

CITY COUNCIL AGENDA STATEMENT



Meeting Date: May 10, 2022
To: Honorable Mayor and Members of City Council
Through: George Garrett, City Manager
From: Brian Shea, Planning Director

Agenda Item: **Ordinance 2022-09**, Amending Chapter 103 “Zoning Districts”, Article 3 “Use And Intensity Tables”, Updating Table 103.15.1 “Uses By Zoning District”, Updating Table 103.15.2 “DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS”; Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; Providing For Inclusion In The Code Of Ordinances, City Of Marathon, Florida; And Providing An Effective Date.

RECOMMENDATION:

Staff recommends APPROVAL.

BACKGROUND AND REQUEST:

The City of Marathon staff reviewed existing uses and zoning and found three code updates that require text amendments.

The proposed Ordinance does the following:

Section 103.15. - Standards.

- A. *Uses*: Certain uses, whether permitted as of right, limited, accessory or conditional uses may affect adjacent properties, the neighborhood, or community, even if the site planning and development standards of the applicable zoning district are satisfied. Uses in bold on Table 103.15.1 have special criteria contained in Article 1 of Chapter 104 "Specific Use Regulations", which are intended to mitigate potential problems and hazards, and to ensure consistency with the Plan.
- B. *Zoning Districts*: The density, intensity, setbacks, and dimensional standards relative to each parcel are subject to the limitations of the zoning district as reflected in Tables 103.15.1 and 103.15.2.

Table 103.15.1

Uses by Zoning District

Uses in bold have specific conditions listed in Chapter 104

Front, min	200	25	25	10	10	0-30	20	15	15	10	10	20	20	20	25	25
Rear, min	200	25	25	10	10	20	20	10	10	10	10	20	20	20	25	25
Side 1, min		10	10			0-10	10			5	5	5	10	10	10	10
Interior Side Min	200			5	5	10		5	5				10	5		
Side 2, min		10	10			0-10	10			5	5	5	10	10	10	10
Street Side Min	200			5	5	0-5		5	5							
Height Limit ³	37 42	37 42	37 42	37 42	37 42	37 42	37 42	37 42	37 42	37 42	37 42	37 42	37 42	37 42	37 42	37 42
Units Per Building***										10	N/A					
Max Lot Coverage **		5,000 ft ²	5%													
Open Space, Min. (%)**	0.20	0.50	0.95	0.20	0.20	0.20	0.20	0.20	0.20	.20	0.20	0.20	0.20	0.20	0.50	0.50
Minimum Street-front Lot Width										75'		100'	100'	100'		

Footnotes for Table 103.15.2

* Determined by the Director, based upon Habitat Analysis

** Subject to Table 106.16.1 "Open Space Requirements per Habitat Type"

*** Affordable dwelling units not subject to this limitation

**** Allocated densities for all zoning districts are subject to the following additional requirements:

- Salt marsh/buttonwood association wetlands that are either undisturbed or of high functional capacity as defined in Article 4, of Chapter 106 shall be assigned a density of 0.25 units per acre for the sole purpose of transferring the density out of these habitats.

- Submerged lands, salt ponds and mangrove wetlands shall not be assigned density for any purpose (i.e., allocated density = 0).

¹ The FAR for mixed-use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided

² Density bonus limited to deed-restricted affordable housing as established in Article 1, "Affordable Housing" of Chapter 104.

³ Subject to the additional height restrictions of Article 5, Chapter 107.

⁴ Existing Single-Family Residences may be repaired, modified, or replaced. Individual vacant Lots within Blocks defined within the Plat subject to RL-C zoning may be built upon IF the sum of all Lots within an individual Block are over 90 percent developed with single family residences as of the date that DEO accepts the Ordinance.

⁵ This Footnote applies ONLY to properties and/or developed RV or Mobile Home sites which have been or would be recognized as having a Permanent RV structure, as defined in Policy 1-3.2.8 which are located in the Residential High or Mixed Use Commercial Land Use Categories or in other Zoning Districts as determined and reviewed on a case by case basis, Operable Road Ready RVs may be placed on the site of a Permanent RV once the Permanent RV structure is demolished and ONLY if it is determined that the property or site has retained its Transferable Building Right and the Right hasn't been previously transferred to another location within the City. Otherwise, said Permanent RV properties or sites will retain their Market Residential Building Right or allocation. Said Market Rate Building Rights may be retained on-site as Market Rate residential units with the redevelopment of a Florida Building Code compliant residential structure. If the Development Right is transferred, it shall only be transferred as an Affordable Building Right. Though an operable Road Ready RV may utilize Permanent RV properties or sites, it shall not be assumed that the site has a Transient Residential Unit which can be transferred as such.

- a. This provision shall sunset three (3) years after the effective date of this footnote, August 11, 2020, and shall not be available thereafter.
- b. This provision shall only be available to those individuals who chose to utilize this provision to occupy property in their individual ownership? no rental of the site or an associated Operable Road Ready RV is allowed under this provision as shall be enacted through the City LDRs.

(Ord. No. 2010-15, § 2, 1-11-2011; Ord. No. 2014-10, § 4, 7-8-2014; Ord. No. [2018-04](#), § 1, 7-10-2018; [Ord. No. 2019-09](#), § 3, 8-13-2019; [Ord. No. 2020-02](#), § 2, 8-11, 2020)

APPLICANT: City of Marathon

REQUEST: The ordinance amends chapter 103, article 3, “Use and Intensity Tables”.

AUTHORITY

Section 102.26. Planning Commission Recommendation.

- A. *Authority:* The PC shall consider a proposed text amendment at the request of the Council.
- B. *Review Criteria:* The PC shall review such proposed amendment, based upon the criteria listed below:
 - 1. The need and justification for the change;
 - 2. The consistency of the proposed amendment with the Comprehensive Plan; and
 - 3. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.
- C. *Findings:* The PC shall make a finding of whether the proposed amendment is consistent with the Comprehensive Plan and a recommendation shall be prepared and forwarded to the Council, indicating if the proposed amendment should be:
 - 1. Approved as proposed;
 - 2. Approved with amendments proposed by the PC; or
 - 3. Denied

Section 102.27. - Hearing(s) by Council.

- A. The decision to process a text amendment is within the sole discretion of the Council.
- B. For any proposed text amendment, the Council shall hold a minimum of two (2) public hearings, conforming to the requirements of Fla. Stat. ch. 166, before taking action on the amendment.

Section 102.28. - Action by Council.

Following the public hearings, the Council shall make a finding of whether the proposed text amendment is consistent with the Comprehensive Plan and may approve, approve with changes or deny the proposed amendment.

As noted, review of proposed LDR text amendments is to be made based on three basic criteria: need and justification for change, consistency with the adopted Comprehensive Plan, and whether the proposed amendment will further the purposes of the LDRs, other ordinances, and actions taken to further the implementation of the Comprehensive Plan. The Planning Commission, in reviewing the proposed

amendment, may recommend approval as is, approval with changes, or denial to the City Council.

ANALYSIS OF LAND DEVELOPMENT REGULATION TEXT AMENDMENTS:

Section 102.26(B) of the Land Development Regulations requires that the following standards and criteria be considered for any proposed text amendment. Each criteria and explanation of relevance to this proposed amendment are listed below:

A. The need and justification for the change;

Change of **Table 103.15.1**, Uses by Zoning District to permit beekeeping in all zoning districts. This change will update City Code to comply with FL Stat § 586.10 (2014) that preempts local government ordinances on the placement and location of registered inspected managed honeybee colonies by allowing beekeeping in all zoning districts.

Change of **Table 103.15.1**, Uses by Zoning District to permit vacation rentals in C-NA zoning districts. This change will make vacation rentals consistently allowed with a license in all zoning districts where single family dwellings are allowed except for I-G and I-M where single family dwelling are restricted to affordable units which cannot be vacation rentals.

Change of **Table 103.15.1**, Uses by Zoning District to make bars and taverns a Conditional Use in IG and IM. A restaurant is permitted as of right in these zoning districts, which would fall under COP license types, and Convenience stores are P as well, and would fall under package sales (APS). So conditional use would be consistent for a COP license under that specific use.

Change of building height to 42 in **Table 103.15.2**, DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS. This change will make the table consistent with code changes made by Ordinances 2019-12 & 2019-13. This changed the maximum height of structures to 42 feet to raise the height limitations to provide some flexibility in building construction under the constraint that many Base Flood Elevations have increased from the current adopted maps in the National Flood Insurance Program (NFIP), “Working Draft Flood Insurance Rate Maps (FIRM).

B. The consistency of the proposed amendment with the Comprehensive Plan; and

The proposed text amendment is consistent with the Comprehensive Plan and LDRs providing compliance with State law and consistency within current City code.

C. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.

The proposed text amendments further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan by code consistency.

CONCLUSION:

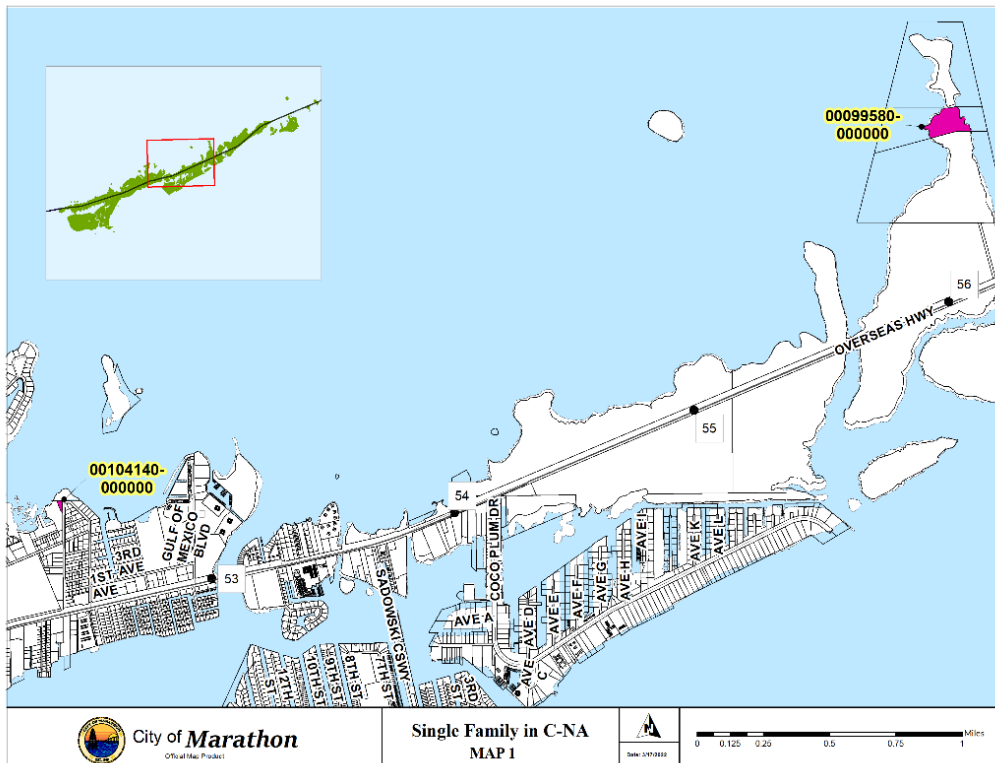
Staff indicates that the proposed text amendments are consistent with the standards and tenants of Chapter 163 and 380 F.S., and the City’s Comprehensive Plan adopted under the requirements of these statutes and rules.

RECOMMENDATION:

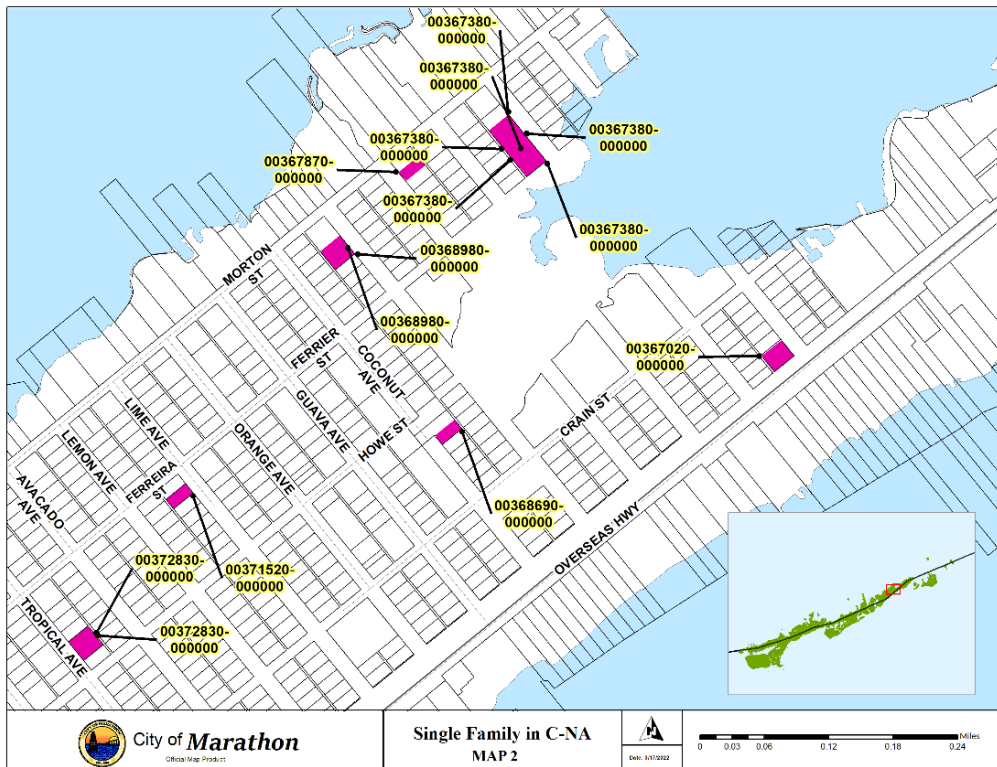
Staff recommends APPROVAL.

Exhibit A:

**Affected parcels for Vacation Rental changes in C-NA
Map 1**



Map 2



Map 3

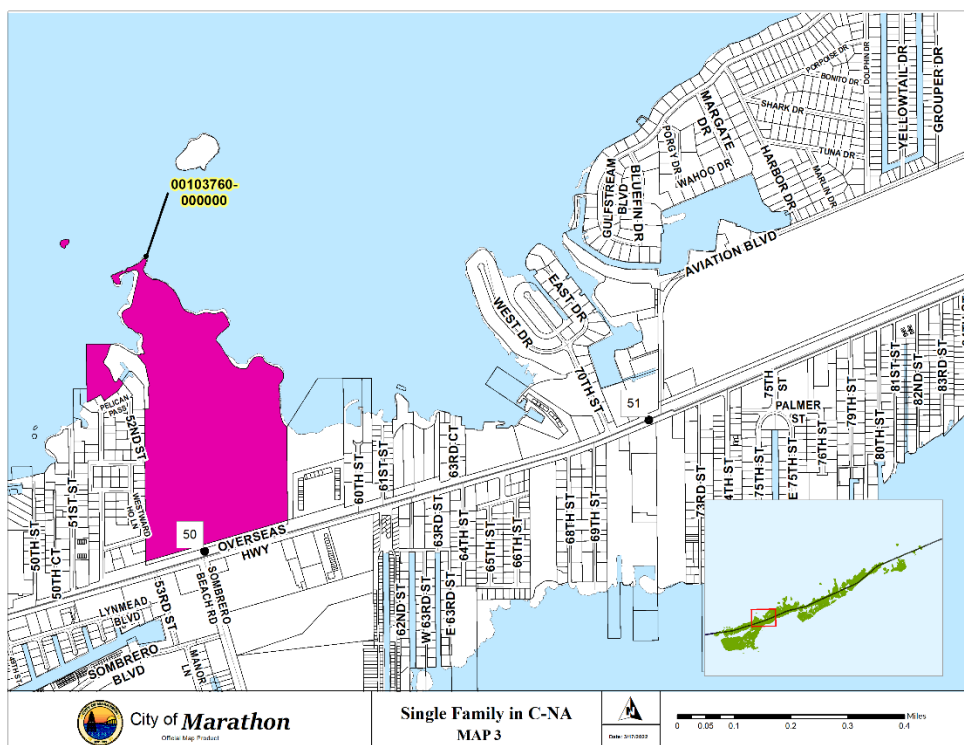


Exhibit B
Parcels Affected by VR change
(10 parcels including Crane Point)

00368980-000000
00367380-000000
00367870-000000
00368690-000000
00372830-000000
00367020-000000
00099580-000000
00104140-000000
00371520-000000
00103760-000000 (crane pt)

Sponsored By: Garrett
Planning Commission Public Hearing Date: April 18, 2022
City Council Public Hearing Date: May 10, 2022
tbd
Enactment Date: tbd

**CITY OF MARATHON, FLORIDA
ORDINANCE 2022-09**

ORDINANCE 2022-XXX, OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 103 “ZONING DISTRICTS”, ARTICLE 3 “USE AND INTENSITY TABLES”, UPDATING TABLE 103.15.1 “USES BY ZONING DISTRICT”, UPDATING TABLE 103.15.2 “DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS”; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES, CITY OF MARATHON, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Florida Statutes, provides for comprehensive plan implementation through the enactment of certain ordinances; and

WHEREAS, the City of Marathon is located within an Area of Critical State Concern (ACSC), pursuant to Sections 380.05 and 380.0552, Florida Statutes, hereinafter referred to the “Keys ACSCs;” and

WHEREAS, Keys’ Local Governments have adopted state-mandated Comprehensive Plans and Land Development Regulations pursuant to both Chapters 163 and 380.055, Florida Statutes, which have been approved by the State, as required by law, and;

WHEREAS, Chapter 166, *Florida Statutes*, grants the City of Marathon (the “City”) broad municipal home rule powers to provide for the health, safety and welfare of its residents, business owners and visitors by enacting business regulations for the protection of the public; and

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

SECTION 1. The three rows listed below in table 103.15.1 are amended as shown, and the additional footnote shall be added after the table.

~~Strikethrough~~ = deletion **bold underline** = addition

Table 103.15.1
Uses by Zoning District

ZONING DISTRICT	C-NA	C-OI	RL-C	RL	RM	RM-1	RM-2	R-MH	RH	MU	MU-M*	I-G	I-M*	A	P	PR
Bars and taverns— Section 104.06										C	C	<u>C</u>	<u>C</u>			

Beekkeeping****	P	P	P	P	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

Vacation Rental units	<u>L</u>	L	L	L	L	L	L	L	L	L	L					

*Permitted uses are limited to those which are related to the maritime industry

**Submerged Mooring Facilities may only be permitted in association with upland areas whose zoning is shown as having a "C"

***Existing Single-Family Residences may be repaired, modified, or replaced. Individual vacant Lots within Blocks defined within the Plat subject to RL-C zoning may be built upon IF the sum of all Lots within an individual Block are over 90 percent developed with single family residences as of the date that DEO accepts the Ordinance.

**** [Limited to Florida Registered Beekeepers with the Florida Department of Agriculture and Consumer Services \(FDACS\).](#)

Note: Uses may be subject to additional requirements, see Chapter 104, Specific Use Regulations.

SECTION 2. The height limit row listed below in table 103.15.2 is amended as shown.

Table 103.15.2
DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS

	A	C-NA	C-OI	I-G	I-M	MU	MU-M	P	PR	RH	R-MH	RM	RM-1	RM-2	RL	RL-C
Density Range (units per acre) ****		.25	0.1	5 10	5 10	6 15	6 15	10 25	1/4ac	8 25	8 25	5 10	4	5	0.5	.25 ⁴
Market Rate (maximum)		.25	0.1			6	6		.25	8	8	5	4	5	0.5	0.25
Affordable (maximum) ³		.25	0.1	5-10	5-10	15	15	10-25	.25	15-25	25	10	4	5	0.5	.25
Transient						5-25		3-25	10	0	0	0	0	0	0	0
Min lot area per unit																

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bold underline = addition

(square feet)																
Market Rate		4 acres	10 acres			7,260	7,260		4 acres	5,445	5,445	8,712	10,000	8,712	2 acre	4 acres
Affordable		4 acres	10 acres	4,356	4,356	2,904	2,904	1,742	4 acres	1,742	1,742	4,356	10,000	8,712	2 acre	4 acres
FAR	0.15-0.50	0.05-0.10	0.05-0.10	0.85	0.85	0.15-0.6 ¹	0.15-0.61	0.15-0.75	0.15-0.50							N/A
Setbacks																
Front, min	200	25	25	10	10	0-30	20	15	15	10	10	20	20	20	25	25
Rear, min	200	25	25	10	10	20	20	10	10	10	10	20	20	20	25	25
Side 1, min		10	10			0-10	10			5	5	5	10	10	10	10
Interior Side Min	200			5	5	10		5	5				10	5		
Side 2, min		10	10			0-10	10			5	5	5	10	10	10	10
Street Side Min	200			5	5	0-5		5	5							
Height Limit³	37-42	37-42	37-42	37-42	37-42	37-42	37-42	37-42	37-42	37-42	37-42	37-42	37-42	37-42	37-42	37-42
Units Per Building***										10	N/A					
Max Lot Coverage **		5,000 ft ²	5%													
Open Space, Min. (%)**	0.20	0.50	0.95	0.20	0.20	0.20	0.20	0.20	0.20	.20	0.20	0.20	0.20	0.20	0.50	0.50
Minimum Street-front Lot Width										75'		100'	100'	100'		

SECTION 3. The Provisions of the Code of Ordinances, City of Marathon, Florida and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. It is the intention of the City Council, and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections

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bold underline = addition

of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

SECTION 6. The provisions of this Ordinance constitute a “land development regulation” as state law defines that term. Accordingly, the City Clerk is authorized and directed to forward a copy of this Ordinance to the State Department of Economic Opportunity for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

SECTION 7. This Ordinance shall be effective immediately upon approval by the State Department of Economic Opportunity pursuant to Chapter 380, Florida Statutes.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS Xth DAY OF X, 2022.

THE CITY OF MARATHON, FLORIDA

John Bartus, Mayor

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

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

Steven Williams, City Attorney

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