

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. \_\_\_\_\_  
Application No. 2007-126CS

SEA GRAPE II, LTD.,

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

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**PETITION FOR WAIVER OF RULE 67-48.004(14)(e) TO CHANGE  
THE SITE OF THE SEA GRAPE II DEVELOPMENT**

Petitioner Sea Grape II, Ltd., a Florida limited partnership (“Sea Grape II”), petitions Respondent Florida Housing Finance Corporation (“Florida Housing”) for a waiver of restrictions on changing a development’s site. *See* Rule 67-48.004(14)(e), F.A.C. (2007) (the “Rule”).

1. Pursuant to Section 120.542, Fla. Stat. (2007), and Rules 28-104.001 through 28-104.006, F.A.C. (2007), Sea Grape II requests a waiver of the Rule to allow for a change of its development site.

**A. The Petitioner and the Development**

2. The name, address, and telephone and facsimile numbers for Sea Grape II and its qualified representative are:

Sea Grape II, Ltd.  
c/o CDG Sea Grape II, LLC  
Attention: Liz Wong  
2937 S.W. 27<sup>th</sup> Avenue, Suite 200  
Miami, Florida 33133  
Telephone: 305-476-8118  
Facsimile: 305-476-1557

3. The name, address, telephone and facsimile numbers, and e-mail addresses of Sea Grape II's attorneys, for purposes of this Petition, are:

Brian J. McDonough, Esquire  
STEARNS WEAVER MILLER  
WEISSLER ALHADEFF & SITTERSON, P.A.  
150 West Flagler Street, Suite 2200  
Miami, Florida 33130  
Telephone: 305-789-3200  
Facsimile: 305-789-3395  
E-mail: [bmcdonough@swmwas.com](mailto:bmcdonough@swmwas.com)

Mimi L. Sall, Esquire  
STEARNS WEAVER MILLER  
WEISSLER ALHADEFF &  
SITTERSON, P.A.  
200 East Las Olas Blvd., Suite 2100  
Fort Lauderdale, Florida 33301  
Telephone: 954-462-9575  
Facsimile: 954-462-9524  
E-mail: [msall@swmwas.com](mailto:msall@swmwas.com)

4. Pursuant to the 2007 Universal Cycle, Sea Grape II was a successful applicant under its 2007 Universal Application ("Universal Application")<sup>1</sup> for a loan of up to \$2,215,555 (which includes the Supplemental Loan amount of \$255,000) under the State Apartment Incentive Loan ("SAIL") Program. The SAIL funds will be used to finance a portion of the costs for the development of Sea Grape II, a new 28-unit multi-building apartment development (the "Development") intended to serve low income individuals and/or families in Marathon, Monroe County, Florida.

5. In its Universal Application, Sea Grape II also applied for housing tax credits ("Housing Credits") under the Low Income Housing Tax Credit program, with the equity raised from Housing Credits also being used for the Development.

6. Florida Housing has issued its Preliminary Allocation of Housing Credits reserved in the amount of up to \$700,000, and it is anticipated that there will be a Final Housing Credit

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<sup>1</sup>The Universal Application Package has been adopted and incorporated into Chapter 67-48 by Rule 67-48.004(1)(a), F.A.C. (2007).

Allocation granted to Sea Grape II in accordance with Florida Housing's final allocation procedures.

7. The requested Rule waiver will not adversely affect the Development. However, a denial of this Petition (a) would result in substantial economic hardship to Sea Grape II; (b) could deprive Monroe County of essential, affordable housing units in a timely manner; and (c) would violate principles of fairness. § 120.542(2), Fla. Stat. (2007).

8. The waiver being sought is permanent in nature.

**B. Rule from Which Relief is Requested and Statute Implemented by the Rule**

9. Sea Grape II requests a waiver of Rule 67-48.004(14)(e). As applied to applications for Housing Credits and SAIL loans, the Rule identifies certain non-curable matters and includes the following:

Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline ... Those items are as follows:

(e) Site for the Development;

10. The applicable Rule for which the waiver is requested is implementing Florida Housing Finance Corporation Act's statute that created the Housing Credits Program. § 420.5099, Fla. Stat. (2007).<sup>2</sup> The Act designates Florida Housing as the State of Florida's housing credit agency within the meaning of Section 42(h)(7)(A) of the Internal Revenue Code of 1986. As the designated agency, Florida Housing is responsible for and is authorized to establish procedures for the allocation and distribution of low-income housing tax credits.

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<sup>2</sup>The Florida Housing Finance Corporation Act (the "Act") is set forth in Sections 420.501 through 420.516 of the Florida Statutes. *See also* Rule 67-40.020(1), F.A.C. (2007).

§§420.5099(1) and (2), Fla. Stat. (2007). Accordingly, the Rule that is the subject of Sea Grape II's waiver request is implementing, among other sections of the Act, the statutory authorization for Florida Housing's establishment of Allocation Procedures for the HC Program. §§ 420.5099(1) and (2), Fla. Stat. (2007).

11. The requested waiver also implements Section 420.5087's mandate empowering Florida Housing with "the power to underwrite and make state apartment incentive loans or loan guarantees to sponsors." § 420.5087(2), Fla. Stat. (2007).

**C. Justification for Sea Grape II's Request to Change Its Development's Site**

12. Sea Grape II's Development is the second phase of a two-phase project for affordable housing in Monroe County, Florida.

13. When Sea Grape II submitted its Universal Application, the legal description encompassed the site location for Sea Grape II's Development, and a portion of the site location for Sea Grape Apartments, the first phase of the development project. As a result, on September 26, 2007, Sea Grape II submitted a Petition for Rule Waiver to change the Development's legal description by, in essence, separating and carving out its legal description from the entire two-phase project's description ("Phase I"). *See* Case No. 2007-058VW. On October 26, 2007, Florida Housing granted this Petition.

14. As currently situated, the Sea Grape II Development's site is directly south of the site for the Phase I site.

15. During the process of finalizing the site plan and commencing the permitting process, Sea Grape II determined that as a consequence of the location of a large, concrete utility pole situated immediately east of the Development's proposed entranceway, the original plan would not satisfy certain sight-line requirements. To remedy this issue, an easement from the

adjoining property owner would be required to widen the Development's driveway. Although the adjoining property owner was unwilling to provide the easement, he offered to "swap" a portion of his property for a portion of Sea Grape II Development site.

16. As a result of the "swap," however, the Development site would be bifurcated, with one building for the Development located on a site directly north of Phase I and the remaining residential building located on a portion of the originally-approved site for the Development that is directly south of the Phase I site.

17. The purpose of this Petition, therefore, is to change the Development's site location by substituting the neighboring property for a portion of the currently-approved Sea Grape II site. Although a portion of the Development's site would be changed, its Tie-Breaker Measurement Point ("TBMP"), identified in Exhibit 25 to Sea Grape II's Universal Application, remains within the Development's modified legal description. *See* Affidavit and Certification of Surveyor attached hereto as Exhibit A, and the revised legal description attached hereto as Exhibit B.<sup>3</sup>

18. Additionally, because the Development's TBMP remains the same, the 7.25 Proximity Tie-Breaker Points awarded to Sea Grape II would not have changed.

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<sup>3</sup> As the Development would consist of "Scattered Sites," i.e. two sites divided by the Phase I site, Sea Grape will comply with Universal Application Instruction, Part III.A.2.b., upon the granting of this Petition.

19. The requested change to the Development's site location would not have impacted the scoring of Sea Grape II's Universal Application, and would not have provided Sea Grape II with an unfair advantage over other applicants.<sup>4</sup>

20. The requested waiver will not prejudice the Development or the affordable housing market to be served by the Development, and may result in a saving of construction and development costs.

**D. Conclusion**

18. The requested waiver will not adversely impact the Development or Florida Housing, and will ensure that 28 affordable housing units will be available in Monroe County, Florida.

19. Controlling statutes and Florida Housing's Rules are designed to allow the flexibility necessary to provide relief for changed circumstances that arise through no fault of an applicant. Florida Housing generally approves such waivers when it would not affect the scoring of an application or otherwise allow an applicant to obtain a possible unfair competitive advantage.

20. The requested waiver serves the purposes of Section 420.5099, Florida Statutes (2007), and the Act, as a whole, because one of their primary goals is to facilitate the availability of decent, safe and sanitary housing in the State of Florida to low-income persons and households by ensuring:

the maximum use of available tax credits in order to encourage development of low-income housing in the state, taking into consideration the timeliness of the application, the location of the proposed housing project, the relative need in the area for low-income housing and the availability of such housing, the economic feasibility of the project, and

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<sup>4</sup> Sea Grape II notes that for the 2007 Universal Cycle, it was the only Applicant seeking funding for affordable housing development in the Florida Keys.

the ability of the applicant to proceed to completion of the project in the calendar year for which the credit is sought.

§ 420.5099(2), Fla. Stat. (2007).

21. The requested waiver also serves the purposes of Section 420.5087, Florida Statutes (2007), and the Act, as a whole, because the purpose of the SAIL Program is to provide “first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons,” including those persons residing in Monroe County, Florida.

22. Finally, by granting the requested waiver, Florida Housing would recognize the economic realities and principles of fundamental fairness in the development of affordable rental housing. This recognition would promote participation by experienced developer entities in meeting the purpose of the Act through new construction in an economical and efficient manner.

23. Should Florida Housing require additional information, Sea Grape II is available to answer questions and to provide all information necessary for consideration of its Petition for Waiver of Rule 67-48.004(14)(e) to Change the Site of the Sea Grape II Development.

WHEREFORE, Petitioner Sea Grape II, Ltd., respectfully requests that the Florida Housing Finance Corporation grant the Petition and provide the following relief:

A. Waive the prohibition on changing a development’s site location after submission of the Universal Application;

B. Allow Sea Grape II’s Development to be developed on the sites identified in Exhibit B to this Petition; and

C. Award such further relief as may be deemed appropriate.

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER  
ALHADEFF & SITTERSON, P.A.  
Counsel for Sea Grape II, Ltd.  
200 East Las Olas Boulevard, Suite 2100  
Fort Lauderdale, Florida 33301  
Tel: (954) 462-9575  
Fax: (954) 462-9567  
E-mail: [msall@swmwas.com](mailto:msall@swmwas.com)

By: \_\_\_\_\_

  
MIMI L. SALL

**CERTIFICATE OF SERVICE**

The original Petition is being served by overnight delivery, with a copy served by electronic transmission for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, with copies served by overnight delivery on the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, Florida 32399-1300, this 21 day of July, 2008.

By: \_\_\_\_\_

  
Mimi L. Sall



**Affidavit and Certification of Kenneth C. Jackson**

Before me, the undersigned authority, personally appeared Ken Jackson, who being duly sworn, states that he personally knows the following facts and that the same are true and accurate.

My name Kenneth C. Jackson, and I am licensed by the State of Florida as a Professional Surveyor. My license number is 4549. I am the vice president of Sea Diversified, Inc. I am submitting this Affidavit and Certification on behalf of Sea Grape II, Ltd. (the "Applicant"), and I am not related to the Applicant or any Principals or Financial Beneficiaries of the Applicant.

On or about \_\_\_\_\_, 2008, I reviewed the Surveyor Certification and Sketches of Point Qualifies "Tie-Breach" Measurement Point provided as Exhibit 25 to Applicant's Universal Application No. 2006-126CS. These documents are attached to this Affidavit as Composite Exhibit 1. I also reviewed the revised legal description as prepared by Frederick H. Hildebrandt. The revised legal description is attached as Exhibit 2.

The field work conducted by me on \_\_\_\_\_, 2008, confirmed that the Tie-Breaker Measurement Point identified in Exhibit 25 remains within 100 feet of a residential building to be constructed as part of the Development on the property described in the revised legal description.

Under penalties of perjury, I declare that these statements are true and correct.

\_\_\_\_\_  
Kenneth C. Jackson, P.S.M.

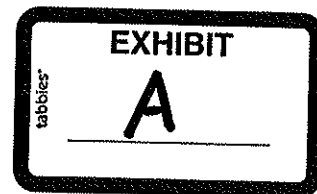
\_\_\_\_\_  
Dated

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_ day of \_\_\_\_\_, 2008, by \_\_\_\_\_ who is personally known to me or has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal, this \_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public  
State of \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_





# Exhibit 25



2007 UNIVERSAL CYCLE - SURVEYOR CERTIFICATION

Name of Developer: Sea Grape II

Development Location: +/-800ft. south of Overseas Hwy. between 70th St. Ocean and 72nd St. Ocean, Marathon, FL 33050

(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide the street name, closest designated intersection and city.

\* If the Development consists of Scattered Sites, the Development Location stated above must reflect the site where the Tie-Breaker Measurement Point is located.

The undersigned Florida licensed surveyor certifies that the method used to determine the following latitude and longitude coordinates conforms to Rule 61G17-5, F.A.C.

	Latitude			Longitude		
State the Tie-Breaker Measurement Point. Tie-Breaker Measurement Point means a single point selected by the Applicant on the proposed Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development. For a Development which consists of Scattered Sites, this means a single point on one of the Scattered Sites which comprise the Development and that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development. In addition, the Tie-Breaker Measurement Point must be located on the site with the most units if any of the Scattered Sites has more than 4 units.	N 24 Degrees	43 Minutes	02.3 Seconds (truncated after 1 decimal place)	W 81 Degrees	03 Minutes	48.6 Seconds (truncated after 1 decimal place)
If the Development consists of Scattered Sites, is a part of the boundary of each site located within 1/2 mile of the Tie-Breaker Measurement Point? <input type="checkbox"/> Yes or <input type="checkbox"/> No (Must check one if Development consists of Scattered Sites.) Scattered Sites for a single Development means a Development consisting of real property in the same county (1) any part of which is not contiguous ("non-contiguous parts") or (2) any part of which is divided by a street or easement ("divided parts") and (3) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property are part of a common or related scheme of development. (See Rules 67-48.002 and 67-21.002, F.A.C.)	<input type="checkbox"/> Yes or <input type="checkbox"/> No (Must check one if Development consists of Scattered Sites.)					
To be eligible for proximity tie-breaker points, Degrees and Minutes must be stated as whole numbers and Seconds must be truncated after 1 decimal place. The Corporation will utilize Street Atlas USA 2007, published by DeLorme, to determine the proximity of an eligible service to the proposed Development's Tie-Breaker Measurement Point.						

	Latitude			Longitude		
Location of closest Public Bus Stop or Metro Rail Stop	N _____ Degrees	_____ Minutes	_____ Seconds (truncated after 1 decimal place)	W _____ Degrees	_____ Minutes	_____ Seconds (truncated after 1 decimal place)

State the name, address and latitude and longitude coordinates of the closest service(s) on the chart below. The latitude and longitude coordinates for each service must represent a point that is on the doorway threshold of an exterior entrance that provides direct public access to the building where the service is located. If there is no exterior public entrance to the service, then a point should be used that is at the exterior entrance doorway threshold that is the closest walking distance to the doorway threshold of the interior public entrance to the service.

	Latitude			Longitude		
Greeter's Store Name: <u>WinnDixie</u> Address: <u>5583 Overseas Hwy., Marathon, FL 33050</u>	N 24 Degrees	42 Minutes	56.7 Seconds (truncated after 1 decimal place)	W 81 Degrees	04 Minutes	24.6 Seconds (truncated after 1 decimal place)
Public School Name: <u>Marathon High School</u> Address: <u>350 Sombbrero Beach Road, Marathon, FL 33050</u>	N 24 Degrees	42 Minutes	14.5 Seconds (truncated after 1 decimal place)	W 81 Degrees	04 Minutes	41.1 Seconds (truncated after 1 decimal place)
Medical Facility Name: _____ Address: _____	N _____ Degrees	_____ Minutes	_____ Seconds (truncated after 1 decimal place)	W _____ Degrees	_____ Minutes	_____ Seconds (truncated after 1 decimal place)
Pharmacy Name: <u>CVS Pharmacy</u> Address: <u>5575 Overseas Highway, Marathon, FL 33050</u>	N 24 Degrees	42 Minutes	56.4 Seconds (truncated after 1 decimal place)	W 81 Degrees	04 Minutes	26.1 Seconds (truncated after 1 decimal place)

If the Corporation discovers that there are any false statements made in this certification, the Corporation will forward a copy to the State of Florida Department of Business and Professional Regulation for investigation.

CERTIFICATION - Under penalty of perjury, I declare that the foregoing statements are true and correct.

Signature: *Kenneth C. Jackson*  
Date: 03/28/2007  
Name: Kenneth C. Jackson  
Print or Type Name of Signatory: \_\_\_\_\_  
Title: Vice President  
Print or Type Title of Signatory: \_\_\_\_\_

Name of Surveyor: Sea Diversified Inc.  
Address: 1200 NW 17th Avenue, Suite 3  
4549  
Florida License Number: \_\_\_\_\_  
561-243-4920  
Telephone Number (including area code): \_\_\_\_\_

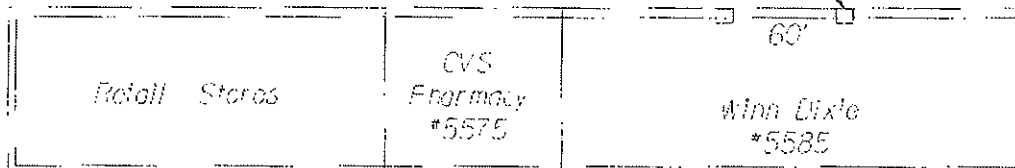
This certification may not be signed by the Applicant, by any related parties of the Applicant, or by any Principals or Financial Beneficiaries of the Applicant. If the certification is inappropriately signed, the Application will not receive proximity tie-breaker points. If this certification contains corrections or "white-out", or if it is scanned, imaged, altered, or retyped, the Application will not receive proximity tie-breaker points and will fail to meet threshold. The Application may still be eligible for automatic points. The certification may be photocopied.

# SKETCH OF POINT QUALIFIERS "TIE-BREAKER" MEASUREMENT POINT Marathon, Florida

+/- 800 FEET SOUTH OF OVERSEAS HIGHWAY,  
BETWEEN 70th STREET OCEAN AND 72nd STREET OCEAN  
MARATHON, FL 33050



Public Entrance East  
 Lat. N24°42'56.7"  
 Long. W081°04'24.5"  
 Distance to  
 TMP = 1.54 miles  
 3,751.8 feet



WGS 84 - INDICATES WORLD GEODETIC SYSTEM 1984  
 TMP INDICATES TIE BREAKER MEASUREMENT POINT  
 VARIATION FROM TRUE TO MAGNETIC NORTH IS 44° WEST

THIS IS NOT A SURVEY.

REVISIONS:

SITE  
SEA GRAPE II  
**LOCATION  
SKETCH**

PREPARED FOR  
CARLISLE DEVELOPMENT GROUP  
2950 SW 27th AVE., SUITE 200  
COCONUT GROVE, FL 33133

NO.	DESCRIPTION

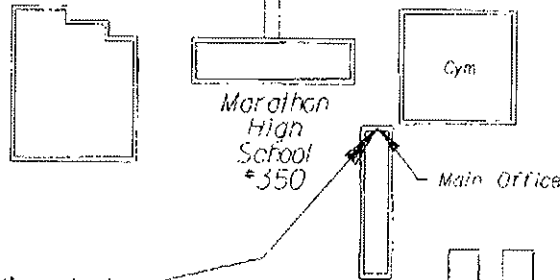
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SURVEYING AND ENGINEERING APPLICATIONS 1200 NW 17th AVE., SUITE 3, DELRAY BEACH, FLORIDA 33445		
SCALE:	DWN. BY:	CHK. BY:
NOT TO SCALE	KCU	KCU
DATE:	PROJ. NO.:	SHEET NO.:
MAR. 25, 2007	07-1062	1 OF 1

# SKETCH OF POINT QUALIFIERS "TIE-BREAKER" MEASUREMENT POINT Marathon, Florida

+/-800 FEET SOUTH OF OVERSEAS HIGHWAY.  
BETWEEN 70th STREET OCEAN AND 72nd STREET OCEAN  
MARATHON, FL 33050



Sombbrero Beach Road



Public school  
Main Entrance (under construction)  
Lat. N24°42'14.5"  
Long. W081°04'41.1"  
Distance to  
"TMP" = 1.32 miles  
6,833.8 feet or 1.29 miles

WGS 84 - INDICATES WORLD GEODETIC SYSTEM 1984  
"TMP" INDICATES TIE-BREAKER MEASUREMENT POINT  
VARIATION FROM TRUE TO MAGNETIC NORTH IS 4.7° WEST

THIS IS NOT A SURVEY.

SITE:  
SEA GRAPE II

LOCATION  
SKETCH

PREPARED FOR  
CARLISLE DEVELOPMENT GROUP  
950 SW 27th AVE. SUITE 200  
COCONUT GROVE, FL 33133

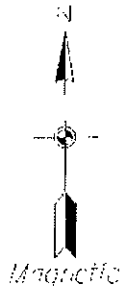
REVISIONS:

**SEA DIVERSIFIED INCORPORATED**  
SURVEYING AND ENGINEERING APPLICATIONS  
1200 NW 17th AVE., SUITE 3, DELRAY BEACH, FLORIDA 33445

SCALE:	DWN. BY:	CHK. BY:
NOT TO SCALE	KGU	KGU
DATE:	PROJ. NO.:	SHEET NO.:
MAR. 25, 2007	07-1082	1 OF 1

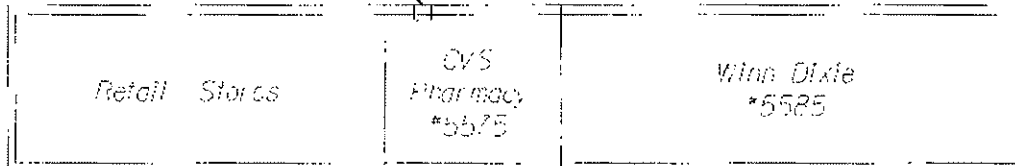
# SKETCH OF POINT QUALIFIERS "TIE-BREAKER" MEASUREMENT POINT Marathon, Florida

-7-800 FEET SOUTH OF OVERSEAS HIGHWAY,  
BETWEEN 70th STREET OCEAN AND 72nd STREET OCEAN  
MARATHON, FL 33909



Only Public Entrance  
Lat. N24°42'56.4"  
Long. W081°04'26.1"

Distance to  
"TMP" = 0.65 miles  
3,509.3 feet



WGS 84 - INDICATES WORLD GEODETIC SYSTEM, 1984  
"TMP" INDICATES TIE-BREAKER MEASUREMENT POINT  
VARIATION FROM TRUE TO MAGNETIC NORTH IS 4'47" WEST

THIS IS NOT A SURVEY.

<p style="text-align: center;">SITE SEA GRAPE II</p> <p style="text-align: center; font-size: 1.2em;">LOCATION SKETCH</p> <p style="text-align: center;">PREPARED FOR CARLISLE DEVELOPMENT GROUP 2930 SW 27th AVE, SUITE 200 COCONUT GROVE, FL 33133</p>	<p style="text-align: center;">REVISIONS:</p> <table border="1" style="width: 100%; height: 100px;"> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </table>																	<p style="text-align: center; font-weight: bold;">SEA DIVERSIFIED INCORPORATED</p> <p style="text-align: center; font-size: 0.8em;">SURVEYING AND ENGINEERING APPLICATIONS 1200 NW 17th AVE., SUITE J, DELRAY BEACH, FLORIDA 33445</p> <table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 33%;">SCALE:</td> <td style="width: 33%;">OWN. BY:</td> <td style="width: 33%;">CHK. BY:</td> </tr> <tr> <td>NOT TO SCALE</td> <td>KCU</td> <td>KCU</td> </tr> <tr> <td>DATE:</td> <td>PROJ. NO.:</td> <td>SHEET NO.:</td> </tr> <tr> <td>MAR. 25, 2007</td> <td>07-1082</td> <td>1 OF 1</td> </tr> </table>	SCALE:	OWN. BY:	CHK. BY:	NOT TO SCALE	KCU	KCU	DATE:	PROJ. NO.:	SHEET NO.:	MAR. 25, 2007	07-1082	1 OF 1
SCALE:	OWN. BY:	CHK. BY:																												
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DATE:	PROJ. NO.:	SHEET NO.:																												
MAR. 25, 2007	07-1082	1 OF 1																												

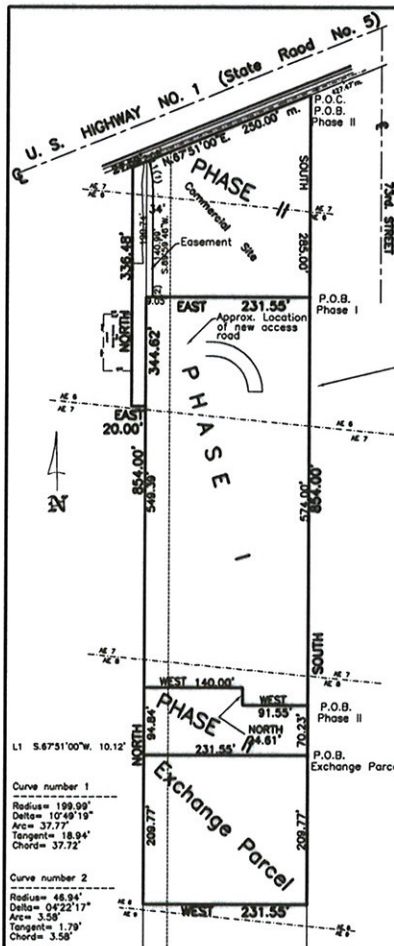
**EXHIBIT**  
**2**

**Legal Description: Top Phase II**  
A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:  
Begin at the intersection of the East line of said Section 11 and the Southeastery right of way line of U.S. Highway 1; thence South along the said East line of Section 11 for 285.00 feet; thence East for 231.55 feet; thence South for 153.88 feet; thence East for 20.00 feet; thence North for 336.48 feet to the Southeastery Right-of-Way line of U.S. Highway No. 1; thence N 67°51'00" E along the said Southeastery Right-of-Way line of U.S. Highway No. 1 for 271.59 feet back to the Point of Beginning.  
Containing 61890 s.f. or 1.42 acres, more or less.

**Legal Description: Easement**  
A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:  
Commence at the intersection of the East line of said Section 11 and the Southeastery right of way line of U.S. Highway 1; thence Southwest along the said Southeastery right of way line of U.S. Highway 1 for 247.94 feet to the Point of Beginning; thence S 22°09'00" E for 10.12 feet to a point on a curve to the right having a radius of 199.99 feet and an arc angle of 10°49'19"; thence along said curve for 37.77 feet; thence S 00°00'14" E for 140.99 feet to a point on a curve to the left having a radius of 46.94 feet and an arc angle of 4°22'17"; thence along said arc for 3.58 feet; thence West for 9.05 feet; thence North for 190.74 feet to the Southeastery right of way line of U.S. Highway No. 1; thence N 67°51'00" E along the said Southeastery right of way line of U.S. Highway No. 1 for 2.06 feet back to the Point of Beginning.  
Containing 1618 s.f. or 0.04 acres, more or less.

**Legal Description: Bottom Phase II**  
A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:  
Commence at the intersection of the East line of said Section 11 and the Southeastery right of way line of U.S. Highway 1; thence South along the said East line of Section 11 for 859.00 feet to the Point of Beginning; thence continue South along the said East line of Section 11 for 70.23 feet; thence West for 231.55 feet; thence North for 94.84 feet; thence East for 140.00 feet; thence South for 24.61 feet; thence East for 91.55 feet back to the Point of Beginning.  
Containing 19707 s.f. or 0.45 acres, more or less.

Sheet 2 of 2



**Phase I:**  
A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:  
Begin at the intersection of the East line of said Section 11 and the Southeastery right of way line of U.S. Highway 1; thence South along the said East line of Section 11 for 285.00 feet to the Point of Beginning; thence continue South for 574.00 feet; thence West for 91.55 feet; thence North for 24.61 feet; thence West for 140.00 feet; thence North for 549.39 feet; thence East for 231.55 feet to the Point of Beginning.  
Containing 129463 s.f. or 2.97 acres, more or less.



Sheet 1 of 2

SeaGrape Ltd., a Florida Limited Partnership U.S. Highway No. 1, Marathon, Florida			
Sketch to accompany Legal Description Phase I & II	Den. No.: 06-409	FREDERICK H. HILDEBRANDT ENGINEER PLANNER SURVEYOR	
Scale: 1"=120'	Ref. Flood panel No. 1378 K	3152 Northside Drive Suite 201 Key West, Fl. 33040 (305) 293-0466 Fax. (305) 293-0237 fhilde1@bellsouth.net	
Date: 7/28/06	Flood Zone: AE	Den. By: F.H.H. Flood Elev.	
REVISIONS AND/OR ADDITIONS			
6/28/07: New access road			
8/10/07: Add buildings, move sewage, add 20' strip			
\\dva\marathon\seagrape phase 1 and 2			

**FREDERICK H. HILDEBRANDT**  
ENGINEER PLANNER SURVEYOR

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6/28/07: New access road			
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**Legal Description: Top Phase II**

A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaco, Monroe County, Florida, more particularly described as follows:

Begin at the intersection of the East line of said Section 11 and the Southeastery right of way line of U.S. Highway 1; thence South along the said East line of Section 11 for 285.00 feet; thence West for 231.55 feet; thence North for 190.74 feet to the Southeastery Right-of-Way line of U.S. Highway No. 1; thence N 67°51'00" E along the said Southeastery Right-of-Way line of U.S. Highway No. 1 for 250.00 feet back to the Point of Beginning.

Containing 55079 s.f. or 1.26 acres, more or less.

**AND**

**20' Strip**

A Strip of land in Section 11, Township 66 South, Range 32 East, Key Vaco, Monroe County, Florida, more particularly described as follows:

Commencing at the Intersection of the East Line of said Section 11 and the Southeastery Right-of-Way Line of U.S. Highway No. 1; thence South 67°51'00" West, along said Southeastery Right-of-Way Line, for 250.00 feet, to the Point of Beginning; thence South, parallel to said East line of Section 11, for 344.62 feet; thence West for 20.00 feet; thence North for 336.48 feet, to said Southeastery Right-of-Way Line; thence North 67°51'00" East along said Southeastery Right-of-Way Line for 21.59 feet, back to the Point of Beginning.

Containing an area of 6,811.30± square foot (0.156 acres more or less).

**Legal Description: Bottom Phase II**

A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaco, Monroe County, Florida, more particularly described as follows:

Commence at the Intersection of the East line of said Section 11 and the Southeastery right of way line of U.S. Highway 1; thence South along the said East line of Section 11 for 859.00 feet to the Point of Beginning; thence continue South along the said East line of Section 11 for 70.23 feet; thence West for 231.55 feet; thence North for 94.84 feet; thence East for 140.00 feet; thence South for 24.81 feet; thence East for 91.55 feet back to the Point of Beginning.

Containing 19707 s.f. or 0.45 acres, more or less.

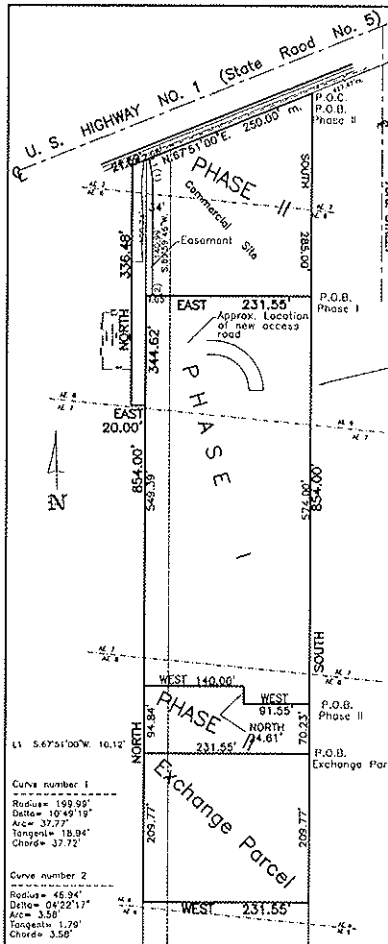
tabbies  
**EXHIBIT**  
**B**

**Legal Description: Top Phase II**  
A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:  
Begin at the intersection of the East line of said Section 11 and the Southeastery right of way line of U.S. Highway 1; thence South along the said East line of Section 11 for 285.00 feet; thence East for 231.55 feet; thence South for 153.88 feet; thence East for 20.00 feet; thence North for 336.48 feet to the Southeastery Right-of-Way line of U.S. Highway No. 1; thence N 67°51'00" E along the said Southeastery Right-of-Way line of U.S. Highway No. 1 for 271.59 feet back to the Point of Beginning. Containing 61890 s.f. or 1.42 acres, more or less.

**Legal Description: Easement**  
A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:  
Commence at the intersection of the East line of said Section 11 and the Southeastery right of way line of U.S. Highway 1; thence Southwest along the said Southeastery right of way line of U.S. Highway 1 for 247.94 feet to the Point of Beginning; thence S 22°09'00" E for 10.12 feet to a point on a curve to the right having a radius of 199.99 feet and an arc angle of 10°49'19"; thence along said curve for 37.77 feet; thence S 00°00'14" E for 140.99 feet to a point on a curve to the left having a radius of 46.94 feet and an arc angle of 4°22'17"; thence along said arc for 3.56 feet; thence West for 9.05 feet; thence North for 190.74 feet to the Southeastery right of way line of U.S. Highway No. 1; thence N 67°51'00" E along the said Southeastery right of way line of U.S. Highway No. 1 for 2.06 feet back to the Point of Beginning. Containing 1618 s.f. or 0.04 acres, more or less.

**Legal Description: Bottom Phase II**  
A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:  
Commence at the intersection of the East line of said Section 11 and the Southeastery right of way line of U.S. Highway 1; thence South along the said East line of Section 11 for 859.00 feet to the Point of Beginning; thence continue South along the said East line of Section 11 for 70.23 feet; thence West for 231.55 feet; thence North for 34.84 feet; thence East for 140.00 feet; thence South for 24.61 feet; thence East for 91.55 feet back to the Point of Beginning. Containing 19707 s.f. or 0.45 acres, more or less.

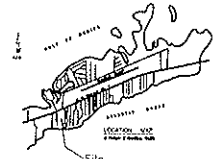
Sheet 2 of 2



**Phase I:**  
A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:  
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East Line of Amended Plat of MARATHON SHORES

West Line Section 12, Township 66 South, Range 32 East



Sheet 1 of 2

SeoGrape Ltd., a Florida Limited Partnership U.S. Highway No. 1, Marathon, Florida		Dwn. No.: 06-409	
Sketch to accompany Legal Description Phase I & II			
Scale: 1"=120'	Ref. Flood panel No. 1378 K	Dwn. By: F.H.H.	
Date: 7/28/06	Flood Zone: AE	Flood Elev.	
REVISIONS AND/OR ADDITIONS			
6/26/07: New access road			
8/10/07: Add'l buildings, move sewage, add 20' strip			
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