

This instrument prepared by and return to:
George B. Wallace, Esq.
City Attorney's Office
P.O. Box 1409
Key West, FL 33041-1409

PARTIAL RELEASE AND EASEMENT MODIFICATION AGREEMENT

THIS PARTIAL RELEASE AND EASEMENT MODIFICATION AGREEMENT is made and entered into this _____ day of _____, 2018, by and between the **CITY OF KEY WEST** (hereinafter "Grantor"), and the **FLORIDA KEYS AQUEDUCT AUTHORITY**, a body corporate and politic and a quasi-public corporation of the the State of Florida, (hereinafter "Grantee").

WHEREAS, The Grantor is the lawful owner in fee simple of real property located in Key West, Monroe County, Florida, more particularly described in Exhibit "A", which is attached hereto and incorporated by reference; and

WHEREAS, Grantee holds an easement for ingress and egress which burdens the property said easement being recorded in the public records of Monroe County Florida in Official Records Book 130 page 168-169; and

WHEREAS, the Grantor desires and the Grantee is willing to partially release the easement as to the northwesterly 25 feet of said easement; and

WHEREAS, the Grantee desires and the Grantor is willing to modify the nature of the easement from an ingress and egress easement to a subsurface utility easement along and beneath the remaining 5 feet of the easement area;

NOW, THEREFORE, in mutual consideration of the benefits accruing to the parties through performance of the terms of this Partial Release and Easement Modification Agreement;

1. Grantor herein expressly agrees to grant a subsurface utility easement to the Grantee along and under that southeasterly 5 feet of Grantor's property more particularly described on Exhibit "A", which is attached hereto and incorporated by reference. This easement and the rights granted herein shall commence on the day and date first above written and shall remain in perpetuity unless terminated as provided for herein.

2. The Grantee, its successors and assigns shall have the right to construct, install, alter, operate, relocate, replace, improve, remove, inspect, and maintain subsurface water transmission lines beneath the southeasterly 5ft of the Grantor's property described in Exhibit "A".

3. The Grantee, its successors and assigns shall have the right to enter and depart along, over, across and beneath the Grantor's property as described herein as necessary for the proper use of all the rights granted herein, upon the condition that the Grantee shall:

(a) Not unreasonably interfere with the Grantor, its successors or assigns use of its property and further Grantee shall, at Grantee's sole cost and expense cause repairs to the Grantor's property for any damage caused by the operation, maintenance or repairs of its water transmission lines

such that the Grantor's property is restored to the same condition as existed prior to the maintenance or repair according to the standard of repair described in the LEASE dated March 10, 1958 and recorded in Official Records Book 148 pages 425429 of the Public records of Monroe County Florida.: and

(b) To the extent permitted by law and subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, the Grantee, to the extent of the Grantor's potential liability pursuant to section 768.28, Florida Statutes, does hereby agree to defend, indemnify and hold the Grantor, its officers, and employees, harmless from and against any and all liability, damages, costs or expenses (including reasonable attorneys' fees, costs, and expenses at both the trial and appellate levels) arising from the acts or omissions of the Grantee or any third party vendor contracted by the Grantee in connection with this Agreement.

4. Grantee does hereby release, remise, and discharge from the Easement recorded in Official Records Book 130 pages 168-169 the Northwesterly 25feet of said easement.

5. All covenants, stipulations, terms, conditions, and provisions of this Agreement shall extend to and be made binding upon respective successors and assigns of the Grantee and Grantor. It is intended that this Agreement shall be recorded and be binding upon future owners of the above described property.

6. This Agreement sets forth all the covenants, promises, agreements, and understandings between CITY and Grantee concerning the Premises. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon CITY or Grantee unless reduced to writing and duly executed by both parties.

7. Should the Grantee cease to utilize the utility easement for a year or more or remove its water transmission line for any reason whatsoever, this easement shall terminate immediately and be of no further force or effect.

(THIS AREA INTENTIONALLY BLANK)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

Signed, sealed and delivered in the presence of:

The Florida Keys Aqueduct Authority

Christie Martin
Witness Name: Christie Martin

By: T.G. Walker 5/18/20
Thomas G. Walker, Executive Director

Lynese Mariscal
Witness Name: Lynese Mariscal

City of Key West, Florida

Witness Name: _____

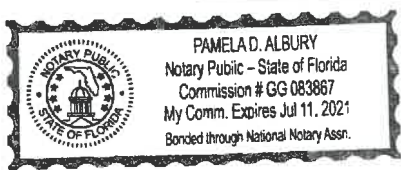
By: _____
Teri Johnston, Mayor

Witness Name: _____

Attest: _____
Cheri Smith, City Clerk

The foregoing Easement Agreement was acknowledged before me this 18 day of May, 2020, by Thomas G. Walker, as Executive Director of the Florida Keys Aqueduct Authority, who is personally known to me, or who produced _____ as identification.

My commission expires:



Pamela D. Albury
Notary Public
Print name: Pamela D. Albury

The foregoing Easement Agreement was acknowledged before me this _____ day of _____, 2020, Teri Johnston, Mayor of the City of Key West, Florida, who is personally known to me, or who produced _____ as identification.

My commission expires:

Notary Public
Print name: _____

EXHIBIT A

FKAA EASEMENT FROM OR BOOK 130 PAGES 168-169

In the City Limits of the City of Key West, in Monroe County, Florida,

From the intersection of the centerline of U.S. Highway Number 1 and the east abutment of the Stock Island Highway Bridge go easterly along the centerline of U.S. Highway Number 1 a distance of 300.00 feet to a point; thence making a deflection angle of 91 degrees 10 minutes to the left with the prolongation of the last described course a distance of 305.64 feet to a point; thence making a deflection angle of 32 degrees 40 minutes to the left with the prolongation of the last described course a distance of 330.00 feet to Traverse Point Number 1; thence making a deflection angle of 13 degrees 13 minutes to the right with the prolongation of the last described course a distance of 300.00 feet to Traverse Point Number 2; thence making a deflection angle of 8 degrees 49 minutes to the right with the prolongation of the last described course a distance of 265.00 feet to Traverse Point Number 3; thence making a deflection angle of 27 degrees 16 minutes to the right with the prolongation of the last described course a distance of 106 feet to a point which point is the point of beginning; thence making a deflection angle of 71 degrees 18 minutes to the right with the prolongation of the last described course and along the northwesterly line of a ditch a distance of 372.71 feet to a point; thence making a deflection angle of 96 degrees 26 minutes 30 seconds to the left with the prolongation of the last described course a distance of 40.09 feet; thence making a deflection angle of 131 degrees 33 minutes 30 seconds to the left with the prolongation of the last described course a distance of 399.31 feet to a point; thence making a deflection angle of 71 degrees 18 minutes to the left with the prolongation of the last described course a distance of 31.67 feet back to the point of beginning.

This easement shall terminate if at any time its use is discontinued for a period of one (1) year.