

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 FOLLOWS¹:

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 11th day of June, 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

EXHIBIT "A"

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 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.63°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 3260.29 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°19'47" for an arc length of 35.05 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: 11-1370cc216.cad

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

BY: [Signature] LEITER, PEREZ & ASSOCIATES, INC.
 PROFESSIONAL SURVEYOR & REGISTERED
 STATE OF FLORIDA

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

LEITER PEREZ & ASSOCIATES, INC.
 LAND DEVELOPMENT CONSULTANTS
 CIVIL ENGINEERS - LAND SURVEYORS
 LAND PLANNERS - ENVIRONMENTAL
 180 NW 115th St. Suite 403, Miami, Florida 33187
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REVISION	
02-17-11	273 R.O.W.

DATE: 07-12-11 JOB NO. 11-137 PLOT 1-181811 SHEET 2 OF 2