

CITY OF MARATHON, FLORIDA

10045-55 Overseas Highway, Marathon, Florida 33050
Phone: (305) 289-4129 Fax: (305) 289-4143
www.ci.marathon.fl.us

March 10, 2005

Dear Mr. Greenman,

I have tried to contact someone in your office and was unsuccessful. I am looking for an original Development Order 2004-02 that was sent to your office on August 26, 2004. A copy of this Development Order is enclosed. If you have the information I am requesting could you please return to the City of Marathon Clerk's Office as soon as possible? Your immediate attention to this matter is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Libby Frazier".

Libby Frazier
Administrative Assistant to City Clerk/ HR
10045-55 Overseas Hwy
Marathon, FL 33050
305-289-4129
305-289-4101
frazierl@ci.marathon.fl.us

CITY COUNCIL RESOLUTION 2004-099

A RESOLUTION OF THE CITY OF MARATHON CITY COUNCIL, APPROVING A REQUEST BY THE FLORIDA KEYS ELECTRIC CO-OPERATIVE, FOR A MAJOR CONDITIONAL USE PERMIT, PURSUANT TO SECTION 9.5-69 OF THE CITY OF MARATHON CODE, AUTHORIZING THE CONSTRUCTION OF A 250 FOOT ANTENNA SUPPORTING STRUCTURE AND ACCESSORY EQUIPMENT CABINETS, AT PROPERTY LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 3, SECTION 10, TOWNSHIP 66 SOUTH, RANGE 32 EAST, MARATHON, KEY VACA, MONROE COUNTY, FLORIDA; PROVIDING FOR PENALTIES FOR VIOLATIONS OF THE CONDITIONS OF APPROVAL; PROVIDING FOR A TERM OF THE APPROVAL

WHEREAS, on the 2nd day of August, 2004, the City of Marathon (the "City") Planning Commission (the "Commission"); and

WHEREAS, on the 10th day of August, 2004, the City Council (the "Council") conducted a properly advertised public hearing (the "Public Hearing") regarding the request submitted by First State Bank (the "Applicant"), for a major conditional use permit pursuant to Sections 9.5-69 of the City Code (the "Code"); and

WHEREAS, the purpose of the major conditional use permit is to allow the Applicant to construct a 250 foot antenna supporting structure and equipment cabinets (the "Proposed Use") at the property described in the application (the "Property").

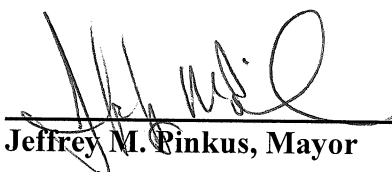
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, AS FOLLOWS:

Section 1. Development Order 2004-02, a copy of which is attached hereto as Exhibit "A", granting a major conditional use to the FKEC for the Proposed Use is hereby approved.

Section 2. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Marathon, Florida, this 24th day of August, 2004.

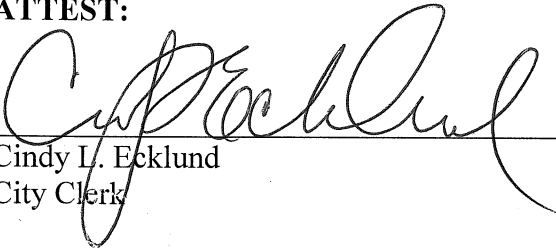
THE CITY OF MARATHON, FLORIDA



Jeffrey M. Pinkus, Mayor

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

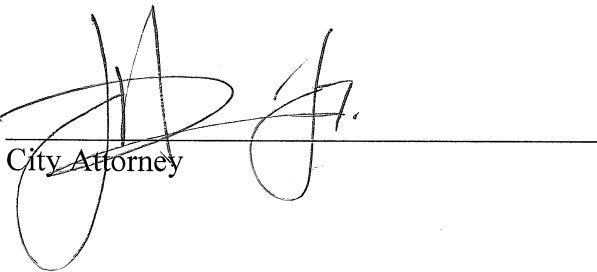
ATTEST:



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

APR 8 2005

DR

Greenman & Manz
A Partnership of Professional Associations
Attorneys At Law

Franklin D. Greenman, P.A.
David L. Manz, P.A.*

*Board Certified in Marital and Family Law
Fellow of the American Academy
of Matrimonial Lawyers

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5800 Overseas Highway
Marathon, FL 33050
(305) 743-2351
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FDGreenman@Bellsouth.net

April 5, 2005

City of Marathon
Attn: Libby Frazier, Administrative Assistant
10045-55 Overseas Highway
Marathon, FL 33050


RE: Telecom Systems, Ltd./ Meeting on August 2, 2004
Our File No: 04-093-fdg

Dear Ms. Frazier:

Pursuant to your request enclosed please find the original, recorded Development Order 2004-02.

Should you have any questions or need additional information please do not hesitate to call.

Respectfully,



Franklin D. Greenman

FDG/zb

Enclosures

cc: James Spisiak



**CITY OF MARATHON, FLORIDA
MAJOR CONDITIONAL USE
DEVELOPMENT ORDER #2004-02**

A DEVELOPMENT ORDER APPROVING THE MAJOR CONDITIONAL USE APPLICATION SUBMITTED BY THE FLORIDA KEYS ELECTRIC CO-OPERATIVE, FOR A MAJOR CONDITIONAL USE PERMIT, PURSUANT TO SECTIONS 9.5-69 OF THE CITY OF MARATHON CODE, AUTHORIZING THE CONSTRUCTION OF A 250 FOOT ANTENNA SUPPORTING STRUCTURE AND ACCESSORY EQUIPMENT CABINETS, AT PROPERTY LEGALLY DESCRIBED AS PART OF GOVERNMENT LOT 3, SECTION 10, TOWNSHIP 66 SOUTH, RANGE 32 EAST, MARATHON, KEY VACA, MONROE COUNTY, FLORIDA (THE "PROPERTY").

WHEREAS, the Florida Keys Electric Co-operative (FKEC) is the owner of the Property and applied for a Major Conditional Use approval for the construction of a 250 foot antenna supporting structure and accessory equipment cabinets on property located in the Suburban Commercial (SC) land use district (the "Application"); and

WHEREAS, the Planning Commission (Commission), in accordance with the provisions of Sections 9.5-22 and 9.5-69 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on August 2, 2004; and

WHEREAS, the Commission recommended approval of the Application to the City Council (the "Council"); and

WHEREAS, the Council of the City of Marathon, Florida, in accordance with the provisions of Sections 9.5-21 and 9.5-69 of the City of Marathon Land Development Regulations, met to review the Application to determine its compliance with the applicable regulations on August 10, 2004; and

WHEREAS, the Council has duly considered the recommendation of the Commission, and the information and documentary evidence submitted by the FKEC and does hereby find and determine as provided below.

FINDINGS OF FACT:

1. Based on the submitted site plan, the site is a 179,709.9 square foot (4.13 acres) parcel. The applicant is proposing to lease 7,500 square feet (.172 acres) for the construction of the 250 foot antenna supporting structure. Because the proposed development is an antenna supporting structure with an unmanned equipment cabinet, the proposal is not subject to the Year 2010 Comprehensive Plan Policy 101.3 regarding new non-residential development.

subject to the Year 2010 Comprehensive Plan Policy 101.3 regarding new non-residential development.

2. In accordance with Section 9.5-65 of the Code, the Commission and Council considered and determined the Applicant met the following criteria:
 - a. The Proposed Use is consistent with goals, objectives and policies of the City Comprehensive Plan (the "Plan") and Chapter 9.5 of the Code; and
 - b. The Proposed Use is consistent with the character of the immediate vicinity of the parcel proposed for development; and
 - c. The design of the Proposed Use minimizes adverse effects, including visual impacts, of the proposed use on adjacent properties; and
 - d. The Proposed Use will not have an adverse effect on the value of surrounding Properties; and
 - e. The adequacy of public facilities and services, including but not limited to roadways, park facilities, police and fire protection, hospital and medical services, hurricane shelter, drainage systems, refuse disposal, water and sewers, and schools; and
 - f. The Proposed Use complies with all additional standards imposed on it by the particular provisions of Chapter 9.5 of the Code, authorizing such use and by all other applicable requirements of the Code.

CONCLUSIONS OF LAW:

Based upon the above Findings of Fact, the Council does hereby make the following Conclusions of Law:

1. The Application has been processed in accordance with the applicable provisions of the City Code, and will not be detrimental to the community as a whole; and
2. In rendering its decision, as reflected in this Resolution, the Council has:
 - (a) Accorded procedural due process;
 - (b) Observed the essential requirements of the law;
 - (c) Supported its decision by substantial competent evidence of record; and
3. The Application for a major conditional use is hereby GRANTED.

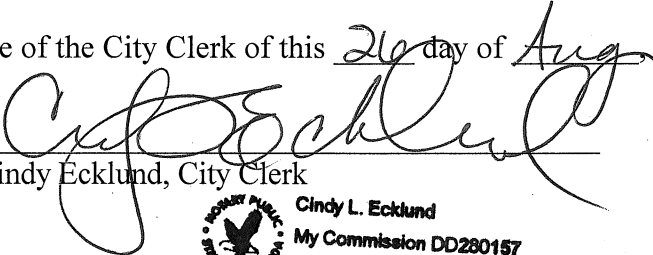
EFFECTIVE DATE:

This development order shall not take effect for thirty (30) days following the date it is filed with the City Clerk, and during that time, the major conditional use approval granted herein shall be subject to appeal as provided in the City Code. An appeal shall stay the effectiveness of this development order until said appeal is resolved.

26 Aug 04
Date


Gail Kenson, AICP
Planning Manager

This Development Order was filed in the Office of the City Clerk of this 21st day of Aug
2004.


Cindy Ecklund, City Clerk



Cindy L. Ecklund
My Commission DD280157

Expires January 11, 2008
NOTARY PUBLIC, STATE OF FLORIDA

NOTICE

Section 9.5-72 (a) of Marathon City Code states that a conditional use permit shall not be transferred to a successive owner without notification to the Development Review Coordinator within five (5) days of the transfer.

Under the authority of Section 9.5-72(a) of the City of Marathon Land Development Regulations, this development order shall become null and void with no further notice required by the City, unless a complete building permit application for site preparation and building construction with revised plans as required herein is submitted to the City of Marathon Building Official within six (6) months of the expiration of the Department of Community Affairs appeal period or the date when the Department of Community Affairs waives its appeal and all required certificates of occupancy are procured with three (3) years of the date of this development order is approved by the Director of Planning.

In addition, please be advised that pursuant to Chapter 9J-1, Florida Administrative Code, this instrument shall not take effect for forty-five (45) days following the rendition to the Florida Department of Community Affairs. During that forty-five days, the Florida Department of Community Affairs may appeal this instrument to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of this instrument until the appeal is resolved by agreement or order.

This Development Order was filed in the Office of the County Recording Clerk on this ____ day
of _____, 2004.

County Recording Clerk

**MONROE COUNTY
OFFICIAL RECORDS**