

**ORDINANCE NO. 2013 -**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING A CONVEYANCE OF APPROXIMATELY 57.5 FEET OF THE OCEAN DRIVE RIGHT OF WAY, AS FURTHER LEGALLY DESCRIBED ON EXHIBIT "A," TO CONSULTATIO KEY BISCAYNE LLC IN ACCORDANCE WITH RESOLUTION 2011-24; PROVIDING FOR AUTHORIZATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on August 22, 2011, the Village of Key Biscayne (the "Village") Village Council adopted Resolution 2011-24 (the "Resolution") approving the vacation and abandonment of approximately 57.5 feet of the Ocean Drive right-of-way (the "Property") in conjunction with the adoption of the site plan submitted by Consultatio Key Biscayne LLC (the "Consultatio") on property located at 350 Ocean Drive within the Village; and

**WHEREAS**, the Resolution provides that to the extent that the Village owns any portion of the abandoned and vacated right-of-way by fee simple title, the Village shall convey such interest to Consultatio; and

**WHEREAS**, in accordance with the Resolution, the Village Council desires to convey the Property via quit claim deed, in substantially the form attached hereto as Exhibit "A," to Consultatio; and

**WHEREAS**, the Village Council finds that the adoption of this Ordinance is in the best interest of the residents of the Village.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS<sup>1</sup>:**

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<sup>1</sup> Coding: underlined words are additions to existing text, ~~struck-through~~ words are deletions from existing text. Highlighted words are changes made between First and Second Reading.

**Section 1.** The preceding “Whereas” clauses are ratified and incorporated as the legislative intent of this Ordinance.

**Section 2. Conveyance Approved.** The Village Council hereby approves the conveyance of the Property via quit claim deed, in substantially the form attached hereto as Exhibit “A,” to Consultatio.

**Section 3. Authorization.** The Village Manager is hereby authorized to execute the deed, in substantially the form attached hereto as Exhibit “A,” subject to approval as to form, content, and legal sufficiency by the Village Attorney.

**Section 4. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Conflicts.** All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 6. Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this \_\_\_\_ day of \_\_\_\_\_, 2013.

PASSED AND ADOPTED on second reading this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
MAYOR FRANKLIN H. CAPLAN

ATTEST:

\_\_\_\_\_  
CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
VILLAGE ATTORNEY

THIS INSTRUMENT PREPARED BY AND  
AFTER RECORDING RETURN TO:

Chad Friedman, Esq.  
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.  
2525 Ponce de Leon Blvd., Suite 700  
Coral Gables, Florida 33134

**QUIT CLAIM DEED**

**THIS QUIT CLAIM DEED**, executed this \_\_\_\_ day of \_\_\_\_\_, 2013, from the **VILLAGE OF KEY BISCAYNE, FLORIDA**, a Florida municipal corporation, whose mailing address is 88 West McIntyre Street, Suite 220, Key Biscayne, Florida 33149, hereinafter referred to as "Grantor", and **CONSULTATIO KEY BISCAYNE, LLC**, a Florida limited liability company, whose mailing address is 1200 Brickell Avenue, Suite 1950, Miami, Florida 33131, hereinafter referred to as "Grantee".

(Wherever 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.)

**WITNESSETH**, That the said Grantor, for and in consideration of the sum of TEN (\$10.00) DOLLARS, and other good and valuable considerations, in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, does hereby remise, release and quit claim unto the said Grantee forever, all the right, title, interest, claim and demand which the said Grantor has in and to the following described lot, piece or parcel of land, situate, lying and being in Miami-Dade County, Florida, to-wit:

**See Exhibit "A" attached hereto (the "Property").**

**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 Grantor, either in law or equity, to the only proper use, benefit and behalf of the said Grantee forever.

THIS CONVEYANCE IS EXPRESSLY SUBJECT TO THE FOLLOWING RESTRICTIONS AND THE GRANTOR'S RIGHT OF REVERTER AS FOLLOWS:

1. Grantee shall comply with each of the terms and conditions of Village Resolution 2011-24, dated August 22, 2011 and recorded December 30, 2011, in Official Records Book 27946, at Page 3403 in the Public Records of Miami-Dade County, Florida ("Village Resolution 2011-24") the terms of which are hereby incorporated by reference.

**NOTE TO RECORDER: PURSUANT TO FLORIDA STATUTES § 201.02(1) THIS QUIT CLAIM DEED IS NOT SUBJECT TO DOCUMENTARY STAMP TAX AS THE TRANSFER CONTEMPLATED HEREIN IS WITHOUT CONSIDERATION.**

2. By acceptance of this Quit Claim Deed, Grantee covenants and agrees for itself, its successors and assigns, that it shall not, whether by action or inaction, discontinuation or abandonment, permit or allow the breach or violation of the restrictions or covenants provided



The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2013, by John C. Gilbert, the Village Manager of the Village of Key Biscayne, a Florida municipal corporation, on behalf of the Village, who (check one) [ ] is personally known to me or [ ] has produced a Florida Driver's License as identification.

[SEAL]

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

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

Commission Expires: \_\_\_\_\_

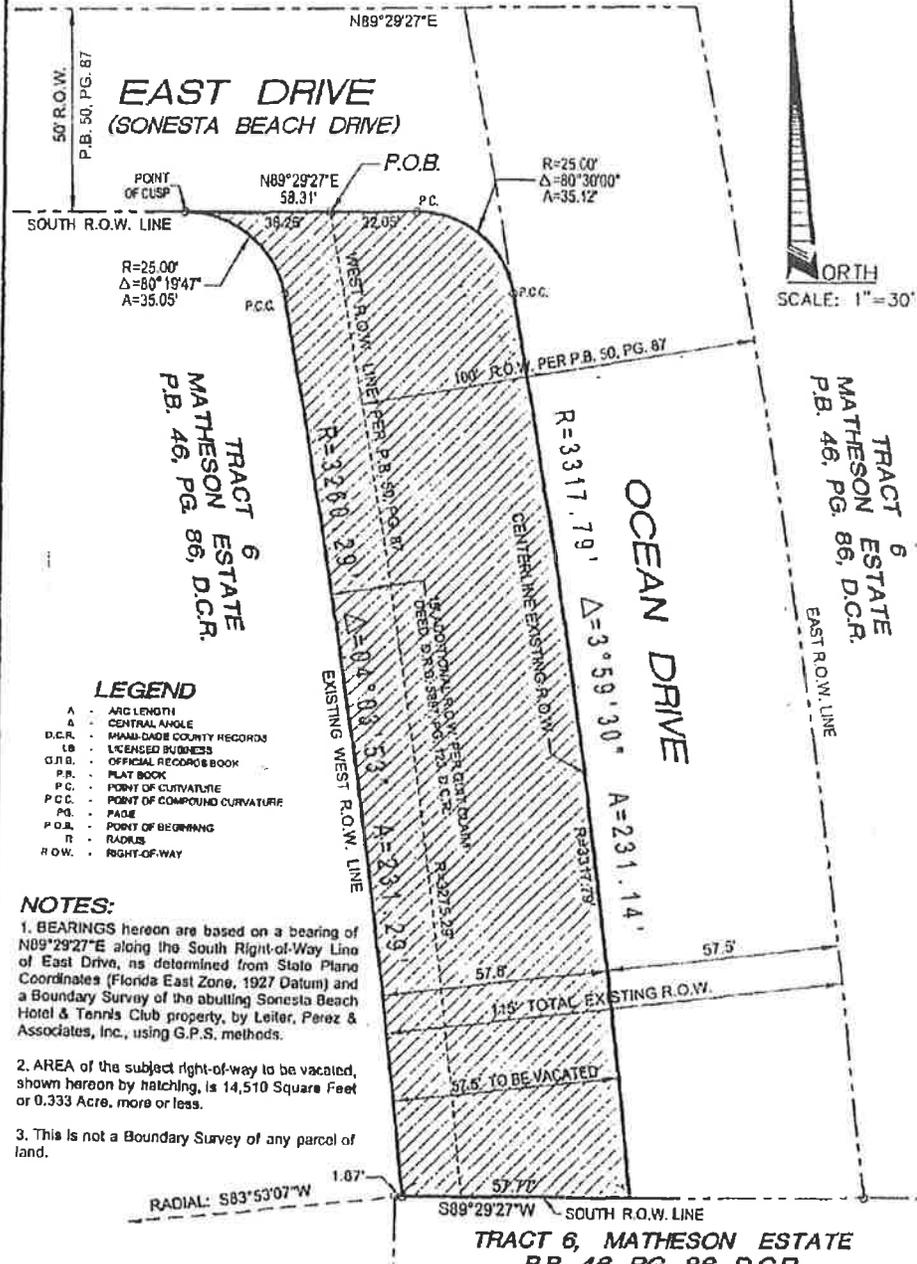
**EXHIBIT "A"**

**LEGAL DESCRIPTION OF VACATED RIGHT-OF-WAY LAND**

*(Attached hereto)*

**EXHIBIT "A"**  
**OCEAN DRIVE R.O.W. TO BE VACATED**  
**SKETCH TO ACCOMPANY LEGAL DESCRIPTION**

TRACT 6, MATHESON ESTATE  
 P.B. 46, PG. 86, D.C.R.



**LEGEND**

- A - ARC LENGTH
- Δ - CENTRAL ANGLE
- D.C.R. - MIAMI-DADE COUNTY RECORDS
- L.B. - LICENSED BUSINESS
- O.L.B. - OFFICIAL RECORD BOOK
- P.B. - PLAT BOOK
- P.C. - POINT OF CURVATURE
- P.C.C. - POINT OF COMPOUND CURVATURE
- P.D. - PACE
- P.D.A. - POINT OF BEGINNING
- R - RADIUS
- R.O.W. - RIGHT-OF-WAY

**NOTES:**

1. BEARINGS hereon are based on a bearing of N89°29'27\"E along the South Right-of-Way Line of East Drive, as determined from State Plane Coordinates (Florida East Zone, 1927 Datum) and a Boundary Survey of the abutting Sonesta Beach Hotel & Tennis Club property, by Leiter, Perez & Associates, Inc., using G.P.S. methods.
2. AREA of the subject right-of-way to be vacated, shown hereon by hatching, is 14,510 Square Feet or 0.333 Acre, more or less.
3. This is not a Boundary Survey of any parcel of land.

NOTE: THIS IS NOT A LAND SURVEY.  
 FOR LEGAL DESCRIPTION, SEE SHEET 2 OF 2.

**LEITER, PEREZ & ASSOCIATES, INC.**  
 LAND DEVELOPMENT CONSULTANTS  
 CIVIL ENGINEERS - LAND SURVEYORS  
 LAND PLANNERS - ENVIRONMENTAL

800 N.W. 170TH ST., SUITE 403, MIAMI, FLORIDA 33158  
 MIAMI-DADE (202) 852-6113 BROWARD (954) 334-2202 FAX (305) 652-0411  
 E-Mail: office@leiteperez.com WEBSITE: www.leiteperez.com LICENSED BUSINESS NO. 6181

REVISION:	
07-17-11	57.5' R.O.W.

FILE: 11-137Vocated.dwg  
 DATE: 07-12-11 JOB NO.: 11-137 TRF: L-181911 SHEET 1 OF 2

**EXHIBIT "A"**  
**OCEAN DRIVE RIGHT-OF-WAY TO BE VACATED**

**LEGAL DESCRIPTION:**

A parcel of land being a portion of the existing right-of-way of Ocean Drive, lying in Section 32, Township 54 South, Range 42 East, Village of Key Biscayne, Miami-Dade County, Florida, said portion being more particularly described as follows:

BEGINNING at the intersection of the South Right-of-Way Line of East Drive and the platted Westerly Right-of-Way Line of Ocean Drive, as is shown on the Plat of HOLIDAY COLONY, recorded in Plat Book 50, Page 87 of the Public Records of Miami-Dade County, Florida; thence with a bearing of N.89°29'27"E., along the Easterly extension of said South Right-of-Way Line of East Drive, a distance of 22.05 feet to the Point of Curvature of a circular curve to the right; thence Southeasterly along the arc of said curve, having a radius of 25.00 feet and a central angle of 80°30'00" for an arc length of 35.12 feet to a Point of Compound Curvature; thence Southeasterly along the arc of a circular curve to the right, having a radius of 3317.79 feet and a central angle of 3°59'30" for an arc length of 231.14 feet to the South Right-of-Way Line of said Ocean Drive, the preceding arc lying 57.5 feet Easterly of and concentric with the existing Westerly Right-of-Way line of Ocean Drive; thence S.89°29'27"W., along said South Right-of-Way Line of Ocean Drive, for 57.77 feet to a point on a circular curve, the radius point of which bears S.83°53'07"W. from the last described point; thence Northwesterly along the arc of said curve to the left, also being along the existing Westerly Right-of-Way Line of Ocean Drive, having a radius of 3269.29 feet and a central angle of 4°03'53" for an arc length of 231.29 feet to a Point of Compound Curvature of a circular curve to the left; thence Northwesterly along the arc of said curve, having a radius of 25.00 feet and a central angle of 80°18'47" for an arc length of 35.06 feet to a Point of Cusp lying on the South Right-of-Way Line of East Drive; thence N.89°29'27"E. along said South Right-of-Way Line of East Drive for 38.28 feet to the POINT OF BEGINNING.

THIS SKETCH & LEGAL DESCRIPTION WAS PREPARED UNDER MY SUPERVISION  
 LEITER, PEREZ & ASSOCIATES, INC. FILE: 11-137cc016.cad

NOTE:  
 THIS IS NOT A LAND SURVEY.  
 FOR SKETCH AND NOTES, SEE SHEET 1 OF 2.

BY:  CHRISTOPHER LEITER, PROFESSIONAL SURVEYOR & MAPPER  
 STATE OF FLORIDA

 LEITER PEREZ & ASSOCIATES, INC.  
 LAND DEVELOPMENT CONSULTANTS  
 CIVIL ENGINEERS - LAND SURVEYORS  
 LAND PLANNERS - ENVIRONMENTAL  
 110 N.W. 116TH ST. SUITE 405 MIAMI, FLORIDA 33168  
 PHONE (305) 832-8473 FAX (305) 832-6111

DATE	07-12-11	JOB NO.	11-137	FILE	1-18191
REVISED					
BY					
DATE	07-17-11	BY	073	REVISED	

NOT VALID WITHOUT  
 THE SIGNATURE AND  
 THE CIRCULAR RAISED SEAL  
 OF A FLORIDA LICENSED  
 SURVEYOR AND MAPPER

the 1990s, the number of publications on the topic of the present study has increased steadily.

There are a number of reasons for this increase. First, the number of people who are interested in the topic of the present study has increased. This is due to the fact that the topic has become more relevant in the current climate of globalisation and internationalisation. Second, the number of people who are qualified to conduct research in this area has increased. This is due to the fact that more people are now studying for degrees in this area. Third, the number of people who are interested in publishing their research in this area has increased. This is due to the fact that there are now more journals and books that accept research in this area.

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CFN 2011R0876627  
OR Bk 27946 Pgs 3403 - 3408; (6pgs)  
RECORDED 12/30/2011 11:48:54  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

**RESOLUTION NO. 2011-24**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA APPROVING AN ABANDONMENT AND VACATION OF 57.5 FEET OF THE OCEAN DRIVE RIGHT-OF-WAY; PROVIDING FOR CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Consultatio Key Biscayne LLC (the "Applicant") is the owner of approximately 10.11 acres of real property located at 350 Ocean Drive, Key Biscayne, Florida (the "Property"); and

**WHEREAS**, for several decades the Property was used as a hotel and was a place of public accommodation, which required an ongoing need for a substantial public right-of-way; and

**WHEREAS**, the Applicant desires to change the use of the Property, which would alleviate the need for the existing width of the Ocean Drive right-of-way (the "Right-of-Way"); and

**WHEREAS**, the Applicant has filed a Planning and Zoning Application seeking to abandon and vacate 57.5 feet of the Right-of-Way; and

**WHEREAS**, after proper public notice, the Village Council has conducted a public hearing and considered all testimony and other evidence presented and otherwise made part of the record; and

**WHEREAS**, the Village Council has determined that there is no longer a public need for the existing width of the Right-of-Way, and that reducing the Right-of-Way to 57.5 feet is in the public's interest as this will enhance pedestrian safety as well as traffic circulation.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, AS FOLLOWS:**



**Section 1. Recitals Adopted.** The recitals set forth above are hereby adopted and confirmed.

**Section 2. Approval of a Partial Abandonment & Vacation of the Right-of-Way.**  
The Village Council hereby abandons and vacates 57.5 feet of the Right-of-Way, as legally described on Exhibit "A." To the extent that any portion of the abandoned and vacated Right-of-Way is owned in fee simple title by the Village, the Village shall transfer its interest to the adjacent fee simple title property owner.

**Section 3. Conditions.** The approvals granted by this Resolution are subject to compliance with the following condition, to which the Applicant stipulated and agreed to at the public hearing:

- 1, The Property is developed in accordance with the site plan prepared by Arquitectonica International Corporation, entitled "Proposed Site Plan," dated July 15, 2011, and consisting of 37 pages.

**Section 4. Recording.** This Resolution shall be recorded, prior to the issuance of a building permit, by the Applicant at its expense in the public records of Miami-Dade County. A copy of the proof of recordation shall be submitted to the Building, Zoning and Planning Department prior to the issuance of any building permits.

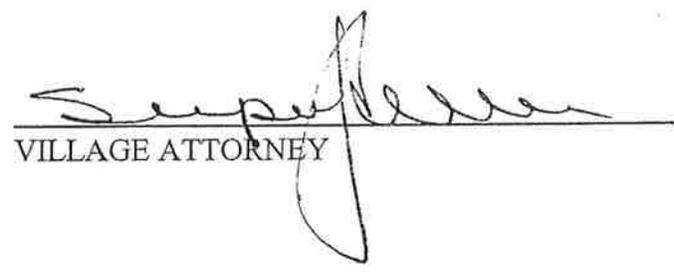
**Section 5. Effective Date.** This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED this 22nd day of August, 2011.

  
MAYOR FRANKLIN CAPLAN

ATTEST  
  
CONCHITA H. ALVAREZ, MMC VILLAGE CLERK

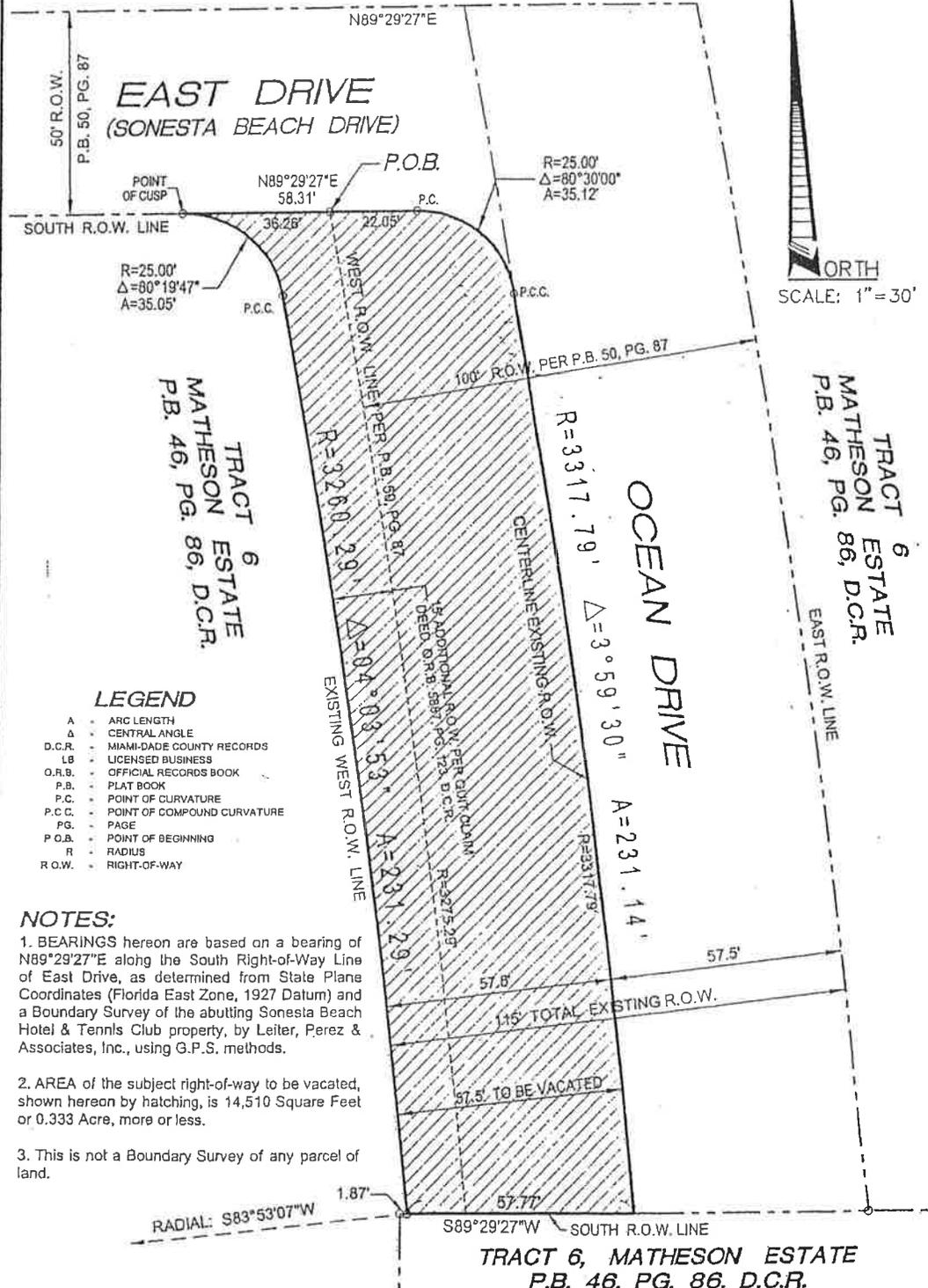
APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

  
VILLAGE ATTORNEY



**EXHIBIT "A"**  
**OCEAN DRIVE R.O.W. TO BE VACATED**  
**SKETCH TO ACCOMPANY LEGAL DESCRIPTION**

TRACT 6, MATHESON ESTATE  
 P.B. 46, PG. 86, D.C.R.



**LEGEND**

- A \* ARC LENGTH
- Δ \* CENTRAL ANGLE
- D.C.R. \* MIAMI-DADE COUNTY RECORDS
- LB \* LICENSED BUSINESS
- O.R.B. \* OFFICIAL RECORDS BOOK
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- PG. \* PAGE
- P.O.B. \* POINT OF BEGINNING
- R \* RADIUS
- R.O.W. \* RIGHT-OF-WAY

**NOTES:**

1. BEARINGS hereon are based on a bearing of N89°29'27"E along the South Right-of-Way Line of East Drive, as determined from State Plane Coordinates (Florida East Zone, 1927 Datum) and a Boundary Survey of the abutting Sonesta Beach Hotel & Tennis Club property, by Leiter, Perez & Associates, Inc., using G.P.S. methods.
2. AREA of the subject right-of-way to be vacated, shown hereon by hatching, is 14,510 Square Feet or 0.333 Acre, more or less.
3. This is not a Boundary Survey of any parcel of land.

NOTE: THIS IS NOT A LAND SURVEY.  
 FOR LEGAL DESCRIPTION, SEE SHEET 2 OF 2.

**LEITER PEREZ & ASSOCIATES, INC.**  
 LAND DEVELOPMENT CONSULTANTS  
 CIVIL ENGINEERS - LAND SURVEYORS  
 LAND PLANNERS - ENVIRONMENTAL  
 150 N.W. 176TH ST., SUITE 403, MIAMI, FLORIDA 33169  
 MIAMI-DADE (305) 652-5133 BROWARD (954) 524-2202 FAX: (305) 652-0411  
 E-Mail: office@leiterperez.com WEBSITE: www.leiterperez.com LICENSED BUSINESS No 6787

REVISION:	
07-17-11	57.5' R.O.W.

DATE: 07-12-11 JOB NO.: 11-137 FILE: L-1819(1) SHEET 1 OF 2

FILE: 11-137Vacated.dwg

**EXHIBIT "A"**  
**OCEAN DRIVE RIGHT-OF-WAY TO BE VACATED**

**LEGAL DESCRIPTION:**

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THIS "SKETCH & LEGAL DESCRIPTION" WAS PREPARED UNDER MY SUPERVISION. FILE: 11-137vacated.dwg  
**LEITER, PEREZ & ASSOCIATES, INC.**

BY: Geoffrey Leiter PRESIDENT  
 GEOFFREY LEITER, PROFESSIONAL SURVEYOR & MAPPER #2820  
 STATE OF FLORIDA

NOTE:  
 THIS IS NOT A LAND SURVEY.  
 FOR SKETCH AND NOTES, SEE SHEET 1 OF 2.

NOT VALID WITHOUT  
 THE SIGNATURE AND  
 THE ORIGINAL RAISED SEAL  
 OF A FLORIDA LICENSED  
 SURVEYOR AND MAPPER

**LEITER PEREZ & ASSOCIATES, INC.**  
 LAND DEVELOPMENT CONSULTANTS  
 CIVIL ENGINEERS - LAND SURVEYORS  
 LAND PLANNERS - ENVIRONMENTAL  
 140 P.W. 18TH ST. SUITE 402 MIAMI, FLORIDA 33139  
 MIAMI-DADE (305) 352-5121 BROWARD (954) 337-3202 FAX (305) 352-0411  
 E MAIL [info@leiterperez.com](mailto:info@leiterperez.com) AFBSTE [www.leiterperez.com](http://www.leiterperez.com) LICENSED BUSINESS NO. 8781

R.C.V.I.S.I.D.#:	
07-17-11	57.5' R.O.W.
DATE: 07-12-11	JOB NO. 11-137 FILE L-181911

SHEET 2 OF 2



VILLAGE OF KEY BISCAIYNE

Office of the Village Clerk

*Village Council*

- Franklin H. Caplan, *Mayor*
- Michael E. Kelly, *Vice Mayor*
- Michael W. Davey
- Enrique Garcia
- Robert Gusman
- Mayra P. Lindsay
- James S. Taintor

*Village Clerk*

Conchita H. Alvarez, *MMC*

I, Myriam Restrepo, hereby certify that Resolution 2011-24 was filed in the official records of the Village of Key Biscayne on September 7, 2011.

*Myriam Restrepo*  
 Myriam Restrepo  
 Assistant to the Village Clerk  
 Village of Key Biscayne

STATE OF FLORIDA, COUNTY OF DADE  
 I HEREBY CERTIFY that this is a true copy of the  
 original filed in this office on \_\_\_\_\_ day of \_\_\_\_\_  
 A.D. 20\_\_\_\_  
 WITNESS my hand and Official Seal  
 HARVEY RIVIN, CLERK, of Circuit and County Courts  
 By *Harvey Rivin* P.S.

