 16, 17, 18 and 19, Block 5, a resubdivision of MARATHON BEACH, according to the Plat thereof as recorded in Plat Book 2, Page 21, of the Public Records of Monroe County, Florida.

ALSO:

A parcel of bay bottom land in the Bay of Florida, north of and adjacent to Lots 17, 18 and 19, Block 5 of a "re-subdivision of a part of Block 2 and all of Block 5 of Marathon Beach Subdivision" as recorded in Plat Book 2, Page 21, Public Records of Monroe County, Florida, same being on Key Vaca, Monroe County, Florida and more particularly described as follows:

Commencing at the intersection of the east line of Government Lot 3, Section 10, Township 66 South, Range 32 East, and the northwesterly right-of-way line of Old State Highway No. 4A, run southwesterly along the northwesterly right-of-way line of Old State Highway 4A for a distance of 697.39 feet to a point; thence at right angles and northwesterly along the northeasterly right-of-way line of Second Street, of said Subdivision, for a distance of 750 feet, more or less, to a point on the shoreline of the Bay of Florida, said point also to be known as the point of beginning of the bay bottom land hereinafter described; from said point of beginning, continue northwesterly along the northeasterly right-of-way line of Second Street, extended, for a distance of 300 feet, more or less, to a point; thence at right angles and northeasterly for a distance of 300 feet to a point; thence at right angles and southeasterly along the northeasterly line of Lot 17, Block 5 of the aforementioned Subdivision, extended northwesterly, for a distance of 100 feet, more or less, to a point on the shoreline of the Bay of Florida; thence meander the shoreline of the Bay of Florida in a southwesterly, northwesterly, northerly and southwesterly direction back to the point of beginning.

559006

REC'D 104

Recorded in Official Records Book  
in Monroe County, Florida  
Record Volume  
DANNY L. KOLHAGE  
Clerk Circuit Court

**EXHIBIT "C"**

Exhibit "C"

QUIT-CLAIM DEED

RAMCO FORM B

10 9.00  
1.50

**This Quit-Claim Deed**, Executed this 4th day of November, A. D. 1987, by

A. C. BAYLES and RUTH N. BAYLES, his wife

first party, to

Bayles Boatyard, Inc., a Florida corporation, n/k/a Mercier Boat Works, Inc., a Florida corporation

whose postoffice address is 700 39th Street, Marathon, Florida 33050

second party:

(Wherever used herein the terms "first party" and "second party" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

**Witnesseth**, That the said first party, for and in consideration of the sum of \$ TEN DOLLARS in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claim and demand which the said first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Monroe State of Florida to-wit:

A parcel of bay bottom land in the Bay of Florida; north of and adjacent to Lots 17, 18 and 19, Block 5 of a "Re-subdivision of a part of Block 2 and all of Block 5 of Marathon Beach Subdivision" as recorded in Plat Book 2, Page 21, Public Records of Monroe County, Florida, same being on Key Vaca, Monroe County, Florida and more particularly described as follows: Commencing at the intersection of the east line of Government Lot 3, Section 10, Township 66 South, Range 32 East, and the northwesterly right-of-way line of Old State Highway No. 4A, run southwesterly along the northwesterly right-of-way line of Old State Highway No. 4A for a distance of 697.39 feet to a point; thence at right angles and northwesterly along the northeasterly right-of-way line of Second Street, of said Subdivision, for a distance of 750 feet, more or less, to a point on the shoreline of the Bay of Florida, said point also to be known as the point of beginning of the bay bottom land hereinafter described; from said point of beginning, continue northwesterly along the northeasterly right-of-way line of Second Street, extended, for a distance of 300 feet, more or less, to a point; thence at right angles and northeasterly for a distance of 300 feet to a point; thence at right angles and southeasterly along the northeasterly line of Lot 17, Block 5 of the aforementioned Subdivision, extended northwesterly, for a distance of 100 feet, more or less, to a point on the shoreline of the Bay of Florida; thence meander the shoreline of the Bay of Florida in a southwesterly, northwesterly, northerly and southwesterly direction back to the point of beginning. (This deed is recorded to perfect further the title referred to at OR 799, Page 1451-1452, Monroe County, and per the attached Trustee's deed delivered May 8, 1982).

**To Have and to Hold** the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.

**In Witness Whereof**, The said first party, has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in presence of:

*[Signature]*

*[Signature]*  
A. C. BAYLES

*[Signature]*

*[Signature]*  
RUTH N. BAYLES

STATE OF FLORIDA,  
COUNTY OF MONROE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared

A. C. BAYLES and RUTH N. BAYLES, his wife to me known to be the person described in and who executed the foregoing instrument and they acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 4th day of November, A. D. 1987.

NOTARY PUBLIC STATE OF FLORIDA  
BY COMMISSION EXP. NOV. 6, 1988  
BONDED UNDER GENERAL INT. LAW, (SEAL)

My Commission Expires:

This instrument prepared by:  
Address

*[Signature]*  
NOTARY PUBLIC, STATE OF FLORIDA  
[Seal]

515104  
REC 1033 FILED 195

FORM 9-51

515104

REC 1033 PAGE 0196

Trustees of the Internal Improvement Fund of the State of Florida

DEED NO. 20030

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, the Trustees of the Internal Improvement Fund of the State of Florida, under authority of law, for and in consideration of the sum of Two Hundred Thirty and 00/100 - (\$230.00)

DOLLARS, to them in hand paid by A. C. BAYLES and RUTH N. BAYLES, his wife of the County of Monroe, State of Florida, have granted, bargained and sold, and do by these presents grant, bargain, sell and convey, unto the said A. C. BAYLES and RUTH N. BAYLES and their heirs and assigns, the following described lands, to-wit:

A parcel of bay bottom land in the Bay of Florida, north of and adjacent to Lots 17, 18 and 19, Block 5 of a "Re-subdivision of a part of Block 2 and all of Block 5 of Marathon Beach Subdivision" as recorded in Plat Book 2, Page 21, Public Records of Monroe County, Florida, same being on Key Vaca, Monroe County, Florida and more particularly described as follows: Commencing at the intersection of the east line of Government Lot 3, Section 10, Township 06 South, Range 32 East, and the northwesterly right-of-way line of Old State Highway No. 4A, run southwesterly along the northwesterly right-of-way line of Old State Highway No. 4A for a distance of 697.39 feet to a point; thence at right angles and northwesterly along the northeasterly right-of-way line of Second Street, of said Subdivision, for a distance of 750 feet, more or less, to a point on the shoreline of the Bay of Florida, said point also to be known as the point of beginning of the bay bottom land hereinafter described; from said point of beginning, continue northwesterly along the northeasterly right-of-way line of Second Street, extended, for a distance of 300 feet, more or less, to a point; thence at right angles and northeasterly for a distance of 300 feet to a point; thence at right angles and southeasterly along the northeasterly line of Lot 17, Block 5 of the aforementioned Subdivision, extended northwesterly, for a distance of 100 feet, more or less, to a point on the shoreline of the bay of Florida; thence meander the shoreline of the Bay of Florida in a southwesterly, northwesterly, northerly and southwesterly direction back to the point of beginning.

containing 1.15 acres, more or less, and lying and being in the County of MONROE, in said State of Florida.

TO HAVE AND TO HOLD the above granted and described premises forever.

SAVING AND RESERVING unto the said Trustees of the Internal Improvement Fund of the State of Florida, and their successors, title to an undivided three-fourths of all phosphate, minerals and metals, and title to an undivided one-half of all petroleum that may be in, on or under the above described land, with the privilege to mine and develop the same.

OTHER RESERVATIONS: (None)

Ms Paid 558 Date 4/19/52 MONROE COUNTY DEWEY L. TORLAGE, Clerk Ch. Ct. D. Dennis Sales, Inc.

IN TESTIMONY WHEREOF, the said Trustees have hereto subscribed their names and affixed their seal and have caused the seal of THE DEPARTMENT OF AGRICULTURE OF THE STATE OF FLORIDA to be hereto affixed, at the Capitol, in the City of Tallahassee, on this the 30th day of April, A. D. Nineteen Hundred and Fifty-two

Sent to W. A. Parrish Marathon, Fla. May 8th, 1952

Registered in Internal Improvement Fund in Monroe County Florida May 8th 1952 DEWEY L. TORLAGE, Clerk Ch. Ct.

(SEAL) TRUSTEES I. I. FUND

(SEAL) DEPARTMENT OF AGRICULTURE

Fuller Warren (SEAL) Governor C. N. Gay (SEAL) Comptroller J. Edwin Larson (SEAL) Treasurer Richard W. Ervin (SEAL) Attorney General Nathan Mayo (SEAL) Commissioner of Agriculture

As and Composing the TRUSTEES OF THE INTERNAL IMPROVEMENT FUND OF THE STATE OF FLORIDA

**EXHIBIT "D"**  
WARRANTY DEED RECORDED IN THE PUBLIC RECORDS OF MONROE COUNTY,  
FLORIDA BOOK 2240, PAGE 1496

Exhibit "D"

Doc# 1605093 09/27/2006 11:15AM  
Filed & Recorded in Official Records of  
MONROE COUNTY DANNY L. KOLHAGE

09/27/2006 11:15AM  
DEED DOC STAMP CL: LINDAR \$47,182.50

Doc# 1605093  
Bk# 2240 Pg# 1496

Prepared by and return to:

John J. Wolfe  
Attorney at Law  
John J. Wolfe, P.A.  
2955 Overseas Highway  
Marathon, FL 33050  
305-743-9858  
File Number: 04-390  
Will Call No.:

Parcel Identification No. 00337390/00103480-000100

[Space Above This Line For Recording Data]

**Warranty Deed**

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

This Indenture made this 25th day of September, 2006 between

**Keys Boat Works, Inc., a Florida corporation**

whose post office address is 700 39th Street Gulf, Marathon, FL 33050  
of the County of Monroe, State of Florida, grantor\*, and

**Boat Works Investments LLC, a Florida limited liability company**

whose post office address is 11500 Overseas Highway, Marathon, FL 33050  
of the County of Monroe, State of Florida, grantee\*,

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

Lots 15, 16, 17, 18 and 19, Block 5, a RESUBDIVISION of Part of Block 2 and all of Block 5 of MARATHON BEACH SUBDIVISION, according to the Plat thereof, recorded in Plat Book 2, Page 21, of the Public Records of Monroe County, Florida.

ALSO

A parcel of bay bottom land in the Bay of Florida, North of and adjacent to Lots 17, 18 and 19, Block 5 of a RESUBDIVISION of part of Block 2 and all of Block 5 of MARATHON BEACH SUBDIVISION, as recorded in Plat Book 2, Page 21, Public Records of Monroe County, Florida, same being on Key Vaca, Monroe County, Florida and more particularly described as follows:

Commencing at the intersection of the East line of Government Lot 3, Section 10, Township 66 South, Range 32 East, and the northwesterly right of way line of Old State Highway No. 4A run southwesterly along the northwesterly right-of-way line of Old State Highway 4A for a distance of 697.39 feet to a point; thence at right angles and northwesterly along the Northeasterly right of way line of Second Street, of said subdivision, for a distance of 750 feet, more or less, to a point on the shoreline of the Bay of Florida, said point also to be known as the point of beginning of the bay bottom land hereinafter described; from said point of beginning, continue Northwesterly along the Northeasterly right of way line of Second Street, extended, for a distance of 300 feet, more or less, to a point; thence at right angles and Northeasterly for a distance of 300 feet to a point; thence at right angles and southeasterly along the Northeasterly line of Lot 17, Block 5, of the aforementioned subdivision, extended Northwesterly, for a distance of 100 feet, more or less, to a point on the shoreline of the Bay of Florida; thence meander the shoreline of the Bay of Florida in a Southwesterly, Northwesterly, Northerly and Southwesterly direction back to the point of beginning. Containing 1.15 acres, more or less, and lying and being in the County of Monroe, in the State of Florida.

AND

Situated in the County of Monroe and State of Florida and known as being the northerly portion of a parcel of submerged land (now filled) located in Section 10, Township 66 South, Range 32 East as described in a conveyance recorded in Official Record Book 339 at pages 472-473 of Monroe County Public Records, more particularly described as follows:

Commencing on the westerly line of First Street at the southeasterly corner of Lot 9, Block 2, of a RESUBDIVISION of part of Block 2 and all of Block 5 of Marathon



Exhibit "D"

Doc# 1605093  
Bk# 2240 Pg# 1497

Beach Subdivision as recorded in Plat Book 2, Page 21 of Monroe County Public Records; Bear North 15 degrees 40 minutes, 00 seconds West along the said westerly line of First Street and northerly prolongation thereof, 166.82 feet to the POINT OF BEGINNING of the parcel of land herein intended to be described; thence continue bearing North 15 degrees, 40 minutes, 00 seconds West along said prolongation 148.18 feet to the northeasterly corner of the submerged land described in Official Record Book 339 as aforesaid; thence bear South 74 degrees, 20 minutes, 00 seconds West along the northerly line 200.00 feet to the northwesterly corner of the said submerged land described as aforesaid; thence bear South 15 degrees, 40 minutes, 00 seconds East along the westerly line of said submerged land 148.18 feet; thence bear North 74 degrees, 20 minutes, 00 seconds East 200.00 feet to the Point of Beginning and containing 0.68 Acres of Land above Mean High Water.

ALSO

Three parcels of filled, formerly submerged land lying in Section 10, Township 66 South, Range 32 East, Monroe County, Florida, as follows:

Parcel "A":

A parcel of filled bay bottom land situated in Florida Bay Northerly of Lots 17, 18 and 19, Block 5, of a "Resubdivision of part of Block 2 and all of Block 5 of MARATHON BEACH, a subdivision of Part of Government Lot 3, Section 10, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida", as shown by plat recorded in Plat Book 2, Page 21 of Monroe County Florida Public Records. Said parcel of filled bay bottom land being also Northerly of a parcel of bay bottom land conveyed by the Trustees of the Internal Improvement Fund of the State of Florida to A.C. Bayles and Ruth N. Bayles by Deed No. 20030 dated April 30, 1952. The filled bay bottom land being more particularly described as follows: COMMENCING at a steel pipe monument found on the Southwesterly corner of Block 5 of MARATHON BEACH, a subdivision recorded in Plat Book 2, Page 21 of Monroe County, Florida Public Records, said Southwesterly corner being also the intersection of the Northwesterly right-of-way line of Louisa Street and the Easterly right-of-way line of Second Street a.k.a. 39th Street, as shown by the said plat of MARATHON BEACH recorded as aforesaid, bear North 15 degrees 38 minutes 06 seconds West along the said Easterly right-of-way line of Second Street and the Northerly prolongation thereof 656.10 feet to a point on the mean high water line formed by the waters of Florida Bay on the Southerly face of a concrete seawall and Point of Beginning of the parcel of filled, formerly submerged land in Florida Bay herein intended to be described; from said Point of Beginning, bear South 70 degrees 46 minutes 21 seconds East along said mean high water line on the face of said seawall 5.75 feet; thence continue along said mean high water line on the face of said seawall on the following descriptive courses bearing North 76 degrees 24 minutes 09 seconds East, 11.83 feet; thence North 12 degrees 30 minutes 24 seconds West, 61.32 feet; thence North 76 degrees 42 minutes 36 seconds East, 44.54 feet; thence South 16 degrees 51 minutes 55 seconds East, 15.17 feet; thence South 15 degrees 28 minutes 18 seconds East, 11.15 feet; thence North 76 degrees 12 minutes 58 seconds East, 80.13 feet; thence North 74 degrees 33 minutes 29 seconds East, 83.37 feet; thence South 16 degrees 00 minutes 38 seconds East, 46.91 feet; thence North 75 degrees 09 minutes 50 seconds East, 44.06 feet; thence South 15 degrees 53 minutes 03 seconds East, 35.09 feet to the intersection of said mean high water and seawall with the Northerly line of a parcel of bay bottom land conveyed to A.C. Bayles and Ruth N. Bayles by Deed No. 20030 granted by the Trustees of the Internal Improvement Fund of the State of Florida; thence bear North 74 degrees 21 minutes 54 seconds East along said Northerly line of the bay bottom lands conveyed as aforesaid, 27.29 feet to the Northeasterly corner thereof; thence bear North 15 degrees 38 minutes 22 seconds West along the Northerly prolongation of the Easterly line of the bay bottom lands conveyed to Bayles as aforesaid, 134.35 feet to a point on the mean high water line formed by the waters of Florida Bay upon the Northerly bank of the said filled, formerly submerged land, in Florida Bay; thence meander said mean high water line upon the bank of said earth fill on the following descriptive courses, bearing first South 82 degrees 17 minutes 27 seconds West, 58.56 feet; thence South 71 degrees 09 minutes 37 seconds West, 72.11 feet; thence North 84 degrees 28 minutes 43 seconds West, 8.58 feet; thence South 66 degrees 08 minutes 07 seconds West, 43.44 feet; thence South 79 degrees 24 minutes 06 seconds West, 35.14 feet; thence South 82 degrees 06 minutes 19 seconds West, 22.20 feet;

## Exhibit "D"

Doc# 1625093  
Bk# 2240 Pg# 1498

thence South 86 degrees 44 minutes 51 seconds West, 20.48 feet; thence South 47 degrees 46 minutes 30 seconds West, 11.18 feet; thence South 75 degrees 38 minutes 44 seconds West, 21.95 feet; thence South 72 degrees 38 minutes 06 seconds West, 7.29 feet; thence South 23 degrees 40 minutes 04 seconds West, 4.28 feet to the intersection of said mean high water line with the Northerly prolongation of the said Easterly right-of-way line of Second Street a.k.a. 39th Street, said right-of-way prolongation being also the Northerly prolongation of the Westerly line of the bay bottom lands conveyed to Bayles as aforesaid; thence bear South 15 degrees 38 minutes 06 seconds East along said prolongation, 81.59 feet, back to the Point of Beginning and containing 20,448.65 square feet of earth filled formerly submerged land in Florida Bay.

### Parcel "B":

A parcel of filled bay bottom land situated in Florida Bay Westerly of and adjacent to the Northerly prolongation of the Westerly line of that certain parcel of bay bottom land conveyed to A.C. Bayles and Ruth N. Bayles by Deed No. 20030 granted by the Trustees of the Internal Improvement Fund of the State of Florida on April 30, 1952. Said parcel of filled bay bottom land being also Northerly of the Northerly terminus of Second Street a.k.a. 39th Street as shown on the plat of a "Re-subdivision of part of Block 2 and all of Block 5 of MARATHON BEACH, a subdivision of Part of Government Lot 3, Section 10, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida", as shown by plat recorded in Plat Book 2, Page 21 of Monroe County, Florida, said parcel being more particularly described as follows:

COMMENCING at a steel pipe monument found on the Southwesterly corner of Block 5 of MARATHON BEACH, a subdivision recorded in Plat Book 2, page 21, of Monroe County Florida Public Records, said Southwesterly corner being also the intersection of the Northerly right-of-way line of Louisa Street and the Easterly right-of-way line of Second Street a.k.a. 39th Street as shown by the said plat of MARATHON BEACH recorded as aforesaid, bear North 15 degrees 38 minutes 06 seconds West along the said Easterly right-of-way line of Second Street and the Northerly prolongation thereof, 656.10 feet to the Point of Beginning on the mean high water line formed by the waters of Florida Bay upon the Southerly face of a concrete seawall retaining a portion of the filled, formerly submerged land in Florida Bay herein intended to be described. The Northerly prolongation of the said Easterly right-of-way line of Second Street being also the Westerly line of those bay bottom lands described in the State of Florida Internal Improvement Fund Deed No. 20030 and a Northerly prolongation thereof. From said Point of Beginning bear North 70 degrees 46 minutes 21 seconds West along said mean high water line on the Southerly face of said seawall 4.84 feet to a Southwesterly corner thereof; thence continue on said mean high water line along the Westerly end of said seawall bearing North 12 degrees 46 minutes 08 seconds East, 2.01 feet, to its intersection with the mean high water line formed by the waters of Florida Bay upon the Westerly bank of the said filled formerly submerged land in Florida Bay; thence meander said mean high water line upon the bank of said earth fill on the following described courses, bearing first North 56 degrees 53 minutes 50 seconds West, 3.93 feet; thence North 20 degrees 06 minutes 59 seconds West, 9.09 feet; thence North 01 degrees 19 minutes 25 seconds West, 15.26 feet North 32 degrees 27 minutes 12 seconds West, 12.82 feet; thence North 01 degrees 52 minutes 09 seconds East, 20.59 feet; thence North 25 degrees 01 minutes 52 seconds West, 15.40 feet; thence North 23 degrees 40 minutes 04 seconds East, 4.06 feet to the intersection of said mean high water line with said Northerly prolongation of the said Easterly right-of-way line of Second Street a.k.a. 39th Street; said right-of-way prolongation being also the Northerly prolongation of the Westerly line of bay bottom lands conveyed to A.C. Bayles and Ruth N. Bayles by Deed No. 20030 granted as aforesaid; thence bear South 15 degrees 38 minutes 06 seconds East along said prolongation, 77.61 feet back to the Point of Beginning and containing 284.92 square feet of earth filled formerly submerged land in Florida Bay.

### Parcel "C":

A parcel of filled bay bottom land situated in Florida Bay Westerly of and adjacent to the Westerly line of that certain parcel of bay bottom land conveyed to A.C. Bayles and Ruth N. Bayles by Deed No. 20030 granted by the Trustees of the Internal Improvement Fund of the State of Florida on April 30, 1952. Said parcel of

Exhibit "D"

Doc# 1805093  
Bk# 2240 Pg# 1499

filled bay bottom land being also Northerly of the Northerly terminus of Second Street a.k.a. 39th Street as shown by the plat of a "Re-subdivision of part of Block 2 and all of Block 5 of MARATHON BEACH, a subdivision of Part of Government Lot 3, Section 10, Township 66 South, Range 32 East, on Key Vaca, Monroe County, Florida", as shown by plat recorded in Plat Book 2 page 21, of the Public Records of Monroe County, Florida, said parcel being more particularly described as follows:

COMMENCING at a steel pipe monument found on the Southwesterly corner of Block 5 of MARATHON BEACH, a subdivision recorded in Plat Book 2, Page 21, of Monroe County Florida Public Records, said Southwesterly corner being also the intersection of the Northerly right-of-way line of Louise Street and the Easterly right-of-way line of Second Street a.k.a. 39th Street as shown by the said Plat of MARATHON BEACH recorded as aforesaid, bear North 15 degrees 38 minutes 06 seconds West along the said Easterly right-of-way line of Second Street and the Northerly prolongation thereof, 574.42 feet to the Point of Beginning on the mean high water line formed by the waters of Florida Bay upon the Southerly bank of the parcel of filled, formerly submerged land in Florida Bay herein intended to be described. The Northerly prolongation of the said Easterly right-of-way line of Second Street being also the Westerly line of those bay bottom lands described in the State of Florida Internal Improvement Fund Deed. No. 20030. From said Point of Beginning mcander said mean high water line in the bank of said earth fill on the following descriptive courses, bearing first South 88 degrees 28 minutes 18 seconds West, 10.80 feet; thence North 72 degrees 27 minutes 10 seconds West, 13.13 feet; thence North 52 degrees 50 minutes 27 seconds East, 14.20 feet; thence North 88 degrees 10 minutes 26 seconds East, 8.50 feet to the intersection of said mean high water line with the said Northerly prolongation of the Easterly right-of-way line of Second street; thence bear South 15 degrees 38 minutes 06 seconds East along said prolongation, 13.00 feet, back to the Point of Beginning and containing 139.51 square feet of earth filled formerly submerged land in Florida Bay. Containing 0.479 acres, more or less.

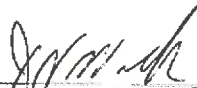
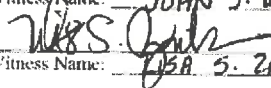
LESS AND EXCEPT any of the above described lands (Parcels "A", "B" and "C") which are or may hereafter become located water ward of the line of mean high water of Florida Bay, it being the express intent of the Grantor to retain and reserve such lands within the sovereign ownership of the State of Florida.

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

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

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

Signed, sealed and delivered in our presence:

  
Witness Name: JOHN J. WOLFE  
  
Witness Name: LISA S. ZIEHL

Keys Boat Works, Inc., a Florida corporation

By:   
Michael Bossert, President

(Corporate Seal)

Exhibit "D"

Doc# 1625093  
Bk# 2240 Pg# 1500

State of Florida  
County of Monroe

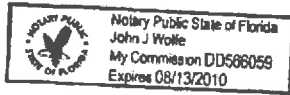
The foregoing instrument was acknowledged before me this 25th day of September, 2006 by Michael Bossert, President of Keys Boat Works, Inc., a Florida corporation, on behalf of the corporation. He/she  is personally known to me or  has produced a driver's license as identification.

[Notary Seal]

  
Notary Public

Printed Name: JOHN J. WOLFE

My Commission Expires: 8-13-2010



MONROE COUNTY  
OFFICIAL RECORDS

*This instrument prepared by:*

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

*(Space reserved for recording)*

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## **DECLARATION OF RESTRICTIONS ON LIVE-ABOARD VESSELS**

This DECLARATION OF RESTRICTIONS ON LIVE-ABOARD VESSELS (the “Declaration”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by Boat Works Investments LLC, a Florida limited liability company (“Declarant”).

This Declaration applies to real property located within the corporate limits of the City of Marathon, a Florida municipal corporation (the “City”), consisting of Monroe County Parcel ID Numbers 00337390-000000, 00103480-000100, 00337290-000000, 00337300-000000, 00337310-000000 and 00337330-000000, and more particularly described in the legal descriptions attached hereto as Exhibit A (the “Property”).

**WHEREAS**, Declarant is the owner of the Property; and

**WHEREAS**, the intent of Declarant is to permanently restrict the use of any wet slips existing or developed on the Property or adjacent State of Florida sovereign submerged lands to no live-aboard vessels; and

**NOW, THEREFORE**, the Declarant agrees that the Property shall be held, conveyed, or leased subject to the following restrictions, covenants and conditions, which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns for the entire term of this Declaration.

### **I. DEFINITIONS**

A. “Declarant” shall mean the owner of the Property and any subsequent purchaser, devisee, transferee, grantee or holder of title of the Property or any portion of the Property.

B. “Live-aboard Vessel” shall mean the same as defined in Chapter 110, Article 3 of the City of Marathon Land Development Regulations (2019): any vessel used solely as a residence or any vessel represented a place of business, a professional or other commercial enterprise, or a legal residence. Any vessel with a person or persons living aboard that is anchored, moored, or docked in the same location for 72 consecutive hours is presumed to be a live-aboard. A commercial fishing boat is expressly excluded from the term “live-aboard vessel”.

C. “Transfer” means any sale, assignment or transfer, voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in the Property, including but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, or an interest evidenced by a land contract by which possession of the Property is transferred and Declarant retains title.

D. “Transferee” shall mean an individual, or individuals, who receive a Transfer of the Property from the Declarant.

E. "Wet Slip" shall mean a boat slip bordered by a sea wall, or a fixed or floating pier used for mooring or docking boats, houseboats, barges, or other types of floating modules or vessels used for or capable of being used for residential, or non-residential use.

## **II. TERM AND ENFORCEABILITY**

A. This Declaration shall run with the Property and bind the Declarant, his or her heirs, legal representatives, executors, successors in interest and assigns, in perpetuity from the effective date of this Declaration.

B. The Property is held and hereafter shall be held, conveyed, encumbered, used, rented, leased and occupied subject to these covenants, conditions, restrictions and limitations. All of the herein-stated covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land.

C. Any transferee, mortgagee or purchaser of the Property, or of any portion of or interest in the Property, by the acceptance of a deed therefore, whether from Declarant or from any subsequent purchaser of the Property, or by the signing of a contract or agreement to purchase the same, shall, by the acceptance of such deed or mortgage, or by the signing of such contract or agreement, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein. Any written instrument attempting or purporting to sell, convey, grant, transfer, exchange, assign or mortgage any legal or equitable rights or interests to the Property shall be deemed null and void, where such instrument purports or evidences an attempt to sell, convey, grant, transfer, exchange or assign any right or interest to the Property where such instrument is inconsistent with or contrary to the conditions or covenants contained herein.

D. Declarant hereby grants and assigns to the City the right to monitor and enforce compliance with this Declaration. Declarant otherwise reserves the rights necessary to implement the provisions of this Declaration.

## **III. RESTRICTIONS ON LIVE-ABOARD VESSELS ON THE PROPERTY**

A. Wet slips existing or developed on the Property, the Property's privately-owned submerged land, or the adjacent State of Florida sovereign submerged lands shall not have live-aboard vessels moored, tied, anchored, docked, or berthed thereto.

B. No person shall use as a residence any boat or vessel moored, tied, anchored, docked, or berthed to or on the Property, the Property's privately-owned submerged land, or the adjacent State of Florida sovereign submerged lands.

## **IV. DEFAULTS AND REMEDIES: ASSIGNMENT OF RENTS**

A. Upon any violation of the provisions of this Declaration the City may declare a default under this Declaration by delivering written notice thereof to the Declarant. After providing written notice of default, the City may apply to a court of competent jurisdiction for specific performance of the Declaration or for an injunction prohibiting live-aboard vessels on the Property.

B. Assignment of rents: Declarant hereby assigns to City the right to receive the rents due or collected from any live-aboard vessels subject to this Declaration during the entire period the wet slips are occupied in violation of any of the terms of this Declaration.

C. The remedies stated herein shall not be exclusive but shall be cumulative to all other remedies and rights the parties may lawfully exercise.

**V. GENERAL PROVISIONS**

A. The City may assign its rights and delegate its duties hereunder in writing without the consent of Declarant. Upon such assignment the City shall notify the Declarant.

B. If any action is brought to enforce the terms of this Declaration, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

C. If any one or more of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Declaration, and this Declaration shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

D. The terms of this Declaration shall be interpreted under the laws of the State of Florida and venue shall lie in Monroe County, Florida.

E. All notices required herein shall be sent by certified mail, return receipt requested, to the Declarant at the address of the Property and to the City or its designee at 10045-65, Marathon, FL, 33050, or such other address that the City may subsequently provide in writing to the Declarant.

**[Signatures on next page]**

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the date written below.

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Witness #1 Signature

\_\_\_\_\_  
Witness #1 Printed Name

\_\_\_\_\_  
Witness #2 Signature

\_\_\_\_\_  
Witness #2 Printed Name

**Boat Works Investors LLC,**  
a Florida limited liability company

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

STATE OF FLORIDA:  
COUNTY OF MONROE:

The foregoing instrument was acknowledged before me by means of ( ) physical presence or ( ) online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by, \_\_\_\_\_, on behalf of the company, who ( ) is personally known to me or ( ) has produced \_\_\_\_\_ as identification.

NOTARY SEAL:

\_\_\_\_\_  
NOTARY PUBLIC



**EXHIBIT A: Legal Descriptions**

**RE NOs. 00337290-000000 & 00337300-000000**

All of Lots 6 and 7, Block 5, MARATHON BEACH SUBDIVISION, according to the Plat thereof as recorded in Plat Book 2, Page 21, of the Public Records of Monroe County, Florida.

**RE NO. 00337310-000000**

Lot 8, less the rear 25 feet, thereof, Block 5, MARATHON BEACH SUBDIVISION, according to the Plat thereof as recorded in Plat Book 2, Page 21, of the Public Records of Monroe County, Florida.

TOGETHER WITH: The rear Twenty Five Feet of Lot 8, in Block Five, according to a RE-SUBDIVISION, of part of Block Two, and all of Block Five, of Marathon Beach, Subdivision, Plat of which is duly recorded in Plat Book Two, on Page Twenty-One, Monroe County, Florida records.

**RE NO. 00103480-000100**

Situated in the County of Monroe and State of Florida and known as being the northerly portion of a parcel of submerged land (now filled) located in Section 10, Township 66 South, Range 32 East as described in a conveyance recorded in Official Records Book 339, at Pages 472 & 473 of Monroe County Public Records, more particularly described as follows:

Commencing on the westerly line of First Street at the southeasterly corner of Lot 9, Block 2, of Marathon Beach Subdivision as recorded in Plat Book 2, Page 21, of Monroe County Public Records; Bear North 15 degrees, 40 minutes, 00 seconds West along the said westerly line of First Street and northerly prolongation thereof, 166.82 feet to the POINT OF BEGINNING of the parcel of land herein intended to be described; thence continue bearing North 15 degrees, 40 minutes, 00 seconds West along said prolongation 148.18 feet to the northeasterly corner of the submerged land described in Official Records Book 339, as aforesaid; thence bear South 74 degrees, 20 minutes, 00 seconds West along the northerly line 200.00 feet to the northwesterly corner of the said submerged land described as aforesaid; thence bear South 15 degrees, 40 minutes, 00 seconds East along the westerly line of said submerged land 148.18 feet; thence bear North 74 degrees, 20 minutes, 00 seconds East 200.00 feet to the Point of Beginning and containing 0.68 Acres of Land above Mean High Water.

**RE NO. 00337390-000000**

Lots 15, 16, 17, 18 and 19, Block 5, a Resubdivision of Marathon Beach, according to the Plat thereof as recorded in Plat Book 2, Page 21, of the Public Records of Monroe County, Florida.

ALSO: A parcel of bay bottom land in the Bay of Florida, North of and adjacent to Lots 17, 18 and 19, Block 5, a "Resubdivision of a part of Block 2 and all of Block 5 of Marathon Beach Subdivision" as recorded in Plat Book 2, Page 21, of the Public Records of Monroe County,

Florida, same being on Key Vaca, Monroe County, Florida and more particularly described as follows:

Commencing at the intersection of the East line of Government Lot 3, Section 10, Township 66 South, Range 32 East, and the Northwesterly right-of-way line of Old State Highway No. 4A, run Southwesterly along the Northwesterly right-of-way line of Old State Highway 4A, for a distance of 697.39 feet to a point; thence at right angles and Northwesterly along the Northeasterly right-of-way line of Second Street, of said Subdivision for a distance of 750 feet, more or less, to a point on the shoreline of the Bay of Florida, said point also to be known as the Point of Beginning of the bay bottom land hereinafter described; from said Point of Beginning, continue Northwesterly along Northeasterly right-of-way line of Second Street, extended, for a distance of 300 feet, more or less, to a point; thence at right angles and Northeasterly for a distance of 300 feet to a point; thence at right angles and Southeasterly along the Northeasterly line of Lot 17, Block 5, of the aforementioned subdivision, extended Northwesterly, for a distance of 100 feet, more or less, to a point on the shoreline of the Bay of Florida; thence meander the shoreline of the Bay of Florida in a Southwesterly, Northwesterly, Northerly and Southwesterly direction back to the Point of Beginning.

**RE NO. 00337330-000000**

Situated in the County of Monroe and State of Florida and known as being a parcel of land consisting of all of Lots 9 and 10, Block 5, of the resubdivision of part of Block 2, and all of Block 5 of Marathon Beach, a subdivision of part of Government Lot 3, Section 10, Township 66 South, Range 32 East on Key Vaca as shown by plat recorded in Plat Book 2, Page 21 of Monroe County, Florida, Public Records, and a parcel of contiguous, filled bay bottom land in the Gulf of Mexico, bounded and described together as follows:

Beginning on the Westerly line of First Street at the Southeasterly corner of Lot 9, Block 5, of Marathon Beach Subdivision recorded as aforesaid, bear North 15°40'00" West along the said Westerly line of First Street, and Northerly prolongation thereof 166.82 feet; said prolongation being also a portion of the Easterly line of a parcel of submerged land described in Official Records Book 339, Pages 472 & 473 of Monroe County Public Records; thence bear South 74°20'00" West 200.00 feet to a point on the Westerly line of said submerged lands described in Official Records Book 339, Pages 472 & 473 as aforesaid; thence bear South 15°40'00" East along the said Westerly line of said submerged lands and the Westerly lines of said Lots 10 and 9, Block 5 of Marathon Beach Subdivision recorded as aforesaid, 166.82 feet to the Southwesterly corner of said Lot 9, Block 5; thence bear North 74°20'00" East along the Southerly line of said Lot 9, 200.00 feet back to the point of beginning and containing 0.765 acres of land above mean high water.

