

**RESOLUTION NO. 2003-31**

**A RESOLUTION OF THE CITY OF MARATHON, FLORIDA, APPROVING THE EXTINGUISHMENT OF NINE (9) UNITS, SEVENTEEN (17) BEDROOM/BATH COMBINATIONS, AT THE BUCCANEER RESORT/PIRATES COVE VILLAS CONDOMINIUMS FOR USE BY THE VILLAGES AT HAWK'S CAY EXPANSION DRI; ACKNOWLEDGING THAT UNITS AND BEDROOM/BATH COMBINATIONS TO REPLACE THOSE EXTINGUISHED WILL REQUIRE A ROGO AWARD; PROVIDING FOR DISTRIBUTION OF COPIES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on June 19, 2002, the Monroe County Board of County Commissioners adopted Resolution No. 266-2002 amending the Villages at Hawk's Cay Expansion DRI Development Order to authorize development of an additional twenty-eight (28) market rate units and eighteen (18) affordable hotel staff quarters units at Hawk's Cay at such time as the applicant receives and extinguishes a corresponding Rate of Growth Ordinance ("ROGO") allocation or an equivalent number of bedroom/bath combinations from a site or sites within the Middle Keys sub-area of Monroe County, Florida; and

**WHEREAS**, Monroe County Resolution No. 266-2002 further provides that "if the site of the acquired units is within a separate municipality, the municipal government must, by resolution, approve the extinguishment and acknowledge that any new units on the site of the acquired units must receive a ROGO award"; and

**WHEREAS**, the City of Marathon is a municipality in the Middle Keys sub-area of Monroe County, Florida; and

**WHEREAS**, on September 26, 2002, the City of Marathon entered into an Agreement with John Allison, III, Trustee, that, in part, provided for the extinguishment of transient units

consisting of bedroom/bath combinations at the Overseas Motel in the City of Marathon to be used at Hawk's Cay pursuant to Monroe County Resolution No. 266-2002; and

**WHEREAS**, as part of said Agreement, the City further agreed that, by separate resolution, the City shall approve the extinguishment of seventeen (17) additional transient units for the benefit of Hawk's Cay from another site or sites in the City of Marathon; and

**WHEREAS**, Marathon Resort Development, Inc., and Pirates Cove Villas Condominium Association, Inc., own approximately 11.054 contiguous acres of land in the corporate limits of the City of Marathon and wish to redevelop their combined properties (the "Property") as a family vacation resort; and

**WHEREAS**, Marathon Resort Development, Inc., and Pirates Cove Villas Condominium Association, Inc., further desire to extinguish nine (9) transient residential dwelling units, seventeen (17) bedroom/bath combinations, on the Property for the use and benefit of Hawk's Cay; and

**WHEREAS**, the City's Planning Manager has confirmed that there are ninety-six (96) vested transient residential units on the Property; and

**WHEREAS**, this Resolution is intended to implement the City's intent in its above-described Agreement Regarding the Overseas Motel to approve the extinguishment of transient units and bedroom/bath combinations therein for the use and benefit of Hawk's Cay pursuant to Monroe County Resolution No. 266-2002; and

**WHEREAS**, this Resolution is consistent with the City's Transitional Comprehensive Plan and will further the public health, safety and welfare of the residents of the City of Marathon.

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

**1. Recitals.** The recitals contained in the foregoing “Whereas” clauses are true and are incorporated into this Resolution.

**2. Approval of Transfer of Units.** The City of Marathon (herein “City”) approves the extinguishment of nine (9) transient residential units, seventeen (17) bedroom/bath combinations, on the Property for the use and benefit of the Villages at Hawk’s Cay Expansion DRI in Monroe County, Florida, leaving a total of eighty-seven (87) vested residential dwelling units on the Property. The units, bedroom/bath combinations extinguished under this Resolution are as follows:

a. Nine (9) one-bedroom transient residential dwelling units that have been demolished pursuant to demolition permits issued by the City or converted to other uses, leaving a total of eighty-seven (87) vested residential dwelling units. The City acknowledges that any new dwelling units on the Property, over and above the eighty-seven (87) vested residential units, must receive a ROGO award.

b. In eight (8) other transient dwelling units on the Property, one (1) bedroom and one (1) bath have been removed pursuant to demolition permits issued by the City. If these eight (8) units are demolished for renovation of the Buccaneer Resort, or for any other purpose, they may be reconstructed on the Property; provided, however, that the maximum number of bedroom and bathrooms allowed in each of these units under the applicable City regulations shall be reduced by one (1), consistent with the terms of this Resolution. The City acknowledges that replacement of the eight (8) bedroom/bath combinations extinguished

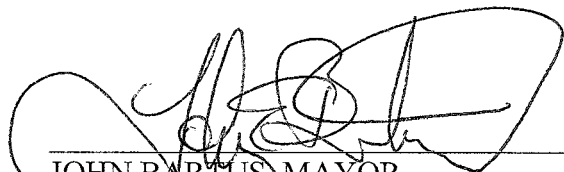
pursuant to this Resolution must receive a ROGO award or awards.

**3. Extinguishment of Units.** The nine (9) residential dwelling units, seventeen (17) bedroom/bath combinations, shall be deemed extinguished upon Monroe County's issuance of building permits for seventeen (17) bedroom/bath combinations at Hawk's Cay. Marathon Resort Development, Inc., shall provide the City with copies of the Monroe County permits for said units within a reasonable time after the permits are issued.

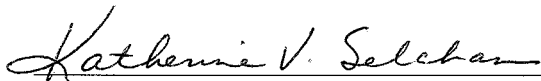
**4. Distribution.** The Clerk is directed to distribute copies of this Resolution to the Florida Department of Community Affairs, the Monroe County Growth Management Director, and Mr. Pritam Singh.

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


PASSED AND ADOPTED by the City Council of the City of Marathon, Florida, at a meeting of the City Council held on the 4<sup>th</sup> day of February, 2003.

  
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JOHN BARTUS, MAYOR

ATTEST:

  
\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:

  
\_\_\_\_\_  
CITY ATTORNEY