

**ORDINANCE NO. 2013-4**

**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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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.

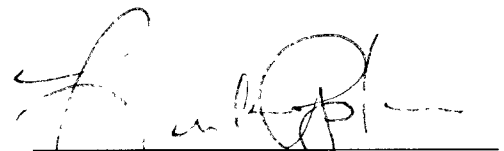
**Section 4. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, 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 25th day of June, 2013.

  
MAYOR FRANKLIN H. CAPLAN

ATTEST:

*Conchita H. Alvarez*

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY.

*[Signature]*  
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 25<sup>th</sup> day of June, 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.**

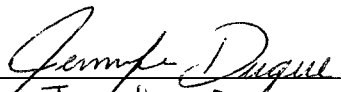
2. By acceptance of this Quit Claim Deed, Grantee covenants and agrees for itself, its successors and assigns, that it shall not, whether by action or inaction, discontinuation or abandonment, permit or allow the breach or violation of the restrictions or covenants provided


for herein, including, but not limited, to compliance with the terms of Village Resolution 2011-24 (the "Restrictions and Covenants"). Prior to the recordation of the certificate of substantial completion for Oceana Key Biscayne Condominium ("Condominium") as required by Section 718.104(4)(e), Florida Statutes (the "Certificate"), whether as an Exhibit to the Declaration or otherwise, it is expressly provided that upon Grantee's breach or violation of any of the Restrictions and Covenants set forth herein, ownership of the fee simple title to the Property shall revert to the Village and Village shall have the absolute right to reenter and repossess the Property and any improvements thereon, as well as the further right to institute suit in a court of competent jurisdiction to establish or enforce such right of reverter and possession. If the right of reverter set forth above takes effect by operation of law because of Grantee's breach or violation of the Restrictions and Covenants provided for herein, then, in such event, Grantee shall execute and deliver to the Village a Quit Claim Deed for the Property free and clear of liens and encumbrances including, but not limited to, the payment of ad valorem, sales, use and other applicable taxes, if applicable. If Grantee fails or refuses to execute and deliver such Quit Claim Deed when requested to do so, Village may record an appropriate instrument setting forth the fact of the reverter of the Property. The right of reverter described herein shall become automatically null and void upon the recordation of the Certificate in the records of Miami-Dade County.

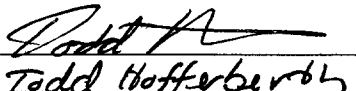
**IN WITNESS WHEREOF**, Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered  
in our presence:

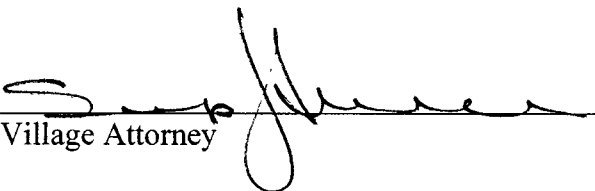
**VILLAGE OF KEY BISCAYNE, FLORIDA**,  
a municipal corporation of the State of Florida

  
\_\_\_\_\_  
Jennifer Duque  
Print Name

By:   
Name: John C. Gilbert  
Title: Village Manager

  
\_\_\_\_\_  
Todd Hofferbergh  
Print Name



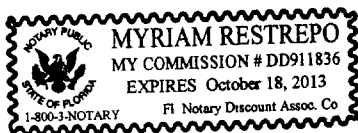
APPROVED AS TO FORM AND  
CORRECTNESS:  
  
\_\_\_\_\_  
Village Attorney

ATTEST:  
  
\_\_\_\_\_  
Conchita H. Alvarez, MMC Village Clerk

STATE OF FLORIDA )  
 )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of July, 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]



Myriam Restrepo  
Notary Public, State of Florida  
Print Name: Myriam Restrepo  
Commission Expires: 10/18/13

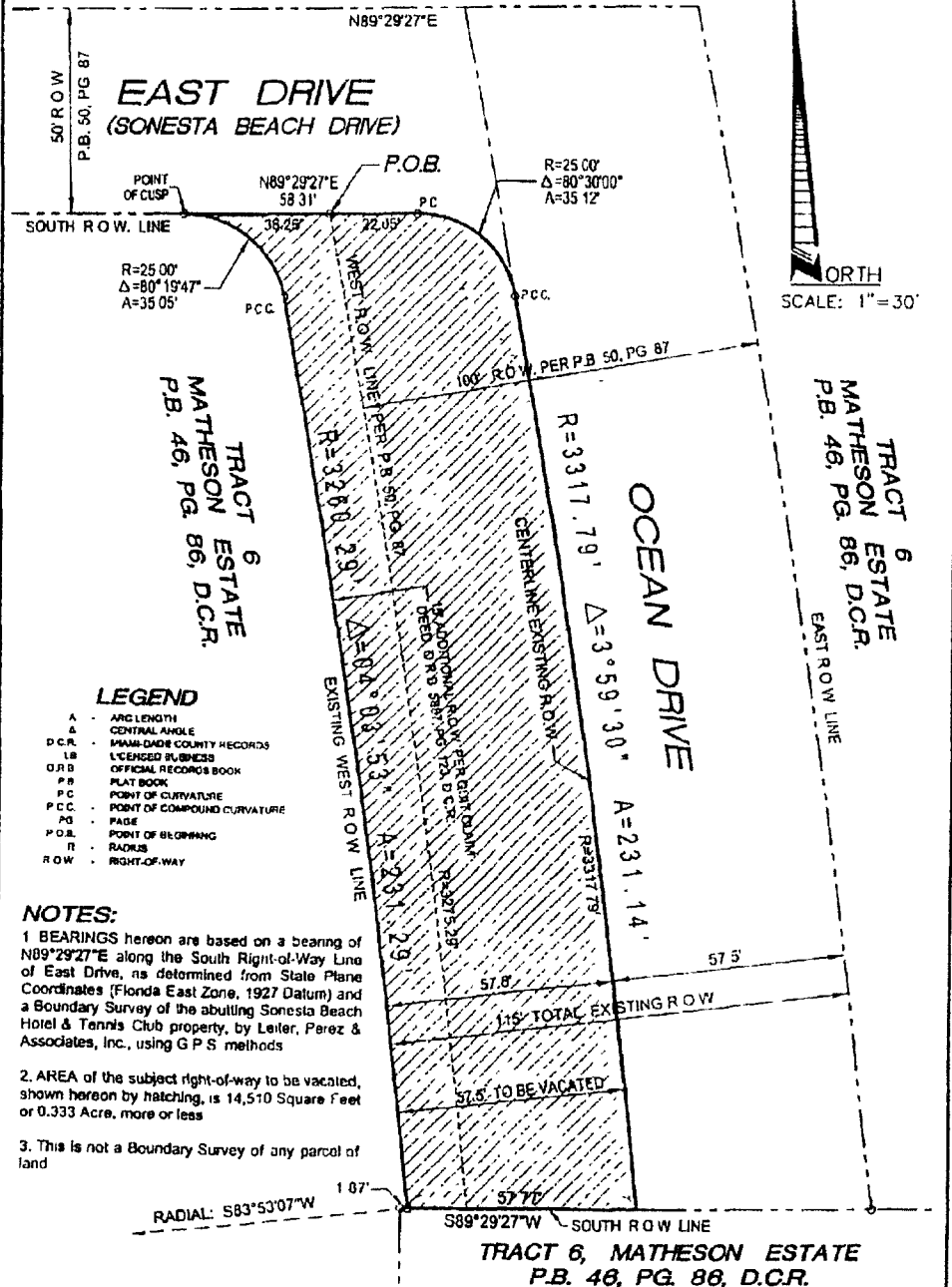
**EXHIBIT "A"**

**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.R.B. - OFFICIAL RECORDS BOOK
- P.B. - PLAT BOOK
- P.C. - POINT OF CURVATURE
- P.C.C. - POINT OF COMPOUND CURVATURE
- P.G. - PAGE
- P.O.B. - POINT OF BEGINNING
- R. - RADII
- 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 GPS 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  
 100 N.W. 175TH ST., SUITE 403, MIAMI, FLORIDA 33168  
 MIAMI-DADE (305) 552-5133 BROWARD (954) 324-2202 FAX (305) 552-0411  
 E-Mail: office@leiteper.com WEBSITE: www.leiteper.com LICENSED BUSINESS #6 6187

REVISION	
07-17-11	575' ROW

FILE 11-137vacated.dwg



**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  $N 89^{\circ} 29' 27'' E$ , 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  $80^{\circ} 30' 00''$  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  $3^{\circ} 59' 30''$  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 concave with the existing Westerly Right-of-Way line of Ocean Drive; thence  $S 89^{\circ} 29' 27'' W$ , 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  $S 63^{\circ} 53' 07'' W$ , 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 3266.29 feet and a central angle of  $4^{\circ} 03' 53''$  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  $80^{\circ} 19' 47''$  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  $N 89^{\circ} 29' 27'' E$ , 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 11-11700000000000000000

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

BY:  PROFESSIONAL SURVEYOR & REGISTERED LAND SURVEYOR  
 STATE OF FLORIDA

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

**LEITER PEREZ & ASSOCIATES, INC.**  
 LAND DEVELOPMENT CONSULTANTS  
 CIVIL ENGINEERS - LAND SURVEYORS  
 LAND PLANNERS - ENVIRONMENTAL  
 1801 NW 17TH ST SUITE 401 MIAMI, FL 33135  
 PHONE 305-551-1111 FAX 305-551-1111

REVISION	
07-17-11	078 R.O.W.

DATE 07-12-11 JOB NO 41 137 INC 11-10181

7-651 2 OF 2

**VILLAGE OF KEY BISCAYNE  
OFFICE OF THE VILLAGE CLERK  
PUBLIC NOTICE**

**MIAMI DAILY BUSINESS REVIEW**

Published Daily except Saturday, Sunday and  
Legal Holidays  
Miami, Miami-Dade County, Florida

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE:

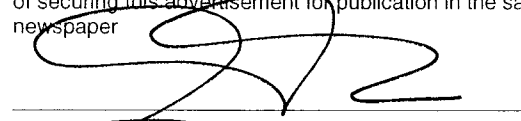
Before the undersigned authority personally appeared MARIA MESA, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida, that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

VILLAGE OF KEY BISCAYNE  
ORDINANCES - JUNE 25, 2013

in the XXXX Court,  
was published in said newspaper in the issues of

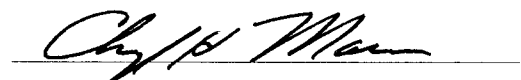
06/13/2013

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida, each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper



Sworn to and subscribed before me this

13 day of JUNE, A.D. 2013



(SEAL)

MARIA MESA personally known to me

Notice is hereby given that the following ordinances will be considered on Second Reading by the Village Council of the Village of Key Biscayne at a meeting to be held on Tuesday, June 25, 2013 at 7:00 p.m., in the Council Chamber, located at 560 Crandon Boulevard, Key Biscayne, Florida:

**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.**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING THE VILLAGE OF KEY BISCAYNE CODE OF ORDINANCES BY AMENDING SECTION 2-42 "CIVIL PENALTIES AND RELATED TERMS CONSTRUED" OF ARTICLE III "CODE ENFORCEMENT" OF CHAPTER 2 "ADMINISTRATION", AND BY AMENDING ARTICLE IV "DANGEROUS INTERSECTION SAFETY" OF CHAPTER 26 "TRAFFIC AND VEHICLES" TO ENSURE CONSISTENCY WITH SECTION 316.0083, FLORIDA STATUTES, "THE MARK WANDALL TRAFFIC SAFETY ACT", AS AMENDED BY THE FLORIDA LEGISLATURE THROUGH THE ENACTMENT OF CS/CS/HB HOUSE BILL 7125 DURING THE 2013 LEGISLATIVE SESSION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR CLERK DESIGNATED; PROVIDING FOR SAVINGS; PROVIDING FOR AN EFFECTIVE DATE.**

The proposed Ordinances may be inspected by the public at the Office of the Village Clerk. Interested parties may appear at the Public Hearing and be heard with respect to the proposed Ordinances. Any person wishing to address the Village Council on any item at this Public Hearing is asked to register with the Village Clerk prior to that item being heard.

In accordance with the Americans With Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Office of the Village Clerk, 88 West McIntyre Street, Suite 220, Key Biscayne, Florida 33149, telephone number (305) 365-5506, not later than two business days prior to such proceeding.

Should any person desire to appeal any decision of the Village Council with respect to any matter to be considered at this meeting, that person shall insure that a verbatim record of the proceedings is made including all testimony and evidence upon which any appeal may be based (F.S. 286.0105).

Comments of any interested party relative to this matter may be submitted in writing and or presented in person at the public hearing.

Conchita H. Alvarez, MMC  
Village Clerk

6/13

13-4-380/2102783M

