



COUNCIL AGENDA STATEMENT

Meeting Date: September 10, 2024

To: Honorable Mayor and City Councilmembers

From: Steven Williams, City Attorney

Agenda Item: **Resolution 2024-78**, Authorizing The City Attorney To Bid Up To The City's Code Enforcement Lien Value (\$279,000) At The Foreclosure Sale On The Property Located At 347 Guava Avenue, Marathon, Florida 33050; And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

The property, 347 Guava Avenue, Marathon, Florida 33050, was the subject of a code compliance case for violation of Section 34-35 of the City of Marathon Code for failure to connect to the Central Wastewater System. The accrued fines total \$278,400 plus two (2) \$300 administrative fees for a total of \$279,000.

On July 20, 2022, Wells Fargo Bank NA filed a Verified Complaint to Foreclose Mortgage and the City of Marathon was listed as a Defendant based on our recorded code enforcement lien for the failure to connect to the Central Wastewater System. The City filed an Answer in response to the Complaint on August 16, 2022. On August 5, 2024, a hearing was held on Wells Fargo Bank's Motion for Summary Final Judgment and the matter is currently scheduled for a foreclosure sale on September 24, 2024, at 11:00 a.m. Wells Fargo Bank NA currently claims an amount of \$272,460.15 is owed to the bank based on the Mortgage and costs.

Since the City is a subordinate lienholder to Wells Fargo Bank NA, the only way that the City would be able to recoup the value of the code enforcement lien is if there are any surplus funds from the sale. As such, and in order to protect the value of the City's code enforcement lien, it is requested that the City bid up to the value of the lien value of \$279,000. The property may be used for open space preservation, parks, stormwater management and/ or affordable housing.

The Monroe County Property Appraiser lists the Just Market Value for 347 Guava Avenue, Marathon, Florida 33050, as \$490,865. The property is not homesteaded.

CONSISTENCY CHECKLIST:

Yes

No

1. Comprehensive Plan

2. Other _____

3. Not Applicable

X

FISCAL NOTE:

If the City is successful in the bid, a budget amendment will be brought before Council by November 30, 2024 to include this purchase in the FY24 General Fund budget.

RECOMMENDATION:

Approval to Bid

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-78**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING THE CITY ATTORNEY TO BID UP TO THE CITY'S CODE ENFORCEMENT LIEN VALUE (\$279,000) AT THE FORECLOSURE SALE ON THE PROPERTY LOCATED AT 347 GUAVA AVENUE, MARATHON, FLORIDA 33050; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon, Florida (the "City") was named a party in the Foreclosure proceeding of Wells Fargo Bank, N.A. v. Cynthia L. Andrews, et al. Case No. 22-CA-144-M, based on the City's interest in the party by way of a recorded Code Enforcement Lien for failure to connect; and

WHEREAS, a Final Judgment of Foreclosure has been entered in Case No. 22-CA-144-M and the matter is currently set for a foreclosure sale on September 24, 2024, at 11:00 a.m.; and

WHEREAS, the City, in order to protect the value of the City's code enforcement lien in the amount of \$279,000, has an interest in purchasing the property; and

WHEREAS, the City finds and determines that the property may be used for open space preservation, parks, stormwater management, and / or affordable housing.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, and incorporated herein.

Section 2. The City Attorney, on behalf of the City, may bid at the foreclosure sale in an amount up to the City's code enforcement lien value (\$279,000).

Section 3. The City Council finds and determines that the property is proposed for open space preservation, parks, stormwater management, and / or affordable housing. All of which are used for public purposes.

Section 4. Effective Date. This resolution shall take effect immediately upon adoption.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, THIS 10th DAY OF SEPTEMBER, 2024.**

THE CITY OF MARATHON, FLORIDA

Robyn Still, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY
OF MARATHON, FLORIDA ONLY:**

Steve Williams, City Attorney