

Sponsored by: Garrett

**CITY OF MARATHON, FLORIDA
RESOLUTION 2023-17**

A RESOLUTION OF THE CITY COUNCIL OF MARATHON, FLORIDA, APPROVING SUBJECT TO CONDITIONS, A REQUEST BY THOMAS MORRIS TO ABANDON THE PUBLIC RIGHT OF WAY LOCATED AT 11134 3RD AVE, DESCRIBED AS BEING ADJACENT TO UNNUMBERED PARCEL, LOT 10, LITTLE VENICE, MARATHON, HAVING REAL ESTATE NUMBER 00344200-000000. NEAREST MILE MARKER 53; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there presently exists a certain public right-of-way within the City of Marathon, Florida, Located At 11134 3rd Ave, described as being adjacent to and between lots 10 and 15, Little Venice subdivision, Key Vaca, nearest mile marker 53, Monroe County, Florida and as particularly described in the attached survey (Exhibit "A"); and

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

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

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

WHEREAS, a public hearing to vacate the Right-of-Way was held on February 14, 2023 the City has determined that no federal, state or county rights-of-way are involved or affected, and that granting the request for abandonment of the Right-of-Way subject to conditions will not be detrimental to the public health, safety and welfare; and

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

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

- a) The abandonment of this right-of-way will not adversely affect the operations and functions of the City because with a grant of utility easement to continue maintenance of its sewer facilities.
- b) Public access to water is possible through this Right-Of-Way and therefore there an access agreement must be recorded to ensure public access to the water.
- c) There will no adverse effect on surrounding traffic circulation or patterns.

I certify this document to be a true and correct
copy of the original.

Diane Clavier
Diane Clavier, City Clerk
City of Marathon

2/22/23
Date

- d) The abandonment will not adversely affect a public view corridor.
- e) The applicants own all of the properties adjacent to and abutting the right-of-way; therefore, this criterion does not apply.
- f) The proposed abandonment will not interfere with utility services being provided, or unreasonably affect any utility easement.

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

Section 1. The above recitals are true and correct and they and all conditions required of Applicants are hereby incorporated as if fully stated herein.

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

- (1) The Applicant will convey a utility easement to all utilities on, under the Court Right-of Way described in Exhibit "B" or remove said utilities at the owner's expense.
- (2) Said conditions as promulgated above shall be met by the applicant within sixty (60) days of the effective date of this Resolution.

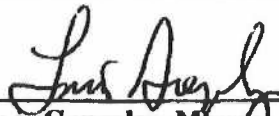
Section 3. The City Clerk shall forward a certified copy this Resolution to the Applicant, who shall be responsible for all costs incurred in recording this instrument in the public records of Monroe County, Florida. The Applicant shall provide the City evidence of the recording of this Resolution and the Easement within sixty (60) days of the effective date of this Resolution.

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

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

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 14TH DAY OF FEBRUARY 2023.

THE CITY OF MARATHON, FLORIDA



Luis Gonzalez, Mayor

AYES: Landry, Smith, Still, Gonzalez
NOES: None
ABSENT: Matlock
ABSTAIN: None

ATTEST:



Diane Clavier

Diane Clavier, City Clerk

(City Seal)

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

St. T. Williams

Steven T. Williams, City Attorney

Exhibit A

Survey of Right of Way with Legal Description

SKETCH OF SURVEY

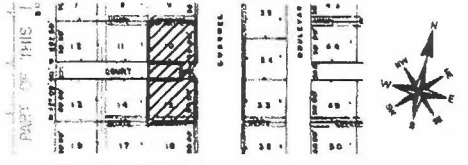
SCALE: 1" = 20'

F.I.P. 1/2" No. Id.



LOCATION MAP

SCALE: N.T.S.



LEGAL DESCRIPTION:

A parcel of land being in Government Lot 1, Section 6, Township 66 South, Range 33, East, Key Vaca, Monroe County, Florida and described as follows: Beginning at the Southwest corner of Lot 10, LITTLE VENICE NO. 1, According to the Plat thereof, as recorded in Plat Book 3, at Page 7, of the Public Records of Monroe County, Florida; thence bear N. 77° 51' 00" E. along the Southerly boundary of said Lot 10 for a distance of 40 feet to a point; thence bear S. 12° 09' 00" E. for a distance of 20 feet to a point; thence bear S. 77° 51' 00" W. for a distance of 40 feet; thence bear N. 12° 09' 00" W. for a distance of 20 feet back to the Point of Beginning.

NOTES:

- Lands shown hereon were not researched by the surveyor for easement, legal overlaps, or any other instruments of record.
- No utilities located.
- Fence ownership not determined by this survey.
- There may be additional restrictions/Easements that are not shown on this survey that may be found in the public records of this county.
- Surveyor makes no claims to subsurface features other than evidence of same as shown hereon.
- This drawing is the property of LINCOLN ITURREY, P.A. and shall not be used in whole or part without the written permission of LINCOLN ITURREY, P.A.
- Liability limited to survey fee charged.
- Legal description provided by client.
- Elevations when shown Refer to N.G.V.D. 1929.
- Riparian rights not determined by this survey.
- All Measurements and Distances are in U.S. Standard Feet.
- Examination of the abstract of title will have to be made to determine recorded instruments, if any, affecting the property.
- Location and identification of utilities on and/or adjacent to the property were not secured, as such information was not requested.
- Ownership is subject to opinion of title.
- This survey is performed for: THOMAS MORRIS, for the singular purpose of obtaining MORTGAGE and TITLE INSURANCE, and does not extend to any unnamed party.

WE HEREBY CERTIFY:

That the attached Boundary survey of the above described property is true and correct to the best of our knowledge and meets standards of practice set forth by the FLORIDA BOARD OF LAND SURVEYORS. Pursuant to Chapter 5 J-17 Florida Administrative Code.



lincoln D iturrey
 LINCOLN ITURREY, P.S.M. No. 5719

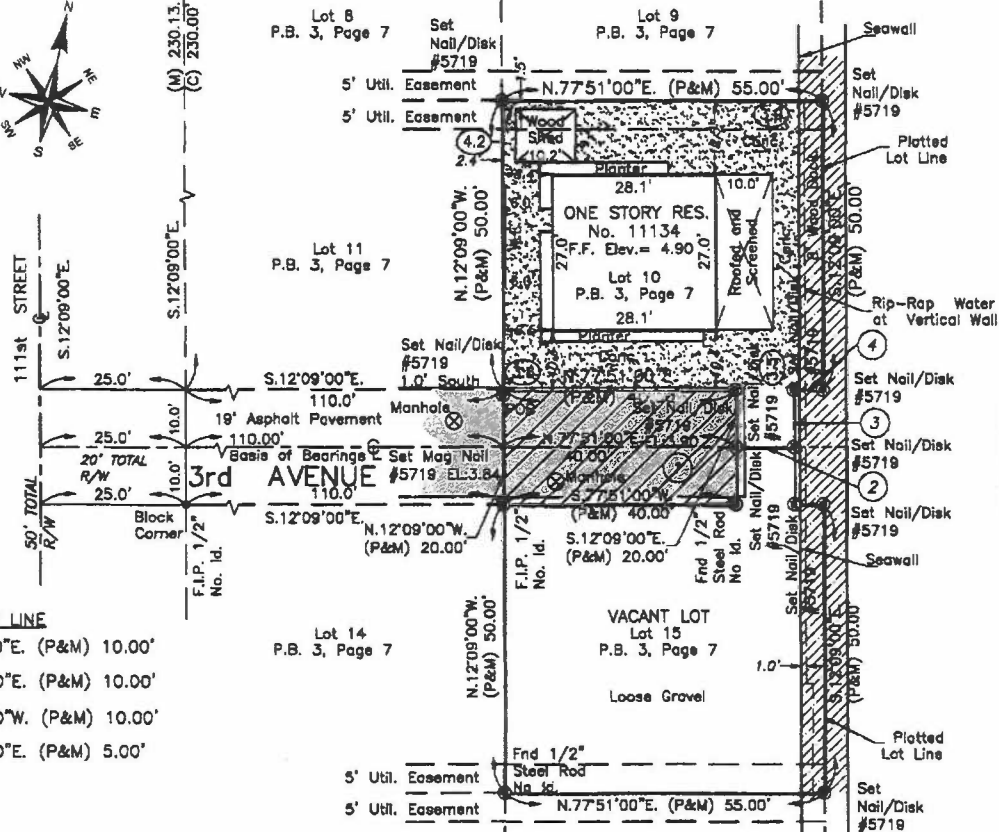
This survey not valid without the original signature and seal of the appropriate registered Land Surveyor and Mapper.

PREPARED BY: **LINCOLN ITURREY, P.A.**
 Professional Land Surveyors and Mappers L.B. 8190
 Mailing Address: P.O. BOX 755, LONG KEY, FLORIDA, 33001.
 Office Address: 65821 OVERSEAS HIGHWAY, No. 255, LONG KEY, FLORIDA, 33001.
 PHONE: (305) 664-2727 / (305) 975-3141 (CEL.) Email = liturrey@gmail.com

DATE: 10-02-2020 SCALE: 1" = 20' FB: 135 PG: 65

PREPARED FOR: THOMAS MORRIS.
 ADDRESS: 11134 3rd AVENUE, MARATHON, FLORIDA, 33050.

COMMUNITY No.	PANEL No.	SUFFIX	DATE OF FIRM	ZONE	BASE ELEVATION
120681	1381	K	02-18-2005	AE	7/8
CLOSURE AT LEAST 1:7500			DRAWN BY: J.M.	DRAWING No. 20-9082	



BM: 3950 L
 EL: 5.71

- PROPERTY LINE**
- 1 S.12°09'00"E. (P&M) 10.00'
 - 2 N.77°51'00"E. (P&M) 10.00'
 - 3 N.12°09'00"W. (P&M) 10.00'
 - 4 N.77°51'00"E. (P&M) 5.00'

CERTIFIED TO:

Thomas Morris.
 First Horizon Bank, ISAOA/ATIMA.
 Wolfe Stevens PLLC.
 Old Republic National Title Insurance Company.

ABBREVIATIONS & LEGEND

AS = ALUMINUM SHED AC = AIR CONDITIONING PAD BL = BLOCK BM = BENCH MARK B/D = BOAT DAWT CB = CAST IRON BURNER C.B.S. = CONCRETE BLOCK STRUCTURE C.O. = CURB & GUTTER C.S. = CONCRETE SLAB	EL = ELEVATION CL = CLEAR CONC = CONCRETE CO = CHORD DISTANCE ET = ELECTRIC TRANSFORMER PAD ENC = ENDRACHMENT FF = FINISHED FLOOR ELEVATION FH = FIRE HYDRANT F.I.P. = FOUND 1/2" IRON PIPE	FN = FOUND NAIL F.N.D. = FOUND NAIL & DISK FR = FOUND REBAR F.S. = FOUND SPIKE L.P. = LIGHT POLE L.A. = LIGHT ARCH DISTANCE M.D.E. = MAINTENANCE & DRAINAGE EASEMENT M.S. = METAL SHED ON CONCRETE MEAS. = MEASURED	MM = MANHOLE M.H.W. = MEAN HIGH WATER LINE M.I.D. = IDENTIFICATION NUMBER N.T.S. = NOT TO SCALE O.E.L. = OVERHEAD ELECTRIC LINE O.S. = OFFICIAL RECORD BOOK P.B. = PLAT BOOK P.C.P. = PERMANENT CONTROL POINT P.O. = PAGE	PL = PLANTER POB = POINT OF BEGINNING POC = POINT OF COMMENCEMENT P.P. = POWER POLE P.R.M. = PERMANENT REFERENCE MONUMENT P.R. = RANGE P.R. = RADIIUS R.M. = RIGHT OF WAY SEC = SECTION	REC = RECORDS RES = RESIDENCE RIP = RIB IRON PIPE (L.S. 5718) R.R. = RIB ROD (L.S. 5718) T = TOWNSHIP UE = UTILITY EASEMENT UP = UTILITY POLE V.G. = VALLEY GUTTER CA = CENTRAL ANGLE	C = CENTER LINE M = MOVEMENT LINE P.I. = PLAT P.M. = PLAT AND MEASURE C.S. = WALL D.L. = DRIVE LINE (C.L.F.) O = OVERHEAD ELECTRIC (C.L.F.) E = EXISTING ELEVATION W.F. = WOOD FENCE (W.F.)
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Exhibit B
Utility Easement

Prepared by and return to:
Christopher B. Waldera, Esq.
Christopher B. Waldera, P.A.
5800 Overseas Highway, Suite 7
Marathon, Florida 33050

GRANT OF EASEMENT

It is hereby agreed that Thomas Morris (hereinafter referred to as "Grantor") for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged by Grantor, paid by the Florida Keys Aquaduct Authority (hereinafter referred to as "Authority"), does grant, sell and convey unto Authority a non-exclusive easement under the following terms and conditions:


1. Grantor hereby grants to the Authority a non-exclusive easement, under, over, across and upon those portions of the property described on the attached Exhibit "A" ("Grantor's Property"), in which (i) no improvements exist (other than surface improvements such as roads or sidewalks), and (ii) the end of line flush valve and water meter presently exist. Authority may use other portions of Grantor's Property, but only with the prior written consent of Grantor.
2. Authority, its successors and assigns, shall have only the right to construct, reconstruct, lay, install, operate, maintain, relocate, repair, replace, improve, remove, and inspect water distribution facilities and all appurtenances thereto (the "Utility Facilities") and shall have full right of ingress and egress thereto and therefrom in, over and across the easement area. Authority may at any time enter upon, use and occupy other portions of Grantor's Property, but only to the extent that is necessary for the operation, inspection, maintenance and repair of the Utility Facilities, and shall not utilize Grantor's Property for any other purpose without Grantor's permission.
3. Grantor shall furnish and maintain the easement area free of and clear from any obstruction and shall not construct, place, or allow the placing or construction of any obstruction which would interfere with (I) Authority's safe or proper installation, operation, maintenance, inspection, or removal of the Utility Facilities located in the easement area or (II) any other right granted to Authority. Grantor shall have the right to make any other use of the easement area which does not interfere with the Authority's rights.
4. Any obstruction to the safe or proper operation, maintenance, inspection, or removal of Utility Facilities may be removed by the Authority at Grantor's expense. However, as a condition precedent to such removal, Authority shall first provide notice to Grantor of Authority's intent, and allow Grantor reasonable time to either remove the obstruction or provide Authority with an alternative portion of Grantor's Property for the purpose required.
5. In exercising its rights hereunder, Authority shall, to the extent practicable under the circumstances, minimize disruption of and interference with Grantor's Property. Without limiting the foregoing, Authority shall provide reasonable prior written notice to Grantor of all maintenance and repair activities and, except for the case of emergencies or other causes beyond Authority's control, shall coordinate its activities with Grantor. Authority shall promptly restore all vegetation and improvements damaged by its maintenance and repair activities to a condition comparable to that which existed prior to Authority's activities. Authority shall indemnify and hold Grantor harmless from any loss, damage, expense, claim, cost or liability (including attorneys' fees incurred) arising as a result of the presence or activities of Authority (including its agents and contractors) upon Grantor's Property.
6. Either party, in its discretion and at its sole expense, may have surveys made of the location of the Utility Facilities, and may cause an amendment to this Agreement to be prepared that accurately reflects the location of any such Utility Facilities. In such event, the other party shall have the right to review and approve the survey and form of amendment to this Agreement (which approval shall not be unreasonably withheld) and both parties shall promptly execute the amendment. The width of any easement documented by a survey shall be no less than 10 feet wide to allow Authority to utilize heavy equipment, to the extent actually required, in connection with its maintenance, repair, removal and replacement activities. Any amendment to this Agreement prepared pursuant to this paragraph shall be in recordable form and shall be effective upon recordation in the Official Records of Monroe County, Florida. Any such amendment may address either all or limited portions of Grantor's Property, in which case, the amendment may also identify

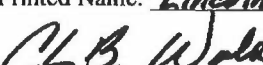
such portions of Grantor's Property to which this Agreement and the Easements created hereby, no longer burden or affect.

- 7. Grantor shall bear the cost of any relocation or modification of said Utility Facilities when the change is necessitated by Grantor's requirements or those of any utility other than the Authority.
- 8. All covenants, stipulations, terms, conditions, and provisions of this agreement shall extend to and be made binding upon respective successors and assigns of Authority and Grantor. It is intended that this agreement shall be recorded and be binding upon future owners of Grantor's Property.
- 9. The Grantor does hereby warrant good and marketable title for Grantor's Property and that it has full power and Authority to grant this easement.
- 10. All provisions of this easement, including the benefits and burdens, run with the land, and are binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.
- 11. The parties agree to execute promptly any other documents and to perform promptly any other acts that may be reasonably required to effectuate the purposes and intent of this easement.
- 12. Whenever the transfer of ownership of all or any part of Grantor's Property takes place, the transferor shall not be liable for the breach, subsequent to such transfer, of any of the covenants contained herein.
- 13. If an action is brought to enforce the provisions of this easement, the prevailing party shall be entitled to receive its costs, litigation expenses, and reasonable attorneys' fees.

IN WITNESS WHEREOF, the parties have executed this Grant of Easement on this 23rd day of June, 2022, at Marathon, Monroe County, Florida.

Signed in the presence of:



 Printed Name: Lincoln Sturroy

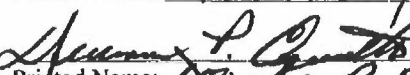

 Printed Name: Christopher B. Waldera

GRANTOR:

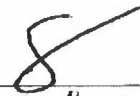

 Thomas Morris

Signed in the presence of:


 Printed Name: Pam Albury


 Printed Name: Daniela P. Esquivel

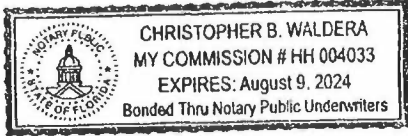
AUTHORITY:
FLORIDA KEYS AQUADUCT AUTHORITY

By: 
 Printed Name: Kerry B. Slattery
 Its: Authorized Signatory

STATE OF FLORIDA

COUNTY OF MONROE

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 23rd day of June, 2022 by Thomas Morris, who is personally known or has produced a driver's license as identification.



CLB Wald

Signature of Notary Public
Print Notary Name: Christopher B. Waldera
My commission expires: 8/9/2024

STATE OF FLORIDA

COUNTY OF MONROE

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this July 12th day of ~~June~~ July, 2022 by Kerry Shelly on behalf of the Florida Keys Aquaduct Authority who is personally known or has produced a driver's license as identification.



Paula D. Alby

Signature of Notary Public
Print Notary Name: Pamela D. Albury
My commission expires: July 11, 2025

Exhibit A
Description of Easement

The Westerly 10 feet of the Southerly 5 feet of the following described property:

A parcel of land being in Government Lot 1, Section 6, Township 66 South, Range 33 East, Key Vaca, Monroe County, Florida and described as follows:

Beginning at the Southwest corner fo Lot 10, LITTLE VENICE NO. 1, according to the Plat thereof, as recorded in Plat Book 3, Page 7, of the Public Records of Monroe County, Florida; thence bear North 77° 51' 00" East along the Southerly boundary line of said Lot 10 for a distance of 40 feet to a point; thence bear South 12° 09' 00" East for a distance of 20 feet to a point; thence bear South 77° 51' 00" West for a distance of 40 feet; thence bear North 12° 09' 00" for a distance of 20 feet back to the Point of Beginning.