

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2015-04**

**CONDITIONAL APPROVAL FOR THE ALLOCATION OF SEVENTEEN (17) AFFORDABLE RESIDENTIAL ALLOCATIONS IN CONSIDERATION OF REQUEST BY KEYS AFFORDABLE DEVELOPMENT, LLC. PURSUANT TO CHAPTER 102, ARTICLE 4 AND CHAPTER 107, ARTICLE 1, SECTION 107.10 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (“THE LDRS”), “BORROWING AND BANKING OF ALLOCATIONS;” THE APPROVAL IS GRANTED AS PART OF THE BUILDING PERMIT ALLOCATION SYSTEM (BPAS) IN CONJUNCTION WITH A REQUEST FOR A CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AUTHORIZING THE DEVELOPMENT OF FIFTY-ONE (51) ONE, TWO AND THREE BEDROOM APARTMENTS ON PROPERTIES LOCATED AT 73RD STREET OCEAN, WHICH ARE LEGALLY DESCRIBED AS LOTS 2,3,4,10,11 AND 16 OF REIMANN'S SUB PB2-145 AND LOTS 7, 8, 9 AND 10 OF FIELD'S SUBDIVISION, KEY VACA, MONROE COUNTY, FLORIDA; HAVING REAL ESTATE NUMBERS 00342030-000000, 00342040-000000, 00342050-000000, 00342110-000000, 00342160-000000, 00342290-000000, 00342300-000000, 00342310-000000 AND 00342320-000000. NEAREST MILE MARKER 51.**

**WHEREAS;** Keys Affordable Development, LLC (The “Applicant”) filed an Application on September 19th, 2014 for a Conditional Use Permit and Development Agreement pursuant to Chapter 102, Articles 13 and 8 respectively of the City of Marathon Land Development Regulations (LDRs); and

**WHEREAS;** the Applicant has proposed to develop fifty-one (51) one, two and three bedroom affordable apartments on sites previously developed as a non-transient motel/apartments; and

**WHEREAS;** the Applicant has entitlements on the project site for thirty-four (34) market rate residential units existing on site; and

**WHEREAS;** the Applicant must obtain fifty-one (51) affordable units, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT AMENDMENTS DO NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY AFFORDABLE RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT AND DEVELOPMENT AGREEMENT.

**WHEREAS;** City staff reviewed the Applicant's request for a Conditional Use Permit determining that the Applicant's project proposal was in compliance with the City's Comprehensive Plan and Land Development Regulations (LDRs) and further that there was no substantial impact on the City's Level of Service (LOS); and

**WHEREAS;** on the 20th day of October 2014, the City of Marathon Planning Commission (the "Commission") conducted a properly advertised public hearing (the "Public Hearings") regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 respectively of the LDRs; and

**WHEREAS;** and on the 11th day of November, 2014 and the 13th day of January, 2015 the City Council (the "Council") conducted properly advertised public hearings (the "Public Hearings") regarding the request submitted by the Applicant, for a Conditional Use Permit pursuant to Chapter 102, Article 13 of the LDRs; and

**WHEREAS;** the City Council made a determination that the Applicant's request for a Conditional Use Permit, subject to the terms of the LDRs and with Conditions imposed, was in Compliance with the City's Comprehensive Plan and LDRs and further, that the approval is in the public interest, is consistent with its policy to encourage redevelopment in Marathon, and will further the health, safety and welfare of the residents of Marathon; and

**WHEREAS,** on the 13<sup>th</sup> day of January 2015 the City Council approved the Applicants request for a Conditional Use Permit and Development Agreement in Resolutions 2015-02 and 2015-03 respectively;

**WHEREAS,** the Applicant made a request for fifty-one (51) affordable residential BPAS allocations Pursuant To Chapter 102, Article 4 And Chapter 107, Article 1, Section 107.10 Of The City Of Marathon Land Development Regulations ("the LDRs"), "Borrowing And Banking Of Allocations" As Part Of The Building Permit Allocation System (BPAS) In Conjunction With A Request For A Conditional Use Permit And Development Agreement; and

**WHEREAS,** the Applicant holds thirty-four (34) Market Rate Residential entitlements for residential units that they intend to demolish and re-develop as part of the project proposal; and

**WHEREAS,** and on the 11<sup>th</sup> day of January, 2015 the City Council (the "Council") conducted a properly advertised public hearing (the "Public Hearing") regarding the request for BPAS allocations submitted by the Applicant; and

**WHEREAS,** based on competent and substantial testimony by the Applicant and staff, public input, and in accordance with requirements to afford due process, agreed to allocate seventeen (17) affordable residential BPAS allocations to the Applicant with Conditions as outlined below,

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

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

**Section 2.** The City has determined that it has adequate affordable residential BPAS allocation to accommodate the project in accordance with the provisions of Chapter 107, Article 2, Section 107.10, "Borrowing and Banking of Allocations."

**Section 3.** Based upon the information, evidence and testimony presented by City Staff and members of the public, the City Council approves the award BPAS allocations to the project known as Keys Affordable Development, LLC with conditions as follows:

1. The City Council agreed in a public hearing held on January 13, 2015 to allocate seventeen (17) affordable residential units through the BPAS process
2. The Applicant will be required to acquire by separate means thirty-four (34) affordable residential units either utilizing their existing thirty-four (34) market rate residential entitlements or by transferring them by means established in Chapter 107, Article 2, "Transfer of Building Rights" in order to provide the compliment of residential allocations and or entitlements necessary to construct the approved project of fifty-one (51) units.
3. The approval of a Conditional Use Permit and Development Agreement (Resolutions 2015-002 and 2015-003 respectively do not convey or grant a vested right or entitlement to any future allocations by the city of any residential units not currently in possession by the applicant or otherwise approved by the City.
4. The Applicant shall be obligated to utilize the seventeen (17) affordable residential BPAS allocations awarded by the City in accordance with the phasing and timelines established in the project Development Agreement between the City and Keys Affordable Development, LLC promulgated in Resolution 2015-003.

**Section 4.** This Resolution shall become effective immediately upon approval by the State Department of Economic Opportunity.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 13<sup>TH</sup> DAY OF JANUARY, 2015.**

**THE CITY OF MARATHON, FLORIDA**



**Chris Bull, Mayor**

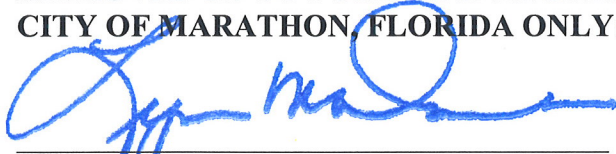
AYES: Zieg, Kelly, Keating  
NOES: Senmartin, Bull  
ABSENT: None  
ABSTAIN: None

**ATTEST:**

  
\_\_\_\_\_  
for Diane Clavier, City Clerk

(City Seal)

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

  
\_\_\_\_\_  
Lynn M. Dannheisser, City Attorney