

**CITY OF MARATHON, FLORIDA
RESOLUTION 2022-30**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MARATHON, FLORIDA AND THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY IN CONSIDERATION OF STATUTORY REQUIREMENTS PURSUANT TO SECTION 380.07 (2) FLORIDA STATUTES AND RULE 73C-44.002 REQUIRING THAT THE CITY RENDER DEVELOPMENT ORDERS TO THE DEPARTMENT; THIS RESOLUTION IS HEREBY ADOPTED AS A REPLACEMENT FOR RESOLUTIONS 2004-097 AND A SUBSEQUENT AMENDMENT LETTER FROM THEN SECRETARY THADDEUS L. COHEN DATED JANUARY 11, 2005 WHICH ARE HEREBY REPEALED; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Pursuant to Chapter 380.07(2) and Rule 73C-44.002, Development Orders issued by the City of Marathon must be rendered for Review to the Department of Economic Opportunity (“DEO”); and

WHEREAS, Resolution 2004-097 and a subsequent amendment letter from then Secretary Thaddeus L. Cohen dated January 11, 2005 act as the most recent “template” by which the City Renders Development Orders to the State; and

WHEREAS, the attached Memorandum of Understanding (“MOU”) provides current and new procedures for such Rendering based on the Department’s termination of the previous MOU effective March 3, 2022; and

WHEREAS, it is in the City’s best interest pursuant to said statutory requirements to adopt the Memorandum of Understanding between the City and DEO.

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.

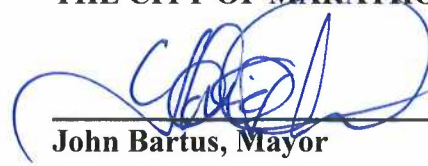
Section 2. The Attached Memorandum Of Understanding between the City of Marathon, Florida and the Florida Department of Economic Opportunity is hereby adopted.

Section 3. This Resolution shall take effect immediately upon the signature of both parties.

Section 4. The City Clerk is directed to transmit this Resolution to the Department of Economic Opportunity.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8TH DAY OF MARCH, 2022.

THE CITY OF MARATHON, FLORIDA



John Bartus, Mayor

AYES: Zieg, Gonzalez, Cook, Still, Bartus
NOES: None
ABSENT: None
ABSTAIN: None

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

MEMORANDUM OF UNDERSTANDING
BETWEEN THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY
AND THE CITY OF MARATHON

This Memorandum of Understanding (“MOU”) is being entered into by and between the State of Florida Department of Economic Opportunity (“Department”) and the City of Marathon (“City”) to provide better coordination between the Department and the City in the implementation of the provisions of Chapter 380, Florida Statutes, and the City of Marathon Comprehensive Plan and Land Development Regulations. The Department and the City may be referred herein individually as a “Party” and collectively as “the Parties.”

WITNESSETH

WHEREAS, the Department is the state land planning agency authorized to administer the provisions of Chapter 380, Florida Statutes, and all rules and regulations promulgated thereunder.

WHEREAS, the City is within an area that has been designated an Area of Critical State Concern pursuant to Section 380.05 and 380.0552, Florida Statutes, and has adopted a comprehensive plan and land development regulations, approved by the State as required by law; and

WHEREAS, local governments located in Areas of Critical State Concern are required to issue and render to the Department development orders pursuant to Sections 380.05 and 380.07, Florida Statutes; and

WHEREAS, the Department has adopted rules describing rendition and effectiveness of development orders in Areas of Critical State Concern under Rule 73C-44.002 and Rule 73C-44.003, Florida Administrative Code; and

WHEREAS, the City is required to issue development orders in conformity with its approved Comprehensive Plan and Land Development Regulations while taking into consideration the established principles for the Florida Keys Area of Critical State Concern; and

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

WHEREAS, the Department, as provided in Rule 73C-44.002(3), Florida Administrative Code, may exempt particular types of development orders from the requirements of the Rule; and

WHEREAS, the Department does hereby exempt certain categories of the City of Marathon development orders from the Department's review; and

WHEREAS, the Department and the City do mutually agree as follows:

I. Required Renderings

A. As provided in Rule 73C-44.002(3), Florida Administrative Code, the Department may, on its own initiative or at the request of an affected governmental entity, provide in writing that particular types of local government development orders or categories of local government development orders are exempt from the requirements of Rule 73C-44.002, Florida Administrative Code.

B. In accordance with Rule 73C-44.002(3), Florida Administrative Code, the Department exempts the City from rendering development orders to the Department except for the following types and categories of development orders:

1. Any development order for a principal structure located within any Class I habitat.

2. Any conditional use for a new or redeveloped hotel, motel, guesthouse, resort, or RV park.
 3. Conditional use approvals for new non-residential development over 2500 sq ft.
 4. Conditional use permits but not their subsequent building permits, 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 not previously reviewed under the expedited permitting process per 380.0655.
 5. Any conditional use permit for new, redeveloped or conversion of a mobile home park.
 6. Any development for maintenance dredging not previously reviewed under coordinated agency review under 380.051 nor exempted as part of canal restoration projects.
 7. Any development for a boat slip or ramp that requires excavation not previously reviewed under coordinated agency review under 380.051.
 8. Any development for new or renewal of any mining operation.
- C. The City shall provide an annual report by October 1 of each year to the Department indicating the number and type of allocations awarded and the number of allocations rolled over by type for that building permit allocation system year. The annual report shall also include the number of allocations issued for administration relief and beneficial use.

D. The City shall submit the biannual building permit allocation system rankings to the Department, following approval by the City Council and any local appeal periods.

II. Severability

A. If any term or provision of this MOU is determined to 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 MOU between the Parties.

B. The Department reserves the right to request that any development order, whether listed in Section I of this MOU or not, be rendered to the Department. The City agrees to render the requested development order and any relevant documents to the Department in an expeditious manner.

C. The Department retains the right to monitor development throughout the City. If a pattern develops showing noncompliance with the Principles for Guiding Development, the City's Comprehensive Plan, or Land Development Regulations, the Department will exercise its right to modify or terminate this MOU.

III. Modification

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

IV. Termination

Either Party may terminate this MOU at any time, with or without cause. Termination shall take effect one week or five working days, whichever is earlier, after receipt of written notification as evidenced by certified mail return receipt.

V. Notifications

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

A. For the Department:

The Department of Economic Opportunity
Division of Community Development
Areas of Critical State Concern Administrator
107 East Madison Street
Caldwell Building
Tallahassee, Florida 32399-4120

B. For the City:

City of Marathon
9805 Overseas Highway
Marathon, Florida 33050


VI. Effective Date

This MOU 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 pursuant to Section IV of this MOU.

(The remainder of this page is intentionally left blank. Signature page to follow.)

IN WITNESS WHEREOF, the Parties agree to the terms and conditions set forth in this MOU, and upon placing their signatures below, have hereby caused this seven (7) page agreement to be executed.

CITY OF MARATHON, FLORIDA



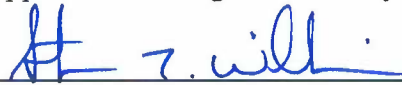
John Bartus, Mayor March 9, 2022
Date

ATTEST:



Diane Clavier, City Clerk March 9, 2022
Date

Approved as to legal sufficiency:



Steven T. Williams, City Attorney Date

STATE OF FLORIDA, DEPARTMENT OF ECONOMIC OPPORTUNITY

Dane Eagle, Secretary Date

Approved as to legal sufficiency:

Assistant General Counsel Date