



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

JEB BUSH
 Governor

THADDEUS L. COHEN, AIA
 Secretary

January 11, 2005

Received

JAN 24 2005

City Clerk

Ms. Clara Perrine
 Deputy City Clerk/Risk Manager
 City of Marathon
 10045-55 Overseas Highway
 Marathon, Florida 33050

Dear Ms. Perrine:

Please find enclosed the executed Memorandum of Understanding (MOU) between the Department and the City of Marathon regarding the issuance of development orders and permits within the Florida Keys Area of Critical State Concern (ACSC). The MOU outlines the type of activities that are not exempt from State oversight and therefore will still need to be rendered to the Department. The following activities must be rendered to the field office:

- 1 Development located within hammocks, wetlands, and beach berm or open-water.
- 2 New hotel/motel development or redevelopment and commercial development over 2,500 s.f. in size.
- 3 Dredging or excavation.
- 4 Conditional use approvals, ROGO exempt development, residential development related to institutional or community facilities;
- 5 New and expanded marinas; and
- 6 Conversion of mobile homes and RV parks.

Please feel free to call if you have any questions regarding the exempted activities and implications of this MOU.

Sincerely,

Thaddeus L. Cohen, AIA
 Secretary

TLC:rj

Enclosure

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100
 Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
 Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE
 2796 Overseas Highway, Suite 212
 Marathon, FL 33050-2227
 (305) 289-2402

COMMUNITY PLANNING
 2555 Shumard Oak Boulevard
 Tallahassee, FL 32399-2100
 (850) 488-2356

EMERGENCY MANAGEMENT
 2555 Shumard Oak Boulevard
 Tallahassee, FL 32399-2100
 (850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT
 2555 Shumard Oak Boulevard
 Tallahassee, FL 32399-2100
 (850) 488-7956

Sponsored by: Puto

**CITY OF MARATHON, FLORIDA
RESOLUTION 2004-097**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A NEW MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MARATHON AND THE STATE OF FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS TO PROVIDE BETTER COORDINATION BETWEEN THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS AND THE CITY OF MARATHON IN THE IMPLEMENTATION OF PROVISIONS OF CHAPTER 380, FLORIDA STATUTES, AND THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS PERTAINING TO DEVELOPMENT ORDERS EXEMPT FROM REVIEW

WHEREAS, a Memorandum of Understanding (MOU) between the City of Marathon (City) and the Florida Department of Community Affairs (DCA) pertaining to coordinating the development review process was approved by Council on May 23, 2000 and signed by DCA on July 16, 2000; and

WHEREAS, DCA has concluded that it is appropriate to reduce development oversight and will instead utilize staff time to provide more assistance to local governments in meeting goals established in the agreement negotiated by our previous Secretary, Colleen Castille; and

WHEREAS, the attached exhibit "A" is the new MOU presented by DCA.


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

Section 1. Council approves the new Memorandum of Understanding between the City of Marathon and the State of Florida Department of Community Affairs attached as Exhibit "A".

Section 2. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 12th day of October, 2004.

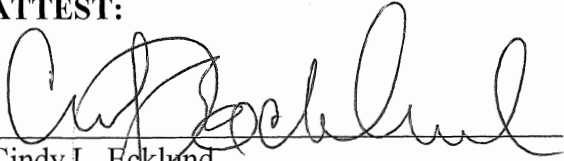
THE CITY OF MARATHON, FLORIDA



Jeffrey M. Pinkus, Mayor

AYES: Bartus, Miller, Mearns, Pinkus
NOES: None
ABSENT: Bull
ABSTAIN: None

ATTEST:



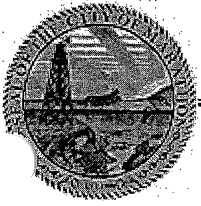
Cindy L. Ecklund
City Clerk

(City Seal)

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



City Attorney



CITY OF MARATHON, FLORIDA

10045-55 Overseas Highway, Marathon, Florida 33050
Phone: (305) 289-4128 Fax: (305) 289-4131

November 17, 2004

Thaddeus L. Cohen, Secretary
Department of Community Affairs
2555 Shumard Oaks Blvd. Suite 100
Tallahassee, FL 32399-2100

Dear Secretary Cohen,

Enclosed you will find a copy of the City of Marathon's Resolution 2004-097 regarding a memorandum of understanding between the City of Marathon and the Department of Community Affairs. In addition, there are two original memorandums that require signatures from your department.

If you would, please sign and retain one memorandum for your records and return the other fully executed original to the City of Marathon.

Should you have any questions, please do not hesitate to contact me. Your attention to this matter is greatly appreciated.

Sincerely,

Clara Perrine
Deputy City Clerk/Risk Manager

cc: Rebecca Jetton, Community Planning
Connie Robertson, DCA-Marathon Office

THE CITY OF MARATHON MEMORANDUM OF UNDERSTANDING

Coordinated Permit Review Process for Development

This Memorandum of Understanding (MOU) is being entered into by and between the State of Florida Department of Community Affairs (DCA) and The City of Marathon ("Marathon") to provide better coordination between DCA and Marathon in the implementation of provisions of Chapter 380, Florida Statutes, and the Marathon Comprehensive Plan and Land Development Regulations.

WITNESETH

WHEREAS, Marathon is within an area that has been declared an Area of Critical State Concern pursuant to Section 380.05 and 380.0552, Fla. Stat., and has adopted a comprehensive plan and land development regulations, approved by the State as required by law; and

WHEREAS Marathon is required to issue development orders only in conformity with its approved Comprehensive Plan and Land Development Regulations; and

WHEREAS, DCA is authorized to appeal development orders to the Florida Land and Water Adjudicatory Commission when DCA determines that the development order was issued inconsistent with the Comprehensive Plan, Land Development Regulations and Principles for Guiding Development.

WHEREAS, DCA is the state land planning agency authorized to administer the provisions of Chapter 380, Florida Statutes, and has promulgated rules in Chapter 9J-1, Florida Administrative Code (F.A.C.), to provide for the form and manner of the renditions of development orders issued by local governments within Areas of Critical State Concern; and

WHEREAS, DCA as provided in Rule 9J-1.002(3), F.A.C., does hereby exempt certain categories of Marathon development orders from DCA review except those herein enumerated.

WHEREAS, DCA and Marathon do mutually agree as follows:

I. Required Renderings

A. As provided in Rule 9J-1.002(3), F.A.C., DCA may, on its own initiative or at the request of an affected governmental entity, provide in writing that particular types or categories of development orders shall be exempt from rendition to the DCA Field Office for review. In accordance with this provision of this Rule, the Department exempts all development orders from rendition to the Field Office except for the following types and categories of development orders:

- (1) Any development order for a principle structure located within any of the following Vegetation Codes on the Existing Conditions Maps: 426, Tropical Hardwood Hammock; 740.1, Disturbed with Hammock; 640, Saltmarsh and Buttonwood Associations; 641, Freshwater Wetlands; 710, Beach with Associated Berm.
- (2) Any development which is located on a turtle beach or which requires a Habitat Evaluation Index (HEI), vegetation survey, or transplantation plan.
- (3) Any new or redeveloped hotel, motel or guesthouse.

- (4) Conditional use approvals for new non-residential development over 2500 sq ft.
- (5) Conditional use permits but not their subsequent building permits for the Transfer of ROGO Exemptions (TRE's) and Transfer of Development Rights (TDR's), institutional residences, community parks located in a hammock, any development activity that provides overnight sleeping quarters, new marinas or expansion of existing marinas.
- (6) Any conditional use permit for new, redeveloped or conversion of a mobile home and/or Recreational Vehicle (RV) park.
- (7) Any development for maintenance dredging.
- (8) Any development for a boat slip or ramp that requires excavation.
- (9) Any development for new or renewal of any mining operation.

Any Notice shall be deemed to have been duly given if sent by certified mail, return receipt requested, postage and fees prepaid; hand delivered; or sent by overnight delivery service.

I. Miscellaneous

If any term or provision of this Memorandum of Understanding shall be invalid or unenforceable to any extent, the remaining terms and provisions shall not be affected thereby; and each remaining term and provision shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of

the remaining terms and provisions would prevent the accomplishment of the original intent of the agreement between the parties.

II. Modifications

Modifications to this MOU shall only be valid when they have been reduced to writing and duly signed by each of the parties.

III. Terminations

Either party may terminate this MOU at any time, with or without cause.

Termination shall take effect one week or five (5) working days, whichever is earlier, after receipt of written notification as evidenced by a certified mail return receipt. The Department retains the right to monitor development. If a pattern develops showing noncompliance with the existing Comprehensive Plan or Land Development Regulations, the Department will exercise its right to modify this MOU.

IV. Notification

All notices must be in writing and addressed as follows (or to any other address which either party may designate by notice):

Rebecca Jetton, Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard, Room 370-C
Tallahassee FL 32399-2100

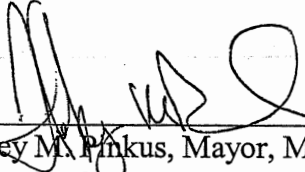
IV. Effective Date

This Memorandum of Understanding shall become effective upon execution by both

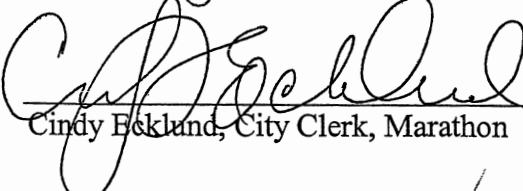
parties, and shall end upon the termination of the Florida Keys Area of Critical State

Concern designation, unless terminated earlier according to Section III above.

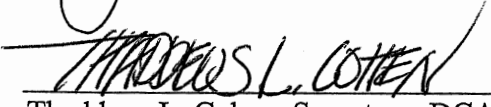
IN WITNESS WHEREOF, the parties have executed this Agreement.




Jeffrey M. Pinkus, Mayor, Marathon
Nov. 16, 2004
Date



Cindy Becklund, City Clerk, Marathon
Nov 16, 2004
Date



Thaddeus L. Cohen, Secretary, DCA
Date
~~NOVEMBER 2004~~
JAN. 2005



Approved for Legal Sufficiency, DCA
December 21, 2004
Date

Revised July 2004

THE CITY OF MARATHON MEMORANDUM OF UNDERSTANDING

Coordinated Permit Review Process for Development

This Memorandum of Understanding (MOU) is being entered into by and between the State of Florida Department of Community Affairs (DCA) and The City of Marathon ("Marathon") to provide better coordination between DCA and Marathon in the implementation of provisions of Chapter 380, Florida Statutes, and the Marathon Comprehensive Plan and Land Development Regulations.

WITNESETH

WHEREAS, Marathon is within an area that has been declared an Area of Critical State Concern pursuant to Section 380.05 and 380.0552, Fla. Stat., and has adopted a comprehensive plan and land development regulations, approved by the State as required by law; and

WHEREAS Marathon is required to issue development orders only in conformity with its approved Comprehensive Plan and Land Development Regulations; and

WHEREAS, DCA is authorized to appeal development orders to the Florida Land and Water Adjudicatory Commission when DCA determines that the development order was issued inconsistent with the Comprehensive Plan, Land Development Regulations and Principles for Guiding Development.

WHEREAS, DCA is the state land planning agency authorized to administer the provisions of Chapter 380, Florida Statutes, and has promulgated rules in Chapter 9J-1, Florida Administrative Code (F.A.C.), to provide for the form and manner of the renditions of development orders issued by local governments within Areas of Critical State Concern; and

WHEREAS, DCA as provided in Rule 9J-1.002(3), F.A.C., does hereby exempt certain categories of Marathon development orders from DCA review except those herein enumerated.

WHEREAS, DCA and Marathon do mutually agree as follows:

I. Required Renderings

A. As provided in Rule 9J-1.002(3), F.A.C., DCA may, on its own initiative or at the request of an affected governmental entity, provide in writing that particular types or categories of development orders shall be exempt from rendition to the DCA Field Office for review. In accordance with this provision of this Rule, the Department exempts all development orders from rendition to the Field Office except for the following types and categories of development orders:

- (1) Any development order for a principle structure located within any of the following Vegetation Codes on the Existing Conditions Maps: 426, Tropical Hardwood Hammock; 740.1, Disturbed with Hammock; 640, Saltmarsh and Buttonwood Associations; 641, Freshwater Wetlands; 710, Beach with Associated Berm.
- (2) Any development which is located on a turtle beach or which requires a Habitat Evaluation Index (HEI), vegetation survey, or transplantation plan.
- (3) Any new or redeveloped hotel, motel or guesthouse.

- (4) Conditional use approvals for new non-residential development over 2500 sq ft.
- (5) Conditional use permits but not their subsequent building permits for the Transfer of ROGO Exemptions (TRE's) and Transfer of Development Rights (TDR's), institutional residences, community parks located in a hammock, any development activity that provides overnight sleeping quarters, new marinas or expansion of existing marinas.
- (6) Any conditional use permit for new, redeveloped or conversion of a mobile home and/or Recreational Vehicle (RV) park.
- (7) Any development for maintenance dredging.
- (8) Any development for a boat slip or ramp that requires excavation.
- (9) Any development for new or renewal of any mining operation.

Any Notice shall be deemed to have been duly given if sent by certified mail, return receipt requested, postage and fees prepaid; hand delivered; or sent by overnight delivery service.

I. Miscellaneous

If any term or provision of this Memorandum of Understanding shall be invalid or unenforceable to any extent, the remaining terms and provisions shall not be affected thereby; and each remaining term and provision shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of

the remaining terms and provisions would prevent the accomplishment of the original intent of the agreement between the parties.

II. Modifications

Modifications to this MOU shall only be valid when they have been reduced to writing and duly signed by each of the parties.

III. Terminations

Either party may terminate this MOU at any time, with or without cause.

Termination shall take effect one week or five (5) working days, whichever is earlier, after receipt of written notification as evidenced by a certified mail return receipt. The Department retains the right to monitor development. If a pattern develops showing noncompliance with the existing Comprehensive Plan or Land Development Regulations, the Department will exercise its right to modify this MOU.

IV. Notification

All notices must be in writing and addressed as follows (or to any other address which either party may designate by notice):

Rebecca Jetton, Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard, Room 370-C
Tallahassee FL 32399-2100

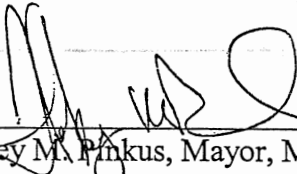
IV. Effective Date

This Memorandum of Understanding shall become effective upon execution by both

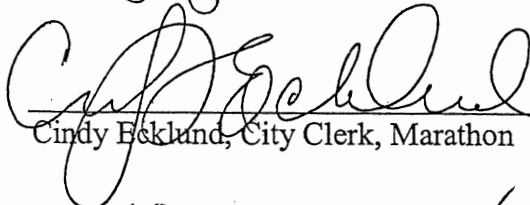
parties, and shall end upon the termination of the Florida Keys Area of Critical State

Concern designation, unless terminated earlier according to Section III above.

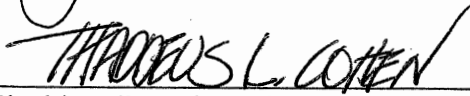
IN WITNESS WHEREOF, the parties have executed this Agreement.



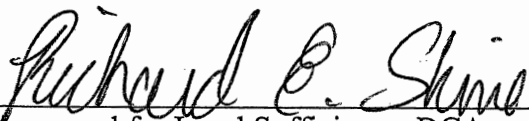
Jeffrey M. Pinkus, Mayor, Marathon
Nov. 16, 2004
Date



Cindy Esklund, City Clerk, Marathon
Nov 16, 2004
Date



Thaddeus L. Cohen, Secretary, DCA
14 JAN 2005
Date



Approved for Legal Sufficiency, DCA
December 21, 2004
Date

Revised July 2004