LAND AUTHORITY GOVERNING BOARD
AGENDA ITEM SUMMARY

Meeting Date: March 23, 2016
Department: Land Authority

Bulk Item: Yes _ No _ X 
Staff Contact / Phone #: Mark Rosch / 295-5180

Agenda Item Wording: Approval of a resolution authorizing the purchase of Block 16, Lot 9, Coco Plum Beach for conservation and authorizing subsequent conveyance of the property to the City of Marathon subject to a conservation easement.

Item Background: This acquisition is proposed to protect property rights and the natural environment. The subject property is located in Marathon and has been nominated by Marathon City Council Resolution 2016-10.

The proposed Land Authority resolution calls for the Land Authority to purchase the property and subsequently transfer title to the City subject to a conservation easement. The property consists of a 12,818 square foot lot at the corner of Coco Plum Drive and Avenue M on the ocean side of Fat Deer Key near mile marker 54. The property is zoned Residential Low. The property’s vegetation consists of a mix of upland (exotic and tropical hardwood hammock) and wetland (mangrove and buttonwood) species. The Southeast Florida Regional Climate Change Compact 50-year sea level rise projection is 14 to 26 inches by the year 2060. In the event of a 12-inch increase in sea level, estimates provided by the South Florida Water Management District indicate approximately 10,500 square feet of this property will have a 25.1% to 100% probability of being inundated.

The property owners have agreed to sell the property for the price of $17,144. The estimated closing costs for purchasing the property and conveying the property to Marathon are listed in the agenda documentation.

Advisory Committee Action: On 3/2/16 the Committee voted 4/0 to approve the proposed resolution.

Previous Governing Board Action: The Board has approved the purchase of many other conservation properties in this subdivision.

Contract/Agreement Changes: N/A

Staff Recommendation: Approval

Total Cost: $ 18,469.00 Indirect Cost: $______ Budgeted: Yes _ X No ___.

Cost to Land Authority: $ 18,469.00 Source of Funds: Land Authority (Tourist Impact Tax and State Park Surcharge)

Revenue Producing: Yes __ No _ X Amount per Month: ________ Year: ________

Approved By: Attorney _ X County Land Steward _ X_

Documentation: Included: _ X Not Required: ___.

Disposition: ________________ Agenda Item ____
### PURCHASE CONTRACT

**03/23/16**

<table>
<thead>
<tr>
<th>Property</th>
<th>Purchase Price</th>
<th>Survey</th>
<th>Title Fees &amp; Insurance</th>
<th>Attorney Fee</th>
<th>Recording Fee</th>
<th>Total Costs</th>
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<tbody>
<tr>
<td>Block 16, Lot 9</td>
<td>$17,144.00</td>
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<td>$478.50</td>
<td>$375.00</td>
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<tr>
<td>Fat Deer Key</td>
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<tr>
<td>Seller: Dianne L. Holden</td>
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</tbody>
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### DONATION TO MARATHON

**03/23/16**

<table>
<thead>
<tr>
<th>Property</th>
<th>Purchase Price</th>
<th>Survey</th>
<th>Title Insurance</th>
<th>Attorney Fee</th>
<th>Recording Fee</th>
<th>Total Costs</th>
</tr>
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<tbody>
<tr>
<td>Block 16, Lot 9</td>
<td>$0.00</td>
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</tbody>
</table>

Total Cost: $18,469.00
RESOLUTION NO. _________

A RESOLUTION OF THE MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY AUTHORIZING THE PURCHASE OF BLOCK 16, LOT 9, COCO PLUM BEACH FOR CONSERVATION AND AUTHORIZING THE SUBSEQUENT CONVEYANCE OF THE PROPERTY TO THE CITY OF MARATHON SUBJECT TO A CONSERVATION EASEMENT.

WHEREAS, Block 16, Lot 9, Coco Plum Beach, according to the plat thereof as recorded in Plat Book 4, Page 166 of the Public Records of Monroe County, Florida (hereinafter “subject property”) consists of environmentally sensitive land located within the municipal boundary of the City of Marathon (hereinafter “City”); and

WHEREAS, the City Council has adopted Resolution 2016-10 nominating the subject property for purchase by the Monroe County Comprehensive Plan Land Authority (hereinafter “Land Authority”) as conservation land and requesting the Land Authority to transfer title to the City subject to a conservation easement; and

WHEREAS, on March 2, 2016, the Land Authority Advisory Committee considered this resolution and voted 4/0 to recommend approval; NOW, THEREFORE,

BE IT RESOLVED BY THE MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY:

Section 1. The subject property is hereby added to the Land Authority’s Acquisition List and the Land Authority’s purchase of the subject property pursuant to the purchase agreement in Exhibit A is hereby approved.

Section 2. The Chairman is hereby authorized to execute a deed and associated closing documents to convey title to the subject property as a donation to the City and to execute as Grantee the conservation easement in Exhibit B.

PASSED AND ADOPTED by the Monroe County Comprehensive Plan Land Authority at a regular meeting on this 23rd day of March, 2016.

Mayor Heather Carruthers
Commissioner Danny Kolhage
Commissioner Sylvia Murphy
Commissioner George Neugent
Chairman David Rice

(Seal)
ATTEST: MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY

Mark J. Rosch David P. Rice
Executive Director Chairman
Exhibit "A"

AGREEMENT FOR THE PURCHASE OF LANDS

THIS AGREEMENT is made and entered into this _____ day of ________________, 20___, is by and between

Tyrus C. Holden and Dianne L. Holden

hereinafter style the Seller(s), for themselves, their heirs, executors, administrators, successors and assigns, and the MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY (hereinafter, "Land Authority") acting by and through the Executive Director of the LAND AUTHORITY.

WITNESSETH:

1. In consideration of Ten Dollars ($10.00) in hand, paid by the LAND AUTHORITY, the receipt of which is hereby acknowledged, the Seller(s) agree to sell to the LAND AUTHORITY certain lands upon the terms and conditions hereinafter set forth, and for the price of $17,144.00 for all of the lands and other interests, which lands shall include all tenements, hereditaments, together with all water and other rights, easements, appurtenances, and any and all of the Seller’s rights in or arising by reason of ownership thereunto belonging, owned by them, situate and lying in the County of Monroe, State of Florida, more particularly described as follows; to-wit:

   Block 16, Lot 9, Coco Plum Beach (PB 4-166)
   RE# 00365710-000000

2. The Seller(s) agree that they have full right, power and authority to convey, and that they will convey to the LAND AUTHORITY the fee simple title together with legal and practical access thereto clear, free and unencumbered, except subject to the following easements or reservations:

   Existing easements for canals, ditches, flumes, pipelines, railroads, public highways and roads, telephone, telegraph, power transmission lines and public utilities.

   The LAND AUTHORITY, at the LAND AUTHORITY’S expense, within the time allowed to deliver evidence of title and to examine same, may have the real property surveyed and certified by a registered Florida surveyor. If the survey discloses encroachments on the real property or that improvements located thereon encroach on setback lines, easements, lands of others, or violate any restrictions, contract covenants, or applicable governmental regulations, the same shall constitute a title defect.

   Seller(s) shall convey a marketable title subject only to the aforementioned liens, encumbrances, exceptions or qualification set forth herein. Marketable title shall be determined according to applicable title standards adopted by authority of the Florida Bar and in accordance with law. The LAND AUTHORITY shall have sixty (60) days from the effective date of this Agreement in which to examine title. If title is found defective, the LAND AUTHORITY shall, within this specified time period, notify Seller(s) in writing specifying defect(s). If the defect(s) render title unmarketable the Seller(s) will have one hundred twenty (120) days from receipt of notice within which to remove the defect(s), failing which the LAND AUTHORITY shall have the option of either accepting the title as it then is or rescinding the Agreement herein; thereupon the LAND AUTHORITY and the Seller(s) shall release one another of all further obligations under this Agreement. The Seller(s) will, if title is found unmarketable, use diligent effort to correct defect(s) in title within the time provided therefore, including the bringing of necessary suits.
3. The Seller(s) further agree not to do, or suffer others to do, any act by which the value or title to said lands may be diminished or encumbered. It is further agreed that any loss or damage occurring prior to the vesting of satisfactory title in the LAND AUTHORITY by reasons of the unauthorized cutting or removal of products therefrom, or because of fire, shall be borne by the Seller(s); and that, in the event any such loss or damage occurs, the LAND AUTHORITY may refuse, without liability, to accept conveyance of said lands, or it may elect to accept conveyance upon an equitable adjustment of the purchase price.

4. The Seller(s) further agree that during the period covered by this instrument officers and accredited agents of the LAND AUTHORITY shall have at all proper times the unrestricted right and privilege to enter upon said lands for all proper and lawful purposes, including examination of said lands and the resources upon them. The Seller(s) hereby waive their rights to any and all claims against the LAND AUTHORITY or Monroe County associated with, or arising from ownership of, said lands and this waiver shall survive closing.

5. The Seller(s) will execute and deliver upon demand of the proper officials and agents of the LAND AUTHORITY a good and sufficient deed of warranty conveying to the LAND AUTHORITY a safe title to the said lands of such character as to be satisfactory to the legal counsel of the LAND AUTHORITY and said deed shall provide that the use, occupation and operation of the rights-of-way, easements and reservations retained therein, shall be subordinate to and subject to such rules and regulations as may be prescribed by the LAND AUTHORITY governing the use, occupation, protection and administration of lands.

6. In consideration whereof the LAND AUTHORITY agrees that it will purchase all of said lands and other interests at the price of $17,144.00. The LAND AUTHORITY further agrees that, after the preparation, execution, delivery and recordation of the deed, and after the legal counsel of the LAND AUTHORITY shall have approved the title thus vested in the LAND AUTHORITY, it will cause to be paid to the Seller(s) the purchase price by a check drawn on the account of the LAND AUTHORITY. The LAND AUTHORITY shall pay the following expenses associated with the conveyance of the property: deed recording fees, settlement fees, abstract fees, title examination fees, the Buyer's attorney's fees, and title insurance, as well as the prorata share of prepaid real property taxes allocable to the period subsequent to the vesting of title in the LAND AUTHORITY, or the effective date of possession of such real property by the same, whichever is earlier. The Seller(s) shall pay the expenses of documentary stamps to be affixed to the deed and the removal of trash, debris, and structures from the property, if any, and real estate commissions, if any. Full possession of the premises shall pass to the LAND AUTHORITY as of the date payment is made to the Seller(s) subject only to the reservations stated in Section 2 above.

7. It is mutually agreed that an abstract, title insurance policy or other evidence of title to the property herein contracted to be sold, satisfactory to the legal counsel of the LAND AUTHORITY will be obtained by the LAND AUTHORITY at its expense. The Seller(s) expressly agree herein to furnish to the LAND AUTHORITY any documents in Seller(s)'s possession establishing evidence of title including, but not limited to, abstracts, title commitments, title policies and opinions of title.

8. It is mutually understood and agreed that the LAND AUTHORITY may assign this Agreement.

9. It shall be the obligation of the Seller(s) to pay all taxes and assessments outstanding as liens at the date title vests of record in the LAND AUTHORITY, whether or not such taxes and assessments are then due and payable.
10. It is mutually understood and agreed that notice of acceptance of this Agreement shall be given to
the Seller(s) by mail addressed to the Seller(s) at the following address:

3388 S. Leonard Road                  with a copy to:        Derrick Johnson
New Palestine, IN  46163-9707             Coco Plum Real Estate
derrickinflorida@hotmail.com

and shall be effective upon date of mailing and shall be binding upon all of the Seller(s) without
sending a separate notice to each, except as such obligation may be affected by the provisions of
paragraph 6 hereof.

11. The property shall be delivered at closing free of any tenant or occupancy whatsoever.

12. The effective date of this Agreement shall be that date when the last one of the Seller(s) and the
LAND AUTHORITY has signed this Agreement.

13. If the Seller(s) wish to proceed with this transaction, the Seller(s) have until January 8, 2016 to
sign and return this Agreement to the LAND AUTHORITY. This Agreement may be executed in
counterparts. Notwithstanding any provision of this Agreement to the contrary, the closing of this
transaction is contingent upon approval by the Advisory Committee and Governing Board of the
LAND AUTHORITY, failing which the LAND AUTHORITY and the Seller(s) shall release one
another of all further obligations under this Agreement.

[The remainder of this page is intentionally blank.]
14. It is the LAND AUTHORITY’S intent to purchase the subject property as conservation land in partnership with the City of Marathon. Notwithstanding any provision of this Agreement to the contrary, the closing of this transaction is contingent upon the City of Marathon agreeing to accept title to the property from the LAND AUTHORITY with said title encumbered with a conservation easement in favor of the LAND AUTHORITY, failing which the LAND AUTHORITY and the Seller(s) shall release one another of all further obligations under this Agreement.

IN WITNESS WHEREOF, the Seller(s) have hereunto signed their names and affixed their respective seals on the day first above written and therefore the Seller(s) for and in consideration of the Ten Dollars ($10.00) hereinafore acknowledged as received, have and do hereby grant unto the LAND AUTHORITY or its authorized representative, or any other office or agent of the LAND AUTHORITY authorized to purchase said lands, the option and right to enter into this Agreement for Purchase within sixty (60) days from the execution thereof by the Seller(s), and to purchase said lands as herein provided.

Seller/ Tyrus C. Holden

Signature ___________________________ Date _______________ Phone Number _______________

Seller/ Dianne L. Holden

Signature ___________________________ Date _______________ Phone Number _______________

The MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY, acting by and through its EXECUTIVE DIRECTOR in accordance with Resolution 09-2004, has executed this Agreement on behalf of the MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY this ________ day of __________________, 20_____.

MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY

(Seal)

Mark J. Rosch, Executive Director
Exhibit “B”

THIS INSTRUMENT PREPARED BY AND RETURN TO:
Adele V. Stones, Esq.
1200 Truman Avenue, Suite 207
Key West, FL 33040

Property Appraiser’s Parcel Identification (Folio) Number:
00365710-000000

__________________________
SPACE ABOVE THIS LINE FOR RECORDING DATA

GRANT OF CONSERVATION EASEMENT

THIS GRANT OF EASEMENT is made on this ___ day of _____________, 2016, by The City of Marathon, Florida of 9805 Overseas Highway, Marathon, Florida 33050, Grantor, to Monroe County Comprehensive Plan Land Authority, a land authority under Section 380.0663 (1), Florida Statutes and Monroe County Ordinance No. 031-1986, whose address is 1200 Truman Avenue, Suite 207, Key West, Florida 33040, as Grantee.

A) The Grantor is the owner of certain real property (the servient estate) located in Monroe County, Florida, more particularly described as Lot 9, Block 16, Coco Plum Beach, as recorded in Plat Book 4 at page 166 of the Public Records of Monroe County, Florida.

B) This easement is a conservation easement created pursuant to Section 704.06, Florida Statutes, and is to be governed by, construed, and enforced in accordance with that statute along with applicable laws of the State of Florida.

1. Grant of easement.
In consideration for the sum of Ten and 00/100 Dollars ($10.00) and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt of which is hereby acknowledged, the Grantor hereby grants to Grantee the easement described below.

2. Easement area.
The location of the easement area on the servient estate is as follows: Lot 9, Block 16, Coco Plum Beach, as recorded in Plat Book 4 at page 166 of the Public Records of Monroe County, Florida.

3. Baseline conditions within easement area.
The Grantor acknowledges as of the date of this instrument the easement area is undeveloped with no development or structures of any kind and is vegetated with a mix of mangrove and buttonwood wetland species and exotic and native upland species.
4. Restraints imposed by the conservation easement.
The conservation easement granted by this instrument prohibits the following within the easement area:

a) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground.

b) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.

c) Removal or destruction of trees, shrubs, or other vegetation except non-native vegetation whose removal is authorized by the Grantee.

d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.

e) Surface use except for purposes that permit the land or water area to remain predominately in its natural condition.

f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation; specifically no suffering, permitting, or allowing invasive exotic species of animals or plants to exist.

g) Acts or uses detrimental to such retention of land or water areas.

h) Transfer of development rights to or from the easement area.

5. Terms and persons bound.
This conservation easement is perpetual, runs with the land and is binding on all present and subsequent owners and mortgagees of the servient estate. Grantor represents that the mortgagee(s), if any, whose consent is attached hereto, is (are) the only mortgagee(s) having a security interest in the servient estate.

No modification of this easement is binding unless evidenced in writing and signed by an authorized representative of the Grantor and Grantee.

7. Attorney's fees.
In the event of any controversy, claim or dispute arising under this instrument, the prevailing party shall be entitled to recover reasonable attorney's fees and costs, including appeals.
8. Entry of Grantee's representative on the servient estate.
The Grantee may enter upon the servient estate, after first furnishing the Grantor no less than 24 hours notice, for the purpose of inspection to determine the Grantor's compliance with this Grant of Easement.

9. Limitation on Liability for Personal Injury or Injury to Property.
The Grantor waives any rights the Grantor may have to bring a claim against Grantee for personal injury or injury to property that is caused by the negligent action or inaction of Grantee or an employee or agent of Grantee during the course of Grantee's activity related to this Grant of Easement. To the extent allowed by law, the Grantor is liable for and must fully defend, release, discharge, indemnify and hold harmless the Grantee, its officers and employees, agents and contractors, from and against any and all claims, demands, causes of action, losses, costs and expenses of whatever type - including investigation and witness costs and expenses and attorneys' fees and costs - that arise out of or are attributable to the Grantor's operations on the premises except for those claims, demands, damages, liabilities, actions, causes of action, losses, costs and expenses that are the result of the sole negligence of the Grantee. Grantor and Grantee do not waive any of their sovereign immunity rights, including, but not limited to, those expressed in Section 768.28, Florida Statutes.

10. Notice.
Any notice provided for or concerning this grant of easement must be in writing and is sufficiently given when sent by certified or registered mail, or via an equivalent service furnished by a private carrier, to the respective address of each party as set forth at the beginning of this Grant of Easement.

IN WITNESS WHEREOF, Grantor grants the Conservation Easement above and executes this instrument on the date first above written.

Grantor: The City of Marathon, Florida

Witness #1 Signature

Witness #1 Printed Name

Witness #2 Signature

Witness #2 Printed Name

By: Mark Senmartin, Mayor
STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this ______ day of _____________, 2016, by Mark Senmartin, Mayor of The City of Marathon, Florida who is personally known to me or has produced _______________________________ as identification.

SEAL

Signature of Notary Public

My Commission Expires: Printed Name of Notary Public

IN WITNESS WHEREOF, Grantee accepts the Conservation Easement granted above and executes this instrument. Grantee: Monroe County Comprehensive Plan Land Authority

Witness #1 Signature

By: David P. Rice, Chairman

Witness #1 Printed Name

Witness #2 Signature

Witness #2 Printed Name

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this ______ day of _____________, 2016, by David P. Rice, Chairman of the Monroe County Comprehensive Plan Land Authority who is personally known to me or has produced _______________________________ as identification.

SEAL

Signature of Notary Public

My Commission Expires: Printed Name of Notary Public
CITY OF MARATHON, FLORIDA
RESOLUTION NO. 2016-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, NOMINATING PROPERTY FOR PURCHASE BY THE MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY AS CONSERVATION LAND; REQUESTING THAT THE PROPERTY TITLE BE TRANSFERRED TO THE CITY; AUTHORIZING THE MAYOR TO SIGN A CONSERVATION EASEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Lot 9, Block 16, Coco Plum Beach Subd., according to the Public Records of Monroe County, Florida (hereinafter "subject property") consist of environmentally sensitive land located within the City’s municipal boundary; and

WHEREAS, purchase of the subject property as conservation land is consistent with the policies of the City’s Comprehensive Plan and Land Development Regulations; and

WHEREAS, the property owners have agreed to sell the subject property to the Monroe County Comprehensive Plan Land Authority (hereinafter "Land Authority"); and

WHEREAS, the Land Authority wishes to assist the City in acquiring the subject property as conservation land.

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

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

Section 2. The City Council hereby nominates the subject property for purchase by the Land Authority as conservation land. Upon the Land Authority’s purchase of the subject property, the City Council hereby requests that the Land Authority transfer title to the City of Marathon.

Section 3. The City Mayor is hereby authorized to execute the conservation easement in favor of the Land Authority set forth in Exhibit “A” attached hereto and incorporated herein.

Section 4. The City shall further waive stormwater and wastewater fees and assessments.

Section 5. This resolution shall take effect immediately upon its adoption.

THE CITY OF MARATHON, FLORIDA

Mark Senmartin, Mayor

AYES: Bartus, Coldiron, Kelly, Zieg, Senmartin
NOES: None
ABSENT: None
ABSTAIN: None

Diane Clavier, City Clerk
(City Seal)

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

David Migut, City Attorney
Exhibit “A”

THIS INSTRUMENT PREPARED BY AND RETURN TO:
Adele V. Stones, Esq.
1200 Truman Avenue, Suite 207
Key West, FL 33040

Property Appraiser’s Parcel Identification (Folio) Number:
00365710-000000

________________ SPACE ABOVE THIS LINE FOR RECORDING DATA ________________

GRANT OF CONSERVATION EASEMENT

THIS GRANT OF EASEMENT is made on this __ day of __, 2016, by The City of Marathon, Florida of 9805 Overseas Highway, Marathon, Florida 33050, Grantor, to Monroe County Comprehensive Plan Land Authority, a land authority under Section 380.0663 (1), Florida Statutes and Monroe County Ordinance No. 031-1986, whose address is 1200 Truman Avenue, Suite 207, Key West, Florida 33040, as Grantee.

A) The Grantor is the owner of certain real property (the servient estate) located in Monroe County, Florida, more particularly described as Lot 9, Block 16, Coco Plum Beach, as recorded in Plat Book 4 at page 166 of the Public Records of Monroe County, Florida.

B) This easement is a conservation easement created pursuant to Section 704.06, Florida Statutes, and is to be governed by, construed, and enforced in accordance with that statute along with applicable laws of the State of Florida.

1. Grant of easement.
In consideration for the sum of Ten and 00/100 Dollars ($10.00) and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt of which is hereby acknowledged, the Grantor hereby grants to Grantee the easement described below.

2. Easement area.
The location of the easement area on the servient estate is as follows: Lot 9, Block 16, Coco Plum Beach, as recorded in Plat Book 4 at page 166 of the Public Records of Monroe County, Florida.

3. Baseline conditions within easement area.
The Grantor acknowledges as of the date of this instrument the easement area is undeveloped with no development or structures of any kind and is vegetated with a mix of mangrove and buttonwood wetland species and exotic and native upland species.
4. *Restraints imposed by the conservation easement.*

The conservation easement granted by this instrument prohibits the following within the easement area:

- a) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground.

- b) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.

- c) Removal or destruction of trees, shrubs, or other vegetation except non-native vegetation whose removal is authorized by the Grantee.

- d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.

- e) Surface use except for purposes that permit the land or water area to remain predominately in its natural condition.

- f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation; specifically no suffering, permitting, or allowing invasive exotic species of animals or plants to exist.

- g) Acts or uses detrimental to such retention of land or water areas.

- h) Transfer of development rights to or from the easement area.

5. *Terms and persons bound.*

This conservation easement is perpetual, runs with the land and is binding on all present and subsequent owners and mortgagees of the servient estate. Grantor represents that the mortgagee(s), if any, whose consent is attached hereto, is (are) the only mortgagee(s) having a security interest in the servient estate.


No modification of this easement is binding unless evidenced in writing and signed by an authorized representative of the Grantor and Grantee.

7. *Attorney's fees.*

In the event of any controversy, claim or dispute arising under this instrument, the prevailing party shall be entitled to recover reasonable attorney's fees and costs, including appeals.
8. Entry of Grantee's representative on the servient estate.
The Grantee may enter upon the servient estate, after first furnishing the Grantor no less than 24 hours notice, for the purpose of inspection to determine the Grantor's compliance with this Grant of Easement.

9. Limitation on Liability for Personal Injury or Injury to Property.
The Grantor waives any rights the Grantor may have to bring a claim against Grantee for personal injury or injury to property that is caused by the negligent action or inaction of Grantee or an employee or agent of Grantee during the course of Grantee's activity related to this Grant of Easement. To the extent allowed by law, the Grantor is liable for and must fully defend, release, discharge, indemnify and hold harmless the Grantee, its officers and employees, agents and contractors, from and against any and all claims, demands, causes of action, losses, costs and expenses of whatever type - including investigation and witness costs and expenses and attorneys' fees and costs - that arise out of or are attributable to the Grantor's operations on the premises except for those claims, demands, damages, liabilities, actions, causes of action, losses, costs and expenses that are the result of the sole negligence of the Grantee. Grantor and Grantee do not waive any of their sovereign immunity rights, including, but not limited to, those expressed in Section 768.28, Florida Statutes.

10. Notice.
Any notice provided for or concerning this grant of easement must be in writing and is sufficiently given when sent by certified or registered mail, or via an equivalent service furnished by a private carrier, to the respective address of each party as set forth at the beginning of this Grant of Easement.

IN WITNESS WHEREOF, Grantor grants the Conservation Easement above and executes this instrument on the date first above written.

Grantor: The City of Marathon, Florida

[Signature]

By: Mark Senmartin, Mayor

Witness #1 Signature

Diane Clavee
Witness #1 Printed Name

Witness #2 Signature

Hillary Palmer
Witness #2 Printed Name
STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 29 day of January, 2016, by Mark Semmarten, Mayor of The City of Marathon, Florida who is personally known to me or has produced ___________________________ as identification.

Diane Clause
Notary Public - State of Florida
Commission # FF 228622
My Comm. Expires Jul 29, 2019
Bonded through National Notary Assoc.

My Commission Expires: 7-29-19

IN WITNESS WHEREOF, Grantee accepts the Conservation Easement granted above and executes this instrument.

Grantee: Monroe County Comprehensive Plan Land Authority

Witness #1 Signature

Witness #1 Printed Name

Witness #2 Signature

Witness #2 Printed Name

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this ______ day of __________________, 2016, by David P. Rice, Chairman of the Monroe County Comprehensive Plan Land Authority who is personally known to me or has produced ___________________________ as identification.

Signature of Notary Public

My Commission Expires:

Printed Name of Notary Public