



City of Marathon City Council Agenda
9805 Overseas Hwy., Marathon, FL
Tuesday, November 12, 2024 5:30 P.M.

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Resolution 2024-107, Accepting The Results Of The Municipal General Election Held November 5, 2024 For The Election Of Two At Large City Council Seats; And Providing For An Effective Date.....1**
 - A. Swearing in of Council Members
 - B. Mayor and Vice Mayor Selection
- 5. Approval of agenda and consent agenda [Approval of Consent Agenda passes all routine items indicated by asterisk (*). Consent Agenda items are not considered separately unless a Council Member so requests. In the event of such a request, the item is returned to the Regular Agenda.]**
- 6. City Council Items**
 - *A. Approval of Minutes.....5
 - B. Carlos Solis, P.E., Public Works Director Recognition of 15 Years of Service
 - C.
- 7. City Manager Report**
 - * A. MCSO Marathon Substation Report..... 24
 - * B. Grants Update29
 - * C. Public Works Report34
 - * D. Building Report.....37
 - * E. Marathon Fire Rescue Report38
 - * F. Marina Report.....41
 - * G. Code Report.....44
 - H. Updated Vehicle Policy.....45
 - I. Beach Raking Contract Discussion
 - J.
- 8. Citizens' comments on agenda items not scheduled for public hearing and items other than those appearing on the agenda [Those who have signed in will be given the first opportunity to speak. Time is limited to 2 minutes per speaker.] TIME CERTAIN TO 6:30 PM OR AS SOON AS POSSIBLE THEREAFTER OR AT THE CONCLUSION OF ALL COUNCIL BUSINESS; WHICHEVER OCCURS FIRST.**

9. **Ordinances for Final Public Hearing and Adoption**

A. Ordinance 2024-10, Amending the City’s Land Development Regulations Relating to Chapter 107, Article 5, “Setbacks and Height”, Section 107.36 “Exception To Setback”; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability; Providing For The Transmittal Of This Ordinance To Florida Commerce After Final Adoption By The City Council; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.....55

10. **Ordinance for First Public Hearing**

A. Ordinance 2024-13, Amending Chapter 2, Article 6, Division 2 Of The Code Of The City Of Marathon, Pertaining To Purchasing Requirements; Providing For Severability; Providing For Inclusion In The Code; And Providing For An Effective Date.....65

11. **Resolutions For Adoption**

***A. Resolution 2024-108**, Authorizing The City To Extend The Agreement With Ballard Partners, Inc. For Professional Consulting And Lobbying Services Before The Legislature Of The State Of Florida; Authorizing The City Manager To Expend Budgeted Funds, And Execute The Extension Agreement; And Providing An Effective Date.....78

***B. Resolution 2024-109**, Awarding Change Order #2 For the SA7 Filter Upgrades Project To Reynolds Construction.; Approving A Change In Contract Amount From \$11,413.33; Authorizing The City Manager To Execute The Contract And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date.83

***C. Resolution 2024-110**, Waiving The City’s Purchasing Policies And Procedures And Approving A Sole Source Purchase Of Wastewater Treatment Membrane Upgrades For Service Area 5 Wastewater Treatment Facility From Kubota Membrane USA, In An Amount Not To Exceed \$269,183.00; Authorizing The City Manager To Execute Purchase Orders; Appropriating Funds On Behalf Of The City; And Providing For An Effective Date.....93

***D. Resolution 2024-111**, Approving An Agreement With Culver’s Cleaning Company For Cleaning Services At Marathon City Hall, Fire Station And Utility/Public Works Building In An Amount Not To Exceed \$53,300 Per Year; And Providing For An Effective Date.....104

***E. Resolution 2024-112**, Amending The City’s Fiscal Year 2023-2024 Budget; And Providing For An Effective Date.....115

***F. Resolution 2024-113**, Approving An Amended Agreement Between The City Of Marathon And Jeff D. Vastola, Esq. For Code Enforcement Special Magistrate Services; And Providing For An Effective Date.....120

***G. Resolution 2024-114**, Amending A Grant Agreement With The Florida Department Of Environmental Protection LP44044; Authorizing The City Manager To Execute The Grant Amendment On Behalf Of The City; And Providing For An Effective Date.....125

- *H Resolution 2024-115**, Amending A Grant Agreement With The Florida Department Of Environmental Protection For Deep Well, Transmission Piping & Pumping Station Project LP0724; Authorizing The City Manager To Execute The Grant Amendment On Behalf Of The City; And Providing For An Effective Date140
- *I. Resolution 2024-116**, Approving A Lease Agreement Between The City Of Marathon, Florida As The Owner, And Boot Key View Condominium As Lessee For Submerged Lands Identified By Real Estate Number 00355400-000000; Including, But Not Limited To Establishing A Lease Area, Lease Amount, Lease Duration, And Release Of Liability; Authorizing The City Manager To Execute The Lease Agreement On Behalf Of The City; And Providing For An Effective Date.....152
- *J Resolution 2024-117**, Authorizing The City To Continue An Agreement With The Southern Group For Professional Consulting And Lobbying Services Before The Legislature Of The State Of Florida; Authorizing The City Manager To Finalize And Execute The Agreement; And Providing An Effective Date.....176
- *K. Resolution 2024-118**, Accepting The Responsible Bid And Approving A Contract Between The City And Advanced Construction Corp.; In An Amount Not To Exceed \$153,480.68 For The Tiki Structure At Oceanfront Park; Authorizing The City Manager To Execute The Contract And Appropriate Funds On Behalf Of The City; And Providing For An Effective Date.....187
- *L. Resolution 2024-119**, Authorizing The Purchase If A New CCT Rescue Under Bid #16-VEF12.0 From Emergency Tactical Rescues For An Amount Not To Exceed \$289,154. This Resolution Authorizes The City Manager To Permit Department Head To Engage And Accept The Proposal. Authorizing The City Manager To Expend Budgeted Funds And Appropriating Funds On Behalf Of The City; And Providing For An Effective Date.....208
- *M. Resolution 2024-120**, Approving The Purchase With M&M Stellar Technologies, LLC to provide SCADA computer/software and On-Going Maintenance, In An Amount Not To Exceed \$35,000.00; Authorizing The City Manager To Enter Into An Agreement, Appropriating And Expending Budgeted Funds; And Providing For An Effective Date.....211
- N. Resolution 2024-121**, Providing A Recommendation To The Monroe County Board Of County Commissioners Regarding The Number Of Additional Residential Building Permit Allocations Marathon Would Like To Receive In Potential Future Allocations; Providing For Transmittal Of This Resolution To Certain People With The County; Providing For Transmittal Of This Resolution To Florida Commerce; And Providing For An Effective Date.....214
- *O. Resolution 2024-122**, Approving Change Order #2 To The Contract With Pedro Falcon Contractors, Inc. In An Amount Not To Exceed \$80,587.18 For The Power Conditioning Project; Authorizing The City Manager To Execute A Contract And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date.....218
- P. Resolution 2024-123**, Approving A Request To Receive And To Utilize Surplus Tourist Development Council (TDC) Funds For Authorized Affordable Housing Project Types; Requesting That Any Funds Which May Not Be Used In Other DAC Districts Be Made Available To The City Of Marathon, Florida Upon Request By The City And Approval By The TDC And Monroe County Board Of Commissioners; And Providing For An Effective Date.....226

12. Council comments

13. Adjournment

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the City Council with respect to any matter considered at such hearing or meeting, one will need a record of the proceedings and for such purpose that person may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based. ADA Assistance: Anyone needing special assistance at the City Council hearing due to disability should contact the City of Marathon City Attorney at (305) 289-4130 at least five days prior thereto. Please contact the City Clerk at clavierd@ci.marathon.fl.us if you would like to receive any of the items on the agenda by email.

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-107**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, ACCEPTING THE RESULTS OF THE MUNICIPAL GENERAL ELECTION HELD NOVEMBER 5, 2024 FOR THE ELECTION OF TWO AT LARGE CITY COUNCIL SEATS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in accordance with the City Charter the City of Marathon, Florida scheduled an election for November 5, 2024; and

WHEREAS, the City Council desires to accept the results of November 5, 2024, municipal general election in accordance with the City Charter and the Florida Election Code.

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 Council accepts that the following are the results of the November 5, 2024, municipal general election:

A. Elected Officials

At Large City Council Seat: Kenny Matlock

At Large City Council Seat: Jody Del Gaizo

Section 3. Based upon the foregoing results, the City Council hereby declares the following candidates are elected to the office of City Councilmember, as of November 5, 2024, for a term of three (3) years:

At Large City Council Seat: Kenny Matlock

At Large City Council Seat: Jody Del Gaizo

Section 4. This resolution shall take effect upon the receipt of official election results from the Monroe County Supervisor of Elections.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12th DAY OF NOVEMBER, 2024.

THE CITY OF MARATHON, FLORIDA

Mayor Still

AYES:
NOES:
ABSENT:
ABSTAIN:

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



City of Marathon

Oath of Office

I, **Kenny Matlock** do hereby solemnly swear that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the state; and that I will faithfully perform the duties of **Council Member of the City of Marathon** on which now I am about to enter. So help me God.



City of Marathon

Oath of Office

I, **Jody Del Gaizo** do hereby solemnly swear that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the state; and that I will faithfully perform the duties of **Council Member of the City of Marathon** on which now I am about to enter. So help me God.

CALL TO ORDER - A Special Call Meeting of the City Council of Marathon, Florida was held on September 17, 2024 in the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida, Mayor Still called the meeting to order at 5:05 pm.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL - There were present:

Councilmember Gonzalez

Councilmember Matlock

Councilmember Smith

Vice Mayor Landry

Mayor Still, comprising a quorum.

Also, in attendance were:

City Manager, George Garrett

Deputy City Clerk, Hillary Palmer

City Attorney, Steve Williams

Planning Director, Brian Shea

Finance Director, Jennifer Johnson

Utilities Director, Dan Saus

Code Director, Ted Lozier

Marina Director, Sean Cannon

Grants Coordinator, Maria Covelli

Park and Recreation Director, Paul Davis

MCSO Sheriff's Officer, Lt. Derek Paul

Approval Of Agenda And Consent Agenda

MOTION: Gonzalez moved to approve the agenda

SECOND: Landry

With no objection from the members of Council, Mayor Still declared the agenda approved by unanimous consent.

First Public hearing to adopt tentative budget and millage rate

Johnson opened the discussion on the millage rate and referenced the draft budget that was recently advertised as 2.3 mills which is a 3.44% tax increase, lower than what was proposed and included on the TRIM notices, which was 2.4477 mills, the same as last year. She acknowledged there are requests to bring the millage rate in lower, holding the line from last year to a millage rate of 2.2235 mills, which she reported would cost the City approximately \$375,000 out of the reserve budget.

Landry reported that 4.4 million dollars was put back into the reserve budget as a result of the beach and boat ramp parking fees and fines. He suggested that Council make a decision regarding how much is enough in the reserve fund and proposed holding the line at 2.2235 mills and take the \$375,000 out of the reserve fund, while still adding funds back into the reserves. Gonzalez verified the reserve budget amount with Johnson.

Smith agreed with Landry's statements and stated he does not want to see the millage rate go below the proposed amount in an effort to support the local business owners & non-homesteaded property owners. He commented the City is in a strong financial position and has a good track record. He supported the 2.2235 millage rate. Still agreed with her fellow Councilmembers that the City has a strong reserve fund and financial position. She supported the 2.2235 millage rate.

Garrett confirmed there is no reduction in services and additional services have been added in Public Works and Fire Service budgets.

Clerk read Resolution 2024-87 in to the record.

Resolution 2024-87, Adopting The Tentative Millage Rate and Levy Of Ad Valorem Taxes For The City of Marathon, Florida For The Fiscal Year 2024-2025; and Providing For An Effective Date.

Johnson read section two of the resolution into the record.

Section 2. The FY 2024-2025 tentative millage rate for the City is 2.2235 mills, which is \$2.2235 for each thousand dollars of taxable assessed property value; and the tentative millage rate is equal to the rolled-back rate of 2.2235 mills by 0 %.

MOTION: Smith moved to approve Resolution 2024-87, with the tentative millage rate of 2.2235
SECOND: Gonzalez

Vote of the Motion:

Yes: Smith, Gonzalez, Matlock, Landry, Still

No: None
Absent: None
Abstain: None

Vote on the Motion: 4 Yes, 1 No, 0 Absent, 0 Abstain

Council Comments

Mark Senmartin recalled when he was on City Council that the City only had seven weeks in the reserve budget and he congratulated the Council for not raising the taxes while still maintaining a decent reserve budget.

Martin Kamph asked if there is a change in the property tax rates. Johnson confirmed there is no change, for properties homesteaded or not.

Clerk read Resolution 2024-88 into the record.

Resolution 2024-88, Adopting The Tentative Budget For Fiscal Year 2024-2025; And Providing For An Effective Date.

Johnson reported the tentative budget for fiscal year 2024-2025 at \$136,353,198.00.

Council Discussion

Landry lead the discussion regarding the salary survey options that Council would like to adopt which also included COLA (cost of living) and merit raises. He confirmed the budget has a 2.5% merit raise option factored in for employees that are excelling and recommended a 1.5% increase for merit raises, or \$1,500 per employee with the condition to have a policy put in place to review the employees annually.

Gonzalez asked what the retention rate for staff members who have received raises and asked if there is an exit interview process. Garrett cited statistical information on employment retention and reported the City has an exit interview policy, but few employees participate.

Landry commented that he hopes to see the Firefighters stay with the City because of the pay increase opportunities.

Garret stated the City is doing everything they can to bring firefighters on and keep them. Still supported a merit increase at 2.5% including a performance evaluation.

Smith spoke on the staff's raises from last year and commented that the Human Resources department should have an evaluation program in place for their employees. He disagreed with Management forfeiting their raises, so the lower-level employees can receive pay increases.

Matlock supported performance evaluations for staff members and asked if the Finance Services has been put out to bid recently. Johnson replied that it has been a while since the last bid. Matlock expressed

concerns regarding the City's Finance Contractor being in active litigation with the City and asked if there is a bidding process the City follows.

Williams explained there is no legal conflict with the Finance contractor. Garrett confirmed there is a bidding policy in place and provided a brief explanation of the process.

Johnson explained the raise options in detail.

Smith, Matlock and Landry announced they supported the budget option two.

Council discussion.

Gonzalez confirmed that the upper management will be included in the merit increases this year.

Johnson confirmed that she will come back at the final hearing with option number two, which includes the COLA rate from last August and a 1.5% merit increase.

Council discussion regarding the COLA rate.

Still and Gonzalaz supported a 4% COLA, Smith supported the COLA rate from August and a 2.5% merit increase.

Continued Council discussion and they agreed on a 3% COLA and a 2% merit increase.

Johnson confirmed Council agreed to option two which included a 3% COLA and 2% merit increase and explained she will bring back the information to the final budget hearing.

Gonzalez questioned if the Parks Department budget for maintenance will be enough to cover the expenses for the year. Johnson commented that there is a budget within the Public Works budget for Parks maintenance.

Council discussion.

Smith recommended increasing the training budget and continuing training on a quarterly basis.

Landry asked when the last payment will be on the seven mile marina. Johnson confirmed in December the City will have it paid off. Landry suggested setting up a workshop regarding the five year capital budget.

Johnson read the third whereas from Resolution 2024-88 into the record. Whereas, the City has set forth the appropriations and revenue estimate for the tentative operating budget for FY 2024-2025 in the amount of \$136,353,198.

Mike Millard commented on the non-tax revenue for the City and contracted services within the budget.

MOTION: Smith moved to approve resolution 2024-88 and the tentative budget amount as \$136,353,198.

SECOND: Landry

Vote of the Motion:

Yes: Smith, Landry, Gonzalez, Matlock, Still

No: None

Absent: None

Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

Landry thanked staff for their hard work preparing the budget.

Legislative Priorities

Garrett provided a staff report.

Council Comments.

ADJOURNMENT

With no further business to come before the Council, Mayor Still adjourned the meeting at 6:34pm by unanimous consent.

I certify the above represents an accurate summary of the regular Council meeting of September 17, 2024

Hillary Palmer, Deputy City Clerk

Date

CALL TO ORDER - A Meeting of the City Council of Marathon, Florida was held on October 8, 2024, in the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida, Mayor Still called the meeting to order at 5:30 pm.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL - There were present:

Councilmember Gonzalez

Councilmember Matlock

Councilmember Smith

Vice Mayor Landry

Mayor Still, comprising a quorum.

Also, in attendance were:

City Manager, George Garrett

City Clerk, Diane Clavier

City Attorney, Steve Williams

Planning Director, Brian Shea

Finance Director, Jennifer Johnson

Utilities Director, Dan Saus

Deputy Utilities Director, Libby Soldano

Fire Chief James Muro

Code Director, Ted Lozier

Marina Director, Sean Cannon

Grants Coordinator, Maria Covelli

Park and Recreation Director, Paul Davis

MCSO Sheriff's Officer, Lt. Derek Paul

MCSO Sherriff Rick Ramsay

Mayor Still recognized Sherriff Ramsay

Approval Of Agenda and Consent Agenda

Landry pulled item J from the City Manager report, Smith pulled item 6D. Garrett added to his City Manager report Ballard Partners contract, a trade in regarding vehicle purchase via resolution 2024-93, added a 15-year anniversary for Libby Fraizer-Soldano, and a brief update from Armand Messina with the Florida Keys Contractors Association.

MOTION: Landry moved to approve the agenda as amended.

SECOND: Smith

With no objection from the members of Council, Mayor Still declared the agenda approved by unanimous consent.

City Council Items

*A. Approval of Minutes

B. Request from the Florida Keys Celtic Festival Event on January 11th and 12th to allow beer and wine to be sold at the event at the Community Park.

MOTION: Gonzalez moved to approve

SECOND: Smith

With no objection from the members of Council, Mayor Still declared the agenda approved by unanimous consent.

City Manager Report

* A. MCSO Marathon Substation Report

* B. Grants Update

* C. Public Works Report

D. Park and Recreation Report – Smith asked for an update regarding the Rotary Park drinking fountain. Davis reported that it was in the new budget and should have it taken care of by November 15th. Landry asked about the cameras at the park, as it has been over a year. Garrett informed everyone that an in-house IT position will help oversee this and the IT people were working on it last week.

* E. Marathon Fire Rescue Report

* F. Marina Report

* G. Code Report

* H. Wastewater Utilities Report

* I. Building Report

J. City of Marathon Vehicle Policy – Landry commented that more accountability was needed. Smith agreed the policy was lacking and needed some clean up and asked that it be brought back next month.

K. Ballard Contract- Garret explained this would come back to the Council in November, but we need approval for a month-to-month contract in the meantime. Smith commented that this was the fourth time in the last year we have missed a contract expiring. The Council gave a head nod of approval.

L. Garrett explained that Resolution 2024-93 was for the purchase of two trucks for public works and they have accepted a vehicle for trade in for almost \$7,000 that was not included in the Resolution.

M. Libby Soldano, Deputy Utility Director, Dan Saus, Utility Director, and George Garrett along with the Council presented Soldano with a 15-year anniversary plaque and thanked her for her service to the City.

N. Armand Messina, President of Florida Keys Contractors Association informed everyone that he meets with the Building Official and City Manager once a week at 6:00 am to discuss issues that the contractors or City has and tries to resolve them.

Quasi-Judicial Public Hearings

Resolution 2024-94 Consideration Of A Request By Huff and Rauner Gulfside Estates LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of A Tiki Bar, Food Trucks, Entertainment Stage, Nature Walk And Twenty (20) Single Family Residential Units Consisting Of Twenty (20) Parcels Located At 6200 Overseas Hwy; Which Is Legally Described As Lots 3 Through 6 And The West Half Of Lot 7 Of Casa Manana Shores Subdivision As Recorded In Plat Book 2 Page 50, A Subdivision Of Part Of Government Lot 1 Section 11 & Vacas, Vacas Out Lot 1 & Filled Area; Section 11 Township 66 Range 32 Key Vaccas Part Lot 1 & Part Old State Road 4 A, Marathon Heights As Recorded In Plat Book 2 Page 83 Key Vaca Part Lot 1 (Old State Road 4-A) And Vacant Land 61st Street; Block 2 Lots 1 Through 12 Of Marathon Heights Subdivision As Recorded In Plat Book 2 Page 83, A Re-Subdivision Of Lots 1 & 2 Of Casa Manana Shores As Recorded In Plat Book 2 Page 50; Monroe County, Florida, Having Real Estate Numbers As Stated In the Resolution. Nearest Mile Marker 50.

Clavier swore in speakers, Council stated they had no exparte communications.

Shea explained the request for the development of a tiki bar with food trucks, entertainment stage, nature walk and twenty single family residential units on 7.61 acres located at 6200 Overseas Hwy. and 61st Street Gulf.

The applicant, Boaz Rosenblat, explained that he was trying to create an economic opportunity zone with the food trucks with a revenue share model to give them a chance at a business. Rosenblat also informed everyone it the homes would be a gated community. Still, Gonzalez and Landry had concerns about the entrance on 61st street as well as traffic. Smith commented that there would be a substantial change to the historical impact. Matlock suggested a one-way entrance and exit, so that traffic could be controlled. Rosenblat offered to widen 61st Street as a favorable solution. The Council also discussed noise from the stage as well as timeframes ultimately approving with conditions as set fourth in the noise ordinance and designing the entrance and exit from US1, using 61st Street for emergency entrance.

The Mayor called for speakers, hearing none, closed the public hearing.

MOTION: Gonzalez moved to approve Resolution 2024-94 with the condition of design of entrance/exit from US1, using 61st Street Gulf as an emergency entrance and with hours set forth in the noise ordinance

SECOND: Matlock

Vote of the Motion:

Yes: Gonzalez, Matlock, Smith, Landry, Still

No: None

Absent: None

Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

B. Resolution 2024-95, Consideration Of A Request By LPS Utilities Inc. For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of Four (4) Residential Units Located At 59740 Overseas Hwy; Section 20 Township 65 Range 34 Grassy Key Part Lot 5, Monroe County, Florida, Having Real Estate Number 00100130-000000. Nearest Mile Marker 60.

Exparte Communications – Landry informed everyone that he spoke with the attorney for the developer, but it would not affect his vote. No other council members had exparte communications.

Shea explained the request for a conditional use approval for the development of four single family residential units and recommended approval.

Patrick Stevens asked if there were any questions and commented that the applicant was happy with the conditions outlined.

MOTION: Smith moved to approve Resolution 2024-95

SECOND: Gonzalez

Vote of the Motion:

Yes: Smith, Gonzalez, Matlock, Landry, Still

No: None

Absent: None

Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

C. Resolution 2024-96, Consideration Of A Request For A Conditional Use Permit And Preliminary Plat Approval Pursuant To Chapter 102 Article 10 And Article 13 Of The City Of Marathon Land Development Regulation (LDRS) Entitled “Subdivision Of Land/Plats And Re-Plats,” And “Conditional Use Permits” Respectively, For A Preliminary Plat Approval As Submitted By Key Vaca LLC And John And Phyliss Strittar For A Portion Of Land Which Is

Described As Section 10, Township 66, Range 32, Key Vacas Bay Bottom & Fill Bay Bottom Adjacent To Part Of Lot 2 & All Of Lot 3 Of Thomason Subdivision (A/K/A Parcel E & Bay Bottom Parcel B), And Thompson Subdivision & Adams Subdivision PB2-24, Key Vaca Part Of Lot 2 & Adjacent Bay Bottom And Thompson Subdivision & Adams PB2-24 Key Vaca Part Lots 2 & 3 (Parcel B & F) & Filled Bay Bottom & Canal Bay Bottom And Thompson Subdivision & Adams Subdivision PB2-24, Key Vaca Part Of Lot 3, Having Real Estate Numbers As Stated In the Resolution. Nearest Mile Marker 50.

The council stated they had no exparte communications.

Shea explained the request for a conditional use for a replat of four parcels into nine single family lots with one existing single-family residence for eight new single-family residences to be constructed. Shea recommended conditional approval of the conditional use and preliminary plat.

Matlock explained we are not giving them permits, they must get them.

Brian Schmidt informed everyone they have all the allocations already. Schmidt also informed everyone the access would be through the old Crystal Cove.

MOTION: Gonzalez moved to approve Resolution 2024-96

SECOND: Smith

Vote of the Motion:

Yes: Gonzalez, Smith, Matlock, Landry, Still

No: None

Absent: None

Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

Citizens' Comments:

Lana Vaisman – had questions about the storage unit item on Coco Plum and she was informed she was not connected to wastewater but has been charged.

Bob Williams – explained his concerns about prioritizing development and gave an example of the industrial warehouse.

Mike Millard suggested looking at the plans for the Seven Mile Marina property to include boat launches.

Gary Roberts commented that the 20th Street homeless are still there and he wants to help. He thanked the sheriff's office and Captain Paul as drug trafficking is now nonexistent. Roberts asked for another porta potty or to have it cleaned out more frequently.

D. Resolution 2024-97, Consideration Of A Request By Coco Plum LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of A Boat Storage Facility Located At 2 Coco Plum Dr; Which Is Legally Described As Block 1 Lot 2 Coco Plum Beach PB4-166 Fat Deer Key, Monroe County, Florida, Having Real Estate Number 00362810-000000. Nearest Mile Marker 54.

Shea explained the request for a conditional use approval for the development of a boat storage yard with less than ten units at 2 Coco Plum Drive and recommended approval.

Mayor Still called for speakers and hearing none, closed the public hearing.

MOTION: Landry moved to approve Resolution 2024-97

SECOND: Smith

Vote of the Motion:

Yes: Gonzalez, Smith, Matlock, Landry, Still

No: None

Absent: None

Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

E. Resolution 2024-98, Consideration Of A Request By Gunnar Holdings LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of A Commercial Warehouse with Eight (8) Rental Bays Including Elevated Loft Office Space And Bathroom Located at 420 69th Street Ocean; Block 2 Lots 1 & 2 First Addition To Seacrest Key Vaca, Monroe County, Florida, Having Real Estate Number 00339230-000000. Nearest Mile Marker 51.

Landry and Gonzalez informed everyone they spoke with the applicant, but it would not affect their vote. The rest of the Council did not have exparte communications.

Shea explained the request for a conditional use approval for the development of a commercial building with eight individual rental bays with a loft office and bathroom. Shea recommended approval with conditions.

Matlock asked if there was any support for a façade on the metal building as a condition as it is on US1. Smith commented that since we do not have a design mandate, it would be a slippery slope. Matlock suggested this should be considered for the future.

MOTION: Gonzalez moved to approve Resolution 2024-98

SECOND: Smith

Vote of the Motion:

Yes: Gonzalez, Smith, Matlock, Landry, Still
No: None
Absent: None
Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

Ordinance For First Public Hearing

A. Ordinance 2024-10, Amending the City’s Land Development Regulations Relating to Chapter 107, Article 5, “Setbacks and Height”, Section 107.36 “Exception To Setback”; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability; Providing For The Transmittal Of This Ordinance To Florida Commerce After Final Adoption By The City Council; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.

Shea explained the purpose of the amendment is to expand upon existing exceptions to setback, recognizing the importance of elevating electrical equipment above flood, while still providing access to the raised electrical.

The Mayor called for speakers, hearing none, closed the public comment.

MOTION: Gonzalez moved to approve Ordinance 2024-09

SECOND: Smith

Vote of the Motion:

Yes: Gonzalez, Smith, Matlock, Landry, Still
No: None
Absent: None
Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

B. Ordinance 2024-11, Amending The City’s Comprehensive Plan, Amending Objective 1-4.1 “Provide Workforce-Affordable Housing Building Permit Allocations”; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To Florida Commerce; And Providing For An Effective Date Upon The Approval Of This Ordinance By Florida Commerce.

C. Ordinance 2024-12, Amending Chapter 107, Article 1 “Building Permit Allocation System” By Amending Section 107.04 “Establishment Of Allocation Pools” To Remove The Cumulative Limit; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability; Providing For The Transmittal Of This Ordinance To Florida Commerce After Final Adoption By The City Council; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.

Shea explained the request to amend City of Marathon Comprehensive Plan and Land Development Regulations in order to recognize that the City of Marathon may allow any of the 1,300 early evacuation affordable units to be used within the City of Marathon, should any come available from other jurisdictions the changes are made clear as strikethrough and underlines in the ordinances. Shea informed everyone the Planning staff recommended approval of both Ordinances modifying provisions Early Evacuation BPAS units.

Gonzalez explained that these are the 1,300 allocations given to Monroe County by Rick Scott, everyone received three hundred, with Layton and Key Colony receiving fifty which leaves 630 in the County. We have four in our pool, these are not new units, this will allow us to receive more from within the County wide area, and we are just making this option available. Smith commented that these are early evacuation units and asked Shea to explain the criteria. Shea informed everyone the criteria listed on page 206 of the packet includes that management must be on site, they must be rental units. Matlock commented that there are too many units in Marathon, and the open-ended number scares him. Shea explained that the intent is for everyone to use their units. Matlock commented that we cannot build ourselves out of the affordable issue and there are a lot of impacts and a lot of unanswered questions.

Mike Millard – spoke against the ordinance and commented he would like to see a study before approval and suggested waiting to figure out what we needed.

Bettye Chaplin – cautioned everyone to be careful, we have lost our workforce and people who have lived here.

Brad Hager – spoke against the ordinance as he had concerns regarding carrying capacity and was shocked at how many units we have and they now look terrible, we need to slow this down.

Andrew George – spoke against the ordinance, we need data and more employee housing, not affordable housing.

Brian Schmidt – commented that the data does exist, there was a FIU study, they must be qualified, people are not living here on retirement, they work here in the keys.

Still commented that this is just the mechanism to accept any units, there are other steps to take before we can get them.

Garrett explained there were other ways to do this, the process takes six months to transfer via an interlocal agreement. There would be a lot of time to discuss this. Matlock questioned if developers were requesting these units. Shea explained there were two developers on the list, but no one has asked for one hundred units. Matlock commented he would like an update from Josh Mothner, the City's housing coordinator contractor at a future meeting.

Landry commented that the FIU study is clear, we will never build our way out, but we must try.

MOTION: Gonzalez moved to approve Ordinance 2024-11

SECOND: Smith

Vote of the Motion:

Yes: Gonzalez, Smith, Landry, Still
No: Matlock
Absent: None
Abstain: None

Vote on the Motion: 4 Yes, 1 No, 0 Absent, 0 Abstain

MOTION: Gonzalez moved to approve Ordinance 2024-12

SECOND: Smith

Vote of the Motion:

Yes: Gonzalez, Smith, Landry, Still
No: Matlock
Absent: None
Abstain: None

Vote on the Motion: 4 Yes, 1 No, 0 Absent, 0 Abstain

Resolutions For Adoption

A. Resolution 2024-99, Approving Subject To Conditions, A Request To The City Council Of The City Of Marathon By Jack Carlson To Abandon The Public Right Of Way Located At 11491 1st Avenue Ocean, Known As Smokes Court Aka 1st Avenue Ocean, Described As Being Adjacent To And Between Lots 161-162 And Lot 3, Little Venice Number 2 Subdivision, Key Vaca, Having Real Estate Numbers

Shea explained that this was previously approved by the City Council on November 12, 2019, however, was not completed and recorded within the 60-day window provided in the approvals. Therefore, this item is being brought back to attempt to complete the process again.

The Mayor called for speakers, hearing none, closed the public comment.

MOTION: Gonzalez moved to approve Ordinance 2024-09

SECOND: Matlock

Vote of the Motion:

Yes: Gonzalez, Matlock, Smith, Landry, Still
No: None
Absent: None
Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

***B. Resolution 2024-100,** Approving And Accepting A Warranty Deed For The Conveyance Of Land From Olgierd Muszynski And Carol Muszynski Recipients Of A Residential Dwelling Unit

Allocation Award; Authorizing Its Recording In The Public Records Of Monroe County, Florida; And Providing An Effective Date.

***C. Resolution 2024-101**, Approving And Accepting A Warranty Deed For The Conveyance Of Land From Raymond Larsen And Tammy Larsen Recipients Of A Residential Dwelling Unit Allocation Award; Authorizing Its Recording In The Public Records Of Monroe County, Florida; And Providing An Effective Date.

***D. Resolution 2024-102** Authorizing The City To Extend The Agreement With Ronald L. Book, P.A. For Professional Consulting And Lobbying Services Before The Legislature Of The State Of Florida; Authorizing The City Manager To Expend Budgeted Funds, And Execute The Extension Agreement; And Providing An Effective Date

***E. Resolution 2024-103** Accepting The Ranking And Recommendation Of The City's Evaluation Team In Response To An RFQ For Qualified Professional Transportation Engineering Firms, Teams, Or Individuals To Develop The City Of Marathon Comprehensive Safety Action Plan; Authorizing The City Manager And Staff To Negotiate A Contract With The Top Ranked Firm Of Stantec Consulting Services, Inc: And Providing For An Effective Date.

***F. Resolution 2024-104**, Approving The Submittal Of A Grant Application To The State Of Florida Department Of Transportation (FDOT), Highway Beautification Grant Program To Provide For The Landscaping Along US 1 Right Of Ways; Authorizing The City Manager To Execute Documents On Behalf Of The City, And Providing For Conflicts, Severability, And An Effective Date.

***G. Resolution 2024-105**, Awarding the contract for the Area 3 Mudwell Pumping System Upgrades to Reynolds Construction, LLC In An Amount Not To Exceed \$215,800.22; Authorizing The City Manager To Enter Into Agreements In Connection Therewith, Appropriating And Expending Budgeted Funds; And Providing For An Effective Date

***H. Resolution 2024-106**, Authorizing A "Piggy-Back" Purchase Pursuant To The City's Purchasing Policies And Procedures And Approving The Purchase Of John Deer Precision Cut Turf Mower Under The State of Florida Department of Management Contract No. 25101900-21STC(PG F2 CG 22) From Everglades Equipment Group In An Amount Not To Exceed \$47,215.63; Authorizing The City Manager To Enter Into Agreements In Connection Therewith, Appropriating And Expending Funds; And Providing For An Effective Date

Council Comments:

Williams explained that Resolution 2017-21 governs decorum, you cannot trade your minutes, there are rules.

Gonzalez thanked the staff, and commented that there was an exceptionally large storm, anything we can do for those in its track after the storm passes, lets bond together and make it work. Garrett commented that he has authorized the fire and utilities department to assist where possible. Matlock commented that we do have donation spots in Marathon.

Smith reminded everyone to practice their hurricane preparedness and reminded everyone of the Hope walk and Halloween behind the airport.

Landry asked everyone to keep those that may be affected by hurricane Milton in your prayers. Landry thanked the Marathon Fire Rescue and Fishermen's Hospital for giving his mother-in-law quality care. Landry thanked the staff and wished his daughter a happy 30th birthday.

Still thanked those in attendance and for their comments and reminded everyone to stay aware and to pay attention to the storm. Still thanked Marathon Fire Rescue, MCSO, Utility and Public Works Departments.

ADJOURNMENT

With no further business to come before the Council, Mayor Still adjourned the meeting at 7:52 pm by unanimous consent.

I certify the above represents an accurate summary of the regular Council meeting of October 8, 2024.

Diane Clavier, City Clerk

Date

CALL TO ORDER - A Workshop of the City Council of Marathon, Florida was held on October 22, 2024 in the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida, Mayor Still called the meeting to order at 5:30pm.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL - There were present:

Councilmember Gonzalez

Councilmember Matlock

Councilmember Smith

Vice Mayor Landry

Mayor Still, comprising a quorum.

Also, in attendance were:

City Manager, George Garrett

City Attorney, Steve Williams

Deputy City Clerk, Hillary Palmer

Planning Director, Brian Shea

Code Director, Ted Lozier

Building Official, Gerard Roussin

Approval Of Agenda And Consent Agenda

MOTION: Gonzalez moved to approve the agenda

SECOND: Landry

With no objection from the members of Council, Mayor Still declared the agenda approved by unanimous consent.

Discussion regarding Affordable Housing

A. ALICE (Asset Limited, Income Constrained, Employed) Report Overview

Leah Stockton from United Way of Collier and the Keys provided a powerpoint presentation via Zoom. She explained the ALICE program, and provided a report of the low income and asset limited residents in Monroe County. She provided an analysis of the statistics in Monroe County, including the ALICE Threshold survival budget, local poverty levels, wages and statewide challenges.

B. Update from Josh Mothner, City of Marathon Housing Coordinator Contractor

Joshua Mothner provided a powerpoint presentation which showcased the availability of non-waterfront properties including dry lots, which included statistics and an inventory list. He spoke on the affordable and workforce housing units, HUD median income and the LIHTC (Low Income Housing Tax Credits). His powerpoint included a listing of the LIHTC projects in Monroe County and spoke on rent and income limits for the program. He provided various examples of comparisons of affordable housing projects in Marathon and explained the qualification criteria with regards to rent and income levels.

Sara Mathis spoke on the Tourist Development Council (TDC) money that was collected during COVID.

Mothner and Shea explained the TDC money will be allocated and specifically set aside for tourism related projects.

Daniel Samess spoke on the allocation of the TDC money.

Mike Millard asked where the people that need homes are living. He also asked if the people that are applying for assistance are new to the community.

Mothner explained that local churches are available to assist people with no housing options and explained the migration process of new people coming into the community.

Jody “Lynny” Del Gaizo Thompson spoke on her rental property business and asked if the local affordable housing projects have management in place?

Mothner confirmed the local affordable housing projects have management practices in place.

Jim Ryne spoke on taking cases.

Mothner and Williams spoke on building rights.

Council discussion.

Marty Flynn provided an explanation of the market rate/affordable units on various projects throughout marathon.

Garrett clarified the transfer process of market rate and affordable units.

Smith spoke on preserving the stock of units and spoke on the lack of land in the Keys to build on. He also spoke on the fluctuations of the median incomes.

Samess explained the TDC money is only allowed to be used for tourism related workers.

City Attorney Update regarding Vacation Rental Ordinance

Williams discouraged adjusting the vacation rental ordinance and explained that if the ordinance is altered it would revert back to one night and state enforcement.

Smith requested an explanation of the state preemption statute and Williams responded.

Garrett spoke on the vacation rental ordinance.

Mike Millard questioned the benefits of the Islamorada vacation rental ordinance.

Council discussion.

Council Comments

Still announced it was Gonzalez's last workshop & thanked Mothner & Stockton for their presentation.

Gonzalez thanked the City for a great tenure.

Matlock thanked Mothner for his presentation.

Smith thanked Mothner for his presentation and Gonzalez for his service to the City.

Landry thanked Gonzalez for serving and spoke on the high volumes of traffic in the Keys.

ADJOURNMENT

With no further business to come before the Council, Mayor Still adjourned the meeting at 7:23pm by unanimous consent.

I certify the above represents an accurate summary of the regular Council meeting of October 22, 2024

Hillary Palmer, Deputy City Clerk

Date

November 04, 2024

Marathon City Council

Re: Monroe County Sheriff's Office
City of Marathon
Monthly Report: September 2024

Dear Council:

Deputies maintained a high level of activity throughout the month, conducting 576 traffic stops, issuing 217 citations, and making seven DUI arrests. In total, the district completed 83 criminal enforcement actions, encompassing physical arrests, notices to appear, and DUI-related incidents.

Focused efforts on 20th Street led to several successful cases addressing illegal dumping. Additionally, deputies remained actively engaged in community events, including Career Day, the 9/11 Memorial, Coco Plum Beach Cleanup, Hawk's Cay Hero's Salute, and the Emergency Operations Center Ribbon Cutting, among others.

The Criminal Investigations Unit also had a productive month, achieving a case clearance rate of 42%, which resulted in multiple arrests and the execution of search warrants.

Our team participated in various community outreach programs, strengthening relationships with residents and promoting safety awareness. We also conducted comprehensive training sessions to ensure our deputies are equipped to respond effectively to a range of situations.

We remain committed to maintaining the safety and well-being of our community and strive to provide the best possible service to our residents and visitors.

Crime/Arrest Report:

MCSO24OFF004541 Stolen Car/Unlawful Repo

Back in April my victim went to Car Depot in Homestead. He put \$100 to hold a 2016 Altima. He then paid \$7,600 for the remainder amount. (copies of the receipts attached to the case). When the victim was driving down to Marathon there were mechanical issues. The victim called the dealership and they said they would work with him. In the middle of the night without his knowledge or consent the car was repossessed. (A CAD was generated when the Repo Team called in). The victim entered a civil agreement with the owner of the dealership named "Kennya". The suspect told the victim the car was a lemon and to pick something else. The victim picked a VW Passat and had to pay an additional \$5k. (The Victim provided a bank withdrawal slip). a short time later the suspect called the victim saying the dealership needed to do a 10 point safety inspection of the car. The victim agreed to drive it up on Friday. Before Friday the suspect sent a "Repo Team" down. Again without the victim's knowledge or consent. Again the repo team called dispatch and a CAD was created. All proof of ownership was in the car. A month later while the suspect is saying the car is in the shop the car is showing registered to someone else in Miami. There are multiple calls for service and reports in Linx from Miami-Dade as well as the FBI. Miami-Dade Auto Theft division contacted and have active investigations on the suspect as well. The victim has sent two text and an email demanding his money back within the last few days. CIU Detectives are meeting with MDPD Auto Theft Division Detectives in person at the Roth Building at 10:00 hours on 9/18/24. A warrant for the Suspect Kennya Quesada is being drafted. Both Vehicles sold were owned by Smart Auto Liquidation and the suspect was un-authorized to sell them on their behalf. The suspect owns a separate dealership next door. Victim received Check in mail from suspect to refund money. Victim deposited money. Waiting for funds to clear.

MCSO24OFF006655: Petit Theft- Dion's

Bumgarden DOB: 10/17/1979- Circle K 1415 Overseas HWY- Dion stole 2 cases of beer total amount of \$37.60. Dion has three prior convictions for theft (Felony) and was arrested.

MCSO24OFF007100: Illegal Dumping- 20th street

Joseph Allen Morgan DOB: 06/14/1965 arrested for over 15 pounds of trash, water bottles and food all over and around his tent.

MCSO24OFF006822 Water Emergency Vaca Cut

Good Samaritan called in about a male they saw jump into the water near Vaca Cut which was going for a "swim". After a while, the good Samaritans became concerned for the males well being. A coordinated effort between KCBPD, FWC and MCSO was successful in locating the male a few hundred feet on the Gulf Side by Vaca Cut

Bridge. The male was not cooperative with law enforcement in getting into a vessel for his safety and wellbeing. Joint agency effort was able to grab ahold of the male and place him under arrest. It was later determined the male was under the influence of narcotics. A large number of pills were also located in the subject's property without a valid prescription.

Zone Improvements/Community Involvement:



Cleaning up trash along the Overseas Highway



Graffiti located and covered behind Gulfside Village



Showing off the equipment



Great turnout at the Coco Plum Beach Clean up



Attending the 9/11 Ceremony

Training:



Torniquete Training



Training on building searches and clearing.



Deputies attending open range day

Resource Investigations:



Two subjects using spear guns in prohibited Area.



Spearing lobster case.



Personnel and Budget:

No budget concerns to report.

Respectfully,

Lieutenant David Fernandez

Station Commander
Monroe County Sheriff's Office

MEMORANDUM
Grants Department



MEETING DATE: November 12, 2024
TO: Honorable Mayor and City Councilmembers
FROM: Maria Covelli, Grants Coordinator
THROUGH: George Garrett, City Manager
SUBJECT: **Grants Report**

The Grants Department provides an update to the City Council monthly.

The following is provided as an update for Grant Department activities as of the date of submission.

**Amounts in (\$\$) are grant amounts, not necessarily project totals.*

ACTIVE GRANTS STATUS – Received since last meeting - Updates

WWTP Work - CDBG-MIT Infrastructure Unmet Needs – Florida Commerce (formerly DEO) (\$6,259,423.00)

- Requested funding increase for the flood wall to cover the cost of inflated materials.
- Mobilization and active construction began on Power Conditioning & Surge Protection project – construction at 21%.
- Vacuum System Monitoring & Pump Upgrades are at 70% design, bid docs in process of being created.
- Flood Wall project has been value engineered and we have submitting a request for grant increase to FL Commerce to help cover the additional cost.

Hazard Mitigation Grant Generators – DEM (\$370,260.75) – completion date 03/31/2025

- Received project deadline extension from DEM to 3/31/2025
- Fire Station Generator has been installed
 - They are currently working to replace pump needed for fuel lines
- Received **budget increase** of grant award to \$370,260.75 to cover the unexpected rising cost of the project (an increase of \$240,801.19)
- Marina Unit installation complete.
- Permits Issued

FCT Parks and Open Space (2018 grant program) – (1,488,000)

- Salty's/7 Mile Marina
 - Submitted Management Plan for FCT review
 - Submitted due diligence documents as required by FCT.
- FCT Required appraisals complete; Submitted to FCT
- Environmental Assessment Phase I completed.
- Put out request for quotes for Tier II EA as required by FCT
- PW Preparing RFQ for project services.

FL Recreation Development Assist Program 23/24 (FRDAP)

- Resurface Basketball Courts/Add Pickleball Courts at Community Park (\$92,212)
 - Awarded to McCourt Construction.
 - Contract being finalized

FDOT Transportation Alternatives – Bicycle and Pedestrian Master Plan \$250,000 FY25 grant

- Waiting for grant agreement from FDOT
 - Grant contract in process
- Bicycle and Pedestrian Master Plan
 - Presented project at FDOT Dist. meeting.

TDC FY 2023 Capital Funding

- Quay restroom project (\$245,000) – completion date by 9/30/2025
 - Construction has begun!!!!
 - Awarded to Pedro Falcon
 - Received grant extension to 03/31/2025
 - Schematics are completed.
 - In process of finalizing costs for approval
- Beach Raking and Maintenance (Coco Plum & Sombrero) (\$203,050) – completion date 9/30/2025
 - Grant fully expended – will request increase next funding round
 - Received fully executed agreement.
 - Work underway.

TDC FY24 Capital Improvement – Coco Plum Beach Parking Lot

- New Parking Lot at Coco Plum Beach (\$119,000) – Completion Date 9/30/2025
 - Requested extension to 03/31/2025 to give time for closeout documentation.
 - Project under construction – plantings have begun
 - Bid awarded to Discount Rock and Sand

FDOT Transportation Alternatives Program – Aviation Lighting and Sombrero Rd MIT (FY 27-28)

- Waiting on grant agreements from FDOT
- Received breakout from FDOT timeline/budget: Design 2026; Construction 2028
- Awaiting grant agreements from FDOT
 - Aviation Blvd Lighting (\$1,000,000)
 - Mitigate Sombrero Beach Rd sidewalk flooding at curve (\$333,288)

FDEM – Hazard Mitigation Grant Watershed Master Plan – (\$187,068.75 of \$249,425 project – balance (match) coming from \$240,000 Coastal Resilience Grant)

- Data gathering in process
- Grant signed over to Monroe County for administration.
- As approved at April 2024 meeting, the City is assigning this grant to the County for management.
 - Will ensure continuity of data with the County and other municipalities.

FDEP Coastal Resilience Grant Vulnerability Plan (\$240,000)

- Data gathering in process
- WSP presented information at April's Council Workshop
- Grant signed over to Monroe County for administration.
- To create a citywide vulnerability assessment for sea level rise
- Because we are using this grant as a match for the Watershed Master Plan grant, the State requires us to sign this grant over to the County for administration as well.

DOT Safer Streets 4 All Grant Program – (\$240,000)

- Create a Complete Streets Program.
 - Received fully executed grant agreement
 - Project out for bid
 - Received bids - Stantec awarded – working on contract
 - Completed and submitted FHWA Required Checklist

Tourist Development Council FY24 Capital Improvement DAC III Round 3 Events Tiki at Oceanfront Park (\$201,495)

- Events Tiki at Oceanfront Park
 - Work is underway
 - Received fully executed agreement from TDC
 - PW getting bid package ready to go out

House/Senate Appropriations Project Funding Request (\$150,000)

- Fire/Rescue is checking out different boats.
- Purchase of Rescue Boat with Fire Capabilities

TDC FY25 Bricks and Mortar – Capital – start date for all - 10/16/2024

- Information and Security Station at Sombrero Beach (\$150,000)
 - Meeting with engineer to layout project
- Resurface Tennis Courts at Community Park (\$60,000)
 - Bids received – awarded to McCourt – contract in process
- Reconstruct Finger Piers and Electronic Sign at 7-Mile Marina (\$502,700)
 - Project planning in process

HMGP (FEMA) (\$48,984.88 award amt)

- Raise 92nd Street Phase I – Design and Engineering
 - Received grant for design and engineering
 - Awaiting the grant contract

GRANT APPLICATIONS SUBMITTED - Submitted since last meeting – Updates

Resilient Florida – multiple applications – submitted 8/30/2024

- Raise 92nd Street (\$567,500)
- Marina Seawall Replacement (\$1,855,000)
- Area 6 Floodwall (\$1,748,812)

FDOT Beautification Grant – (\$112,000) – submitted 9/24/2024

- Plant along the Overseas Heritage Trail along airport

FL Recreation Development Assist Program 24/25 (FRDAP) - two applications – submitted 9/24/2024

- Raise Jessie Hobbs to Mitigate for flooding (\$200,000)
- Install Pickleball Courts at Oceanfront Park (\$108,746)

Florida Keys Stewardship Grant – submitted 8/31/24

- Deep Well project
- Area 3 Expansion project

Under Evaluation - Hazard Mitigation Grant Program for Ian (\$800,000) – Submitted 8/29/2023

- **RECEIVED FUNDING FOR PHASE I – DESIGN AND ENGINEERING**
- Raising 92nd Street – **(\$800,000)**
- Submitted additional historical data for flooding at this location
- FDEM Engineering has approved budget
 - Next step is to send to FEMA for review (expected to be to FEMA by 12/1/24)
- Provided State requested additional pre-award documentation and information

***Department of Transportation – Transportation Alternatives Program – Submitted 12/6/2023
Funding Cycle 2030***

- Complete Coco Plum Multi-Use Trail and add Lighting
 - Presented the Projects to FDOT on 1/11/24
- Lighting for Existing Coco Plum Multi-Use Trail
 - Presented the Projects to FDOT on 1/11/24
- **Emailed for update**

SAFER Grant – \$2,951,468.37 – Submitted 4/12/24 – National Grant

- Additional Personnel Marathon Fire Rescue
 - Submitting costs for (9) personnel for (3) years.
 - **Awards have started being announced. So far only 6 awards in FL.**

GRANT APPLICATIONS IN PROCESS - *New since last meeting*

***FHWA EV Charging Infrastructure – In conjunction with Monroe County, Islamorada, and KW
Submitting for second consideration Round 1 as well as submitting to Round 2 funding to have EV
chargers placed in strategic locations along the US Corridor throughout Monroe County. Total Cost
\$4M split between applicants***

Florida Recreational Trails Program – next cycle TBA (usually 1st part of year)

- Complete Bike Trail on Coco Plum (Budget in process)
- Grassy Key Birding Boardwalk Trail Construction (when planning is complete)
- 7 Mile Corridor

FDOT Transportation Alternatives – opening TBA

- Sidewalk and Lighting on Sombrero Blvd

COMPLETED GRANTS - *New since last meeting* - *Updates*

GRANTS NOT RECEIVED - *New since last meeting*

TRAIL-GO Local Trail Management Grant – two applications submitted 8/29/2024

This grant was first come-first served. All awards were to applicants who submitted within the first hour of opening. We were not made aware of the grant until a week after the opening but submitted anyway. We ranked well but were not in the first submitted. Next round, we will be submitting at 8am on opening day.

- Purchase of picnic tables, grills, bike racks, water fountains, signage, etc for Sombrero Beach Park, Oceanfront Park and Community Park - **(\$100,000)**
- Purchase equipment for maintenance of medians, foliage, etc.- **(\$200,000)**

Assistance to Firefighters – Submitted 3/8/24 (\$96,000)

Am awaiting information on why we weren't awarded and to improve our next submission.

- 30 new radios and accessories
 - Announcements have started and will run through the end of the year.

CANCELLED GRANTS – *New since last meeting*



CITY OF MARATHON
PUBLIC WORKS

9805 Overseas Highway, Marathon, Florida 33050
Phone: (305) 289-4109 Fax: (305) 289-4131

MEMORANDUM

DATE: November 12, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Carlos A. Solis, P.E. Director of Public Works & Engineering

THROUGH: George Garrett, City Manager

SUBJECT: Public Works Update

The following is an update of the status of Public Works projects and related issues:

Capital Infrastructure Projects

- **Marina & Station 14 Generators:** The generator at the fire station has been installed, and all work is substantially completed. We are in the process of finalizing and closing the project out with one outstanding item. We have one pending item to resolve with the Contractor, and all payments are being withheld until the issue is resolved.
- **117th Street, 116th Street & 112th Street Bridge Replacement:** The 60% plans for the 117th St and 116th St bridges are near completion. We are scheduled to have the design completed for all three bridges and ready for bidding in late Spring of 2025. FDOT has agreed to bundle the construction of all three bridges, and also advanced the funding of the 116th St bridge, so that the City will be reimbursed as the bridges are replaced instead of advancing the funding for a year. We have opted to transfer the funding for CEI services towards the construction, which FDOT notified us that they concurred. The reasoning being that the estimates for these bridges were done prior to 2021, and inflation since then is likely to significantly increase the cost. By bundling the bridges, we anticipate substantial savings, and the additional CEI funding towards construction, we feel the cost should be covered. The City will cover the cost of the CEI services; however, we would not have to follow FDOT's procurement process, which adds to the cost, and again the bundling of these services for all three bridges will substantially reduce the cost.

- **Quay Restroom:** Construction has begun on the quay restroom is proceeding as scheduled. Site utilities have been installed, and the building pad completed. Project is expected to be completed in January of 2025.
- **Coco Plum Overflow Parking:** The overflow parking lot is completed, and the contractor is proceeding with the completion of the landscaping. Project is expected to be completed within two weeks.

Upcoming Projects:

- **Seven Mile Marina:** We have received the proposed cost from the contracted Construction Manager at Risk and are reviewing. Our initial assessment is that the cost submitted is excessively high. We may, similar to the Quay restroom, put the project out to competitive bid instead of proceeding with the CMAR.

The FDEP permit is issued and advertised accordingly as required. The ACOE is set to issue the permit, however the Florida Keys Marine Sanctuary is now requesting additional time for additional review. This work will be contracted separately from the building renovation, and we expect to have this out to bid and under contract before the end of the year.

- **Quay Property Re-Development:** We are expecting final plans for the upland portion of the work this week, and reviewed by staff. Once the final review is complete, and any minor changes made, we are ready to put the project out to bid. We will time the beginning of construction with the completion of the restroom building which we expect in the middle to end of January.
- **Oceanfront Park Tiki:** All site work in preparation for the new Tiki Structure is complete. This includes re-alignment of the access drive, a portion of the trail, water facility relocation and adjustment to drainage structures. A SECOND ROUND OF Bids for the Tiki structure were received and AGAIN ONLY ONE respondent, however, the submitted bid is in line with the estimated cost and within the grant amount provided by TDC. We have an agenda item for acceptance of this bid.

General Public Works Issues and updates:

- **Building Plan Review:** The Public Works & Engineering department has processed 56 permits reviews, and 53 inspections for projects requiring engineering review and inspections in the month of August.

- **Boat Ramp and Beach Parking:** The revenue collected from parking and user fees for August is \$47,644.00.

- PW staff have begun the vegetation cutbacks throughout the City beginning with Grassy Key. We will continue to work from east to west throughout the City.
- The Public Works department will be taking over the landscape requirements for all City Facilities beginning November 1. We are coordinating with maintenance staff from the P&R department and establishing consistent performance between all personnel. We are still missing some required equipment, and Brightview will continue to maintain the baseball fields for an anticipated three week period until the new equipment is delivered. Ultimately, all services will be performed in-house. Within the next few months, we anticipate a substantial enhancement on the appearance of our facilities.
- The Public works Department has generated a new vehicle policy that is proposed to Council. Once approved, the policy will be implemented accordingly.

OCTOBER '24 BREAKDOWN

PERMITS READY FOR PAYMENT: 109 / \$477,595

AVERAGE TURN FOR MONTH: 8.88 days

ACTIVE PERMITS: 2658

CO'S ISSUED MONTH: 2 Residential/ 1 Commercial

REPLACEMENTS: 1

BPAS HOMES: 2

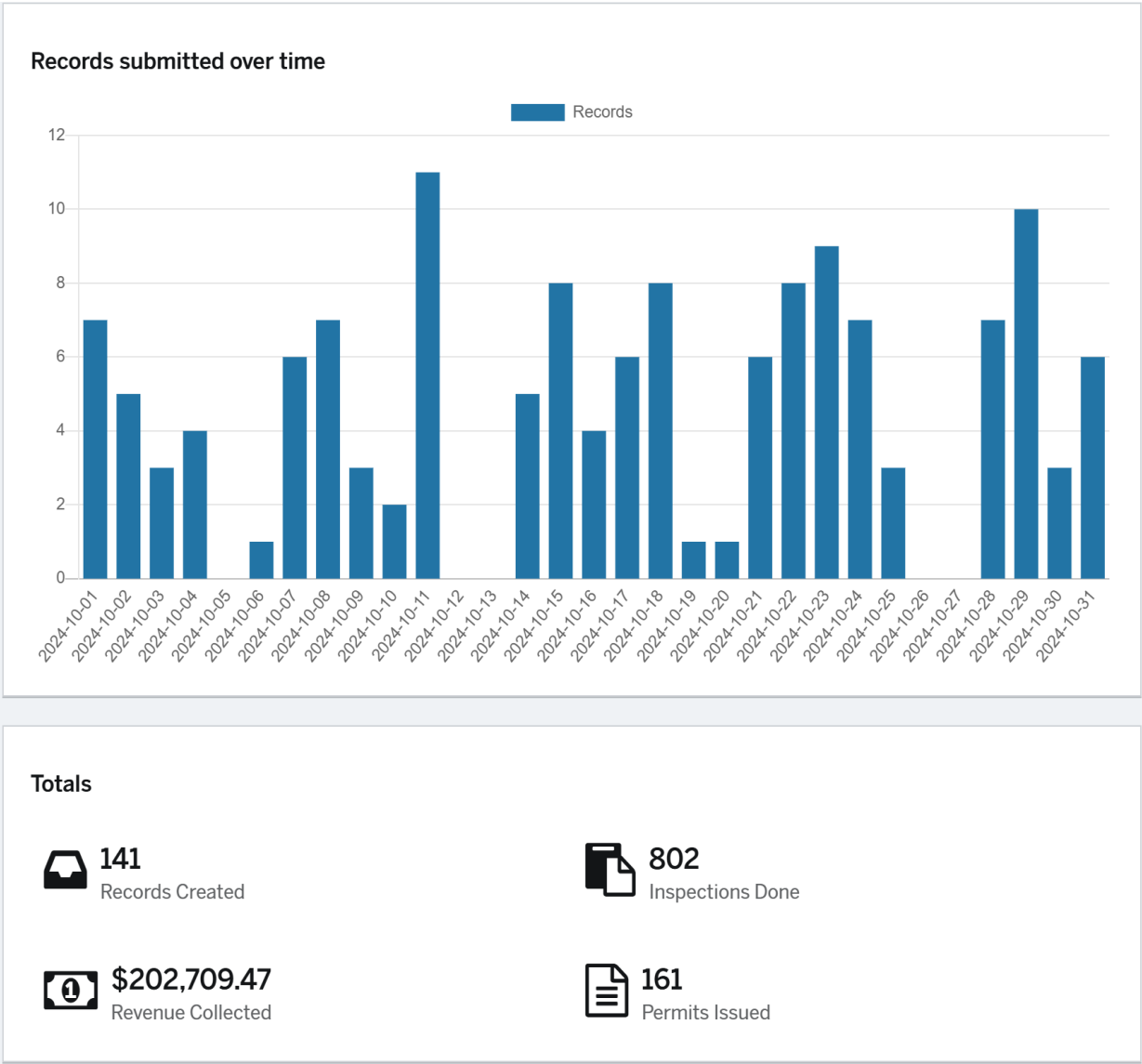
TBR HOMES: 0

REQ'S FOR PRIVATE PROVIDER: 45

PERMITS SUBMITTED THIS MONTH: 118

PERMITS ISSUED THIS MONTH: 161

CONTRACTOR REGISTRATIONS: 21 (renewals)





CITY OF MARATHON FIRE RESCUE

8900 Overseas Highway, Marathon, Florida 33050
Phone: (305) 743-5266 Fax: (305) 289-9834

Memorandum

Date: 11/1/2024
To: Honorable Mayor and City Council members
From: James E. Muro, Fire Chief
Through: George Garrett, City Manager
Subject: October Month End Report

<u>ALARM RESPONSES</u>	October
Fire Incidents	0
Hazardous Condition	2
Public Service	14
False Alarm Fire	12
Good Intent Call	10
EMS	81
Inter-facility Transfers	47
Total for Month:	166
Total Calls for Calendar 2024:	1773

<u>KCB BREAKOUT REPORT</u>	October
Fire Incidents	0
Hazardous Condition	0
Public Service	2
False Alarm Fire	0
Good Intent Call	1
EMS	5
Total for Month:	8

<u>FIRE PREVENTION</u>	October
Fire Inspections	9
Fire Safety Plan Review	12
Vacation Rental Inspections	109
Occupational or Annual License Inspections	4
Event Inspections	0
Annual State Inspections	0
DHR Follow-Up Inspections	0

<u>VACATION RENTALS</u>	October
Total Applications Processed	96
Vacation Rental Inspections	109
Total VR Fees Collected	\$101,125.00
Agent/Local Contacts Trained	96
Total VR Licenses Issued	97

OPERATIONS

· Fire Officer Training - Fire Officers worked on daily training by leading and confirming their shifts' Fire and EMS Training for existing members of the team. This includes medication changes and process review.

· EMS Training - We began or use of the RQI CPR program which allows our members stay current and proficient in their CPR skills by utilizing an automated system to track and coach them year-round. This is a tool that could be used to keep all employees of the City of Marathon to keep their skills sharp year-round. While it is managed by the Fire Department, email notices will notify City employees directly to utilize that station during the renewal period at Station 14.

· Combined Training - Vector Solutions is our vendor who provides, and archives are class that our members take to ensure compliance and training. We had members take 94 online classes and training modules and completed 71.36 in training hours.

· Community Outreach in October - Marathon Fire Rescue supported various Halloween events including the "Trunk or Treat" providing candy and standby paramedics for the event. The annual "behind the Airport" event was also attended, and we provided 6 hours of Paramedic protection for those who were collecting candy and enjoying the holiday.

INFORMATION SUMMARY FOR THE MONTH ENDING OCTOBER 30TH 2024

Fire Administration/Operations conducted a pre-hiring screening on October 21th at Station 14. The purpose was to fill our 3 vacancies; we made an offer to one FF/Paramedic candidate who accepted. The Chief and 3 members of the Department are traveling on November 5 to a graduating class of Firefighters at the Broward Fire Academy, to inform and recruit for our remaining 2 funded positions. We are having a pre-hire screening test again on December 5, 2024 to retain a full eligibility list for any future hires.

BENEVOLENT FIREFIGHTER SERVICES

No meeting was held for the month of October.

ACTIVITIES ATTENDED IN OCTOBER:

Home Depot Fire Safety – Truck Show & Tell

Switlik Truck Show & Tell – Book Reading

MHS Varsity Football

Dolphin Research First Responders Day

Marathon Community Park Trunk-or-Treat

Trick-or-Treat – Community Appearance (Airport)

Memorandum

To: Honorable Mayor and City Council Members

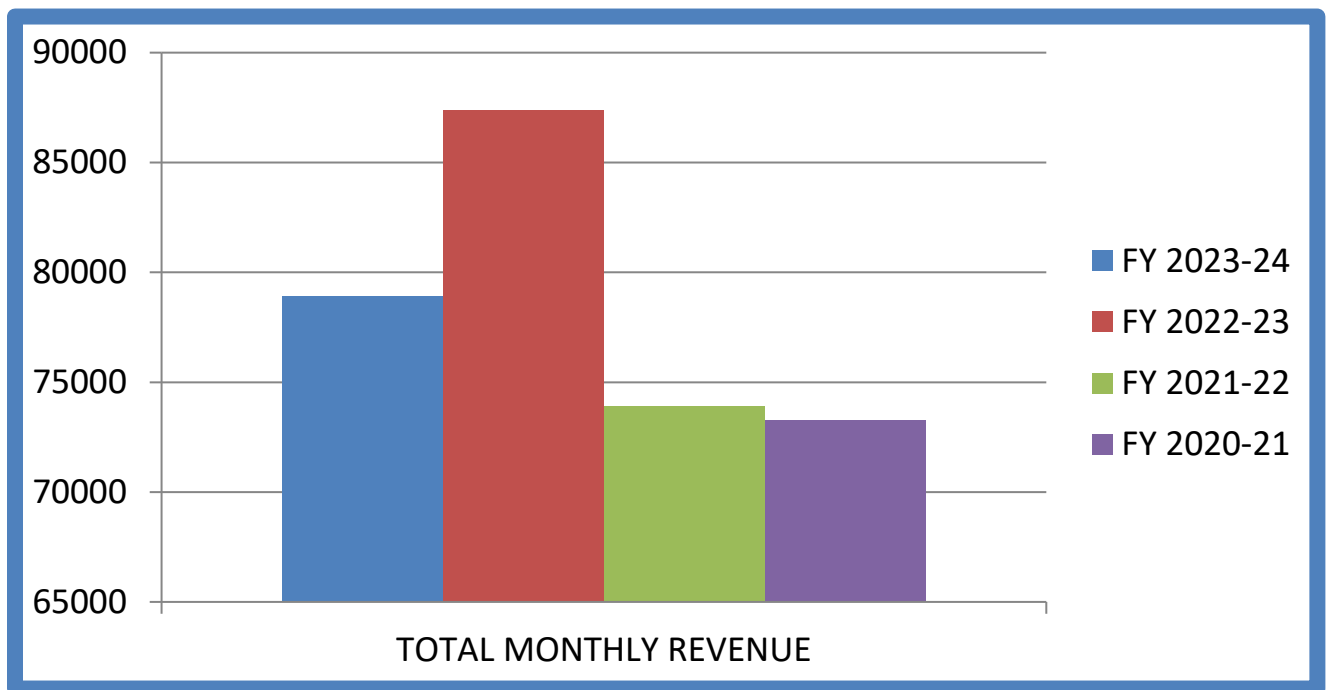
Through: George Garrett, City Manager

From: Sean Cannon, Ports Director

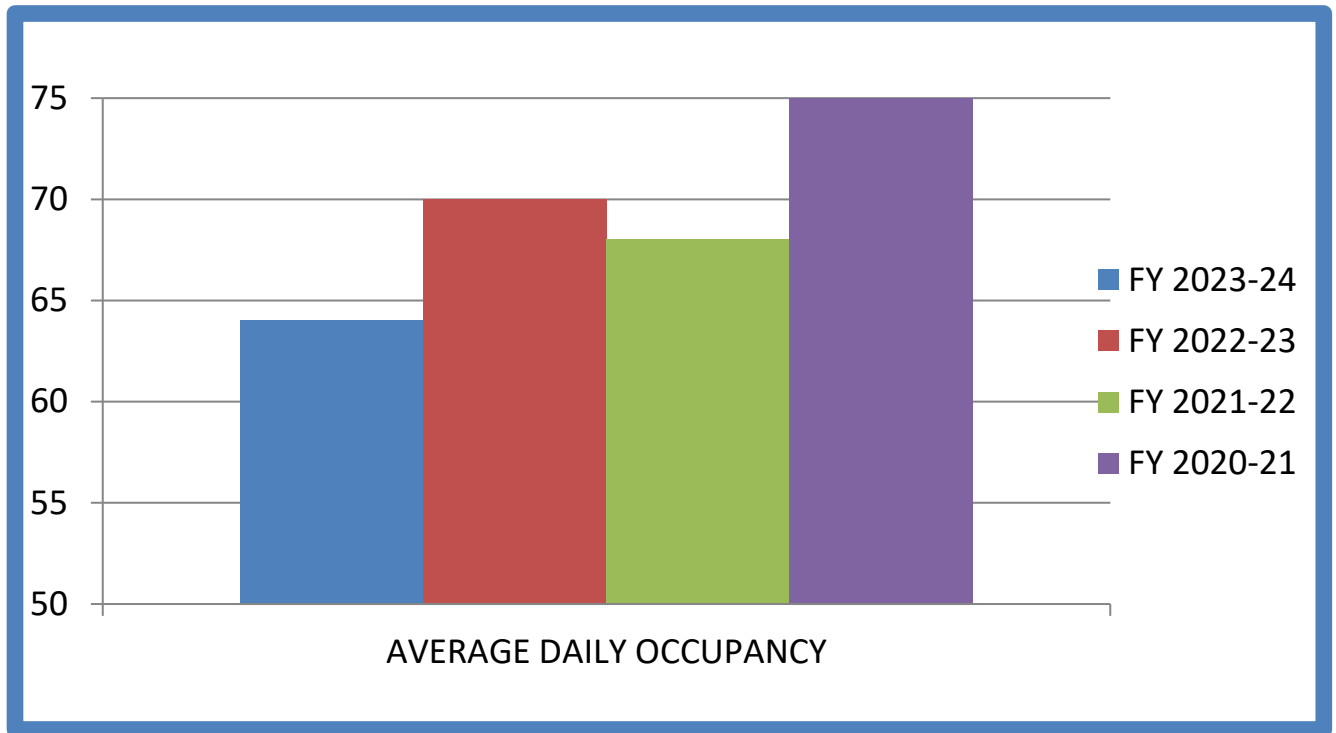
Date: November 12, 2024

Re: October Monthly Report

Revenue: City Marina saw \$78,889 in total revenue for the month of October.



Occupancy: October's average daily occupancy was 64%



TOTAL TRANSIENT ARRIVALS:

***IN-STATE VESSELS: 23**

***OUT-OF-STATE VESSELS: 10**

***FOREIGN VESSELS: 1**

***TOTAL VESSELS: 34**

News: We held our annual Customer Appreciation Day in October and there was a great turnout. We also participated in the Parks Trunk or Treat for the kids.



Projects: There was no ongoing projects as we focused on finishing current projects in preparation for busy season.

CITY OF MARATHON

Memorandum



Meeting Date: November 12, 2024

To: Honorable Mayor Robyn Still and City Council Members

Through: George Garrett, City Manager

From: Ted Lozier, P.E. Code Compliance Director

Subject: Code Compliance Report

October 2024 Activity:

Complaint Investigations	86
New Code Cases	34
Code Cases Closed	69
October Code Hearing – cases	10
November/December Code Hearing – cases to date	12
Trash Service Violations	17
Trash Violation Citations	5
Stop Work Orders Posted	7
Vacation Rental Licensing Violations	21

Eighty-six new code complaints/investigations were investigated, 34 new code cases were opened, and 68 code cases were closed.

The Code Department had 10 cases for the October Hearing; 3 cases were continued, 1 case was withdrawn through compliance, and the remaining 6 cases were found to be in violation. The November and December Hearings have been combined and the hearing is scheduled for Wednesday, December 4, 2024, at 2:00 PM at Marathon City Hall Council Chambers, 9805 Overseas Highway, Marathon, FL. As of October 29, 7 cases have been noticed for the hearing.

Code Responses & Permit Reviews: 883 & 112

In October, staff responded to 883 code follow-up actions and inquiries received by telephone, email, online, or in-person. Staff also conducted 112 permit reviews.

Code Officer Mark Tuschel has changed positions and is with Parks and Recreation. His last day with the Code Department was October 18. We wish him the best in his new role.

The Code Department is addressing temporary sign violations throughout the city as more signs related to the elections are being displayed. Signs found in the public rights of way are being removed and kept at City Hall for the owners to pick up. We will continue to monitor the signage and work with homeowners and businesses to ensure they understand and follow the sign ordinance.

CITY OF MARATHON
VEHICLE & EQUIPMENT USE POLICY

PREPARED BY
FLEET SERVICES
A DIVISION OF CITY OF MARATHON PUBLIC WORKS DEPARTMENT
OCTOBER 2024



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- e. Employee Responsibilities
- f. Incidents Involving City Vehicles & Equipment
- g. Accident and Damage Investigation

2. Vehicle Inspections and Maintenance

- a. Routine And Preventive Maintenance
- b. Non-Routine Maintenance

3. New Vehicle Purchase

INTRODUCTION

The City of Marathon, since its inception in 1999, has grown significantly, and with this growth, the City's vehicle and equipment fleet has expanded accordingly. It is the policy of the City Council to have written procedures in accordance with applicable standards and regulations for the use of all City utilization of vehicles and equipment. This policy manual shall provide policies and guidelines for safe operation, as well as procedures for maintenance and care of all City owned vehicles and equipment. While this policy is intended to address the safe operation, use and maintenance of City owned vehicles and equipment, users of such are still responsible for the use of good judgement in the use and operation of the same.

PART I MOTOR VEHICLE USE POLICY

1. Only those persons possessing a valid Florida Operator's License for the type of vehicle to be operated shall be permitted to drive a City vehicle. Authorized users to operate a motor vehicle must be at least eighteen (18) years of age.
 - a) No person shall become or remain a designated operator who has:
 - i. Within the past three (3) years, received more than two major (4 point) violations;
 - ii. Within the past three (3) years, received more than 4 violations of any kind;
 - iii. Within the past three (3) years, been convicted of, or pled no contest to, any alcohol or drug-related offense, or refusal to submit to a breath/urine/blood test;
 - iv. Does not carry and maintain the minimum limits of personal vehicle liability insurance in accordance with Florida Statutes.
2. Anytime an employee receives a traffic citation, the employee shall notify his Department Head and Employee Services by the next business day.
3. Florida Statutes require the operator of any vehicle to possess a valid State of Florida Driver's License for the class of vehicle being operated. Any State restriction placed on an operator's license shall be strictly enforced. Prior to the operation of any vehicle, the operator's supervisor is responsible for verification that the operator has the requisite license.
4. The revocation or suspension of the State of Florida Driver's license of the operator immediately disqualifies that individual from any further vehicle operation until the license is restored. Should a driver have his license suspended or revoked, he shall report it immediately to the Department Head and Employee Services and he shall not operate any vehicle until the license is restored.
5. In no case shall an individual who is not an employee or authorized individual of the City be allowed to operate a City vehicle.
6. **Removal of Operating Privileges**

The City Manager or Department Head may, for just cause, and/or for any of the following specific reasons, revoke or suspend operating privileges at any time.

Violation of this policy may result in disciplinary action up to and including termination of employment:

- Misuse of City equipment;
- Failure to follow operating regulations;
- Allowing unauthorized persons to operate equipment or vehicles;
- Allowing unauthorized persons to be passengers in equipment or vehicles
- Unsatisfactory motor vehicle record;
- Transportation of unauthorized passengers in City vehicles;
- Failure to maintain a valid State of Florida driver's license;
- Failure to report a traffic citation;
- Failure to carry/maintain minimum limits of personal vehicle liability insurance in accordance with Florida Statutes.

7. Authorized Purposes

- a) Department Heads are responsible for ensuring that all employees under their supervision comply with all applicable procedures.
- b) City vehicles are to be used only for Official City Business. City vehicles may be utilized for de Minimis (minimal) personal use e.g.; lunch breaks or personal errands while in the performance of normal duties. Other de Minimis use must be approved by the Department Head.
- c) The City may from time to time designate certain employees who are allowed commuting use of City owned vehicles such as Department Heads, Managerial and Supervising employees, and employees on-call as designated by the Department Head, and such vehicles shall not be used for any personal use.
- d) Employees who are allowed commuting use of vehicles are prohibited from using the vehicles for other personal use except on a de minimis basis. Such de minimis use might include such things as a stop for lunch between two business locations, or a brief stop at a convenience store on the way to or from home from work.
- e) No vehicle shall be operated outside the local area without the express approval (verbal or written) of the Department Head. Department Heads do not need prior approval unless they are traveling out of state.
- f) The following guidelines shall be adhered to when operating a City vehicle:
 - i. Vehicles shall be operated in accordance with the Motor Vehicle Regulations of the State of Florida.
 - ii. No City-owned vehicle will be used for out of state travel. If out of state travel is necessary, a rental vehicle, privately owned vehicle, or other means of transportation will be used.

- iii. Privately owned vehicles or rental cars will only be used when City vehicles are unavailable and when approved by the Department Head.

8. Passengers

- a) Passengers shall be permitted to ride in vehicles covered by this policy, provided that the passenger is a Elected Official, or City employee.
- b) Use of City vehicle to transport a non-employee may be permitted in certain situations as part of the daily functions of the City, providing those situations meet the following guidelines as set forth by the Board:
 - Occurs as part of a public activity (not a private event);
 - Event/activity must occur on public land or property or within City Right-Of-Way;
 - Transporting Consultants and similar personnel in conjunction with City projects;
 - Shall occur to promote positive community support.

9. Use Of Privately Owned Vehicles (P.O.V.)

- a) When an employee operates a City vehicle or P.O.V. for City business or otherwise, the employee shall carry/maintain the minimum limits of personal vehicle liability insurance in accordance with Florida Statutes.
- b) A P.O.V. utilized for official County business shall be maintained to provide mechanically safe operation.
- c) A P.O.V. when utilized for official business shall be operated in strict compliance with all laws, which apply to motor vehicles in the State of Florida, or other applicable jurisdictions, including the use of seat belts.

10. Employee Responsibilities

- a) Each employee assigned to operate a City vehicle and/or equipment is responsible for performing a Pre-Operational Vehicle Inspection of the vehicle or equipment assigned to see that it is in safe working order before leaving for the day's work. Deficiencies should be reported immediately to the Fleet Manager to determine if the vehicle is safe to drive. Departments may perform a more comprehensive inspection.
- b) Vehicles shall be operated in accordance with the Motor Vehicle Regulations of the

State of Florida.

- c) Do not stop at any bar, tavern, or similar establishment when using a City vehicle. Consumption of alcohol or other intoxicating substances by an employee, including on-call employees, while operating a City vehicle or equipment or engaged in official City business is strictly prohibited.
- d) The use of smoke, smokeless, and vape products in the use of any City Vehicle or equipment is prohibited.
- e) The use of cell phones, without a hands-free device, while operating a vehicle/equipment should only be done while the vehicle/equipment is not in motion, in a parked position, and not at a stop sign or red light. It is recommended to allow the voice mail feature to answer the call, and then pull over and respond to the message at your earliest and safest opportunity utilizing a commercial parking lot or driveway leaving ample clearance for road traffic. The use of cell phones, without a hands-free device, while a vehicle is in motion is restricted to calls placed or received that are deemed an emergency or absolutely vital to carry out business without further delay. The use of a hands-free device must be utilized whenever one is provided.
- f) All employees operating a motor vehicle for City business shall adhere to the Motor Vehicle regulations of the State of Florida as well as the following safety guidelines:
 - v. Supplies transported in motor vehicles shall be secured in such a manner that they will not dislodge, fall out or shift forward during transit or sudden stops;
 - vi. Never take drugs or medication, which may impair your ability to safely operate a motor vehicle, before and/or while operating a vehicle. Drugs, illness, or extreme fatigue may affect one's ability to judge distances, speed, and driving conditions;
 - vii. All persons who drive or ride in City vehicles shall wear the installed seat belts;
 - viii. Passenger capacity will meet the manufacturer's design for the vehicle. Persons shall not be transported in any vehicle unless safe seating and seatbelts are provided for each person;
 - ix. When backing a vehicle or equipment, with a load or body style that obstructs the driver's visibility, another employee should serve as a safety guide and direct the backing operation from outside the vehicle. Driver shall keep the safety guide in his vision at all times, if he cannot see the safety guide, the vehicle is to be stopped immediately;
 - x. For added safety, utility vehicles, roadside mowers, and other mobile equipment should use flashers and safety warning lights, if so equipped, when alongside the road;

- xi. When fueling: Shut off the vehicle engine. Do not use electronic communications equipment when fueling. Do not smoke near fuel pumps. Keep the hose nozzle against the edge of the filler pipe. To avoid spilling fuel, do not fill the tank too fast, and hold fuel handle while pumping fuel;
- xii. Never exit a vehicle without first putting the vehicle in park. If leaving the vehicle put it in park, turn off the lights, wipers, radio, and close the windows, etc. Remove the keys, lock the doors, secure other areas of the vehicle as needed and take the keys with you.

11. Incidents Involving City Vehicles & Equipment

The following procedures are established and shall be followed whenever a City vehicle or P.O.V. being operated for City business is involved in an incident where City property, inclusive of vehicles and equipment or private property is damaged or destroyed regardless of how minor the incident.

- a) The driver of any City vehicle or P.O.V. being operated for City business involved in an incident shall call 911 immediately if any of the following occurs:
 - i. Another vehicle is involved;
 - ii. Private property is involved unless damage is minimal;
 - iii. Anyone is injured;
 - iv. Damage to a City vehicle or P.O.V. being operated for City business is so significant that it cannot be operated safely, or the damage to the vehicle or property is estimated to be \$1,000.00 or more
- b) Keep the scene and vehicle(s) intact, if possible, until law enforcement officer arrives.
- c) Give only his name, address, driver's license number and the registration number of the vehicle to any other party involved.
- d) Volunteer no other information to anyone except the investigating officer, supervisor, or other appropriate County staff.
- e) Notify his Department Head, and Fleet Manager of all incidents whether deemed significant or not.
- f) In the event of P.O.V. damage, the City will cover the cost of the damage not otherwise reimbursed by the employee's insurance provider and not to exceed \$500.00.

12. Accident and Damage Investigation

- a) Each motor vehicle/equipment incident/accident involving a City employee, vehicle, or equipment (County or P.O.V.), shall be subject to an investigation.
- b) Each investigation shall be directed toward determining the cause or causes (direct or indirect) of the incident. Establishing personal responsibility and preventative measures that may eliminate or deter similar incidents in the future is of utmost importance.
 - i. Dissemination of information to employees on how to best avoid each particular type of incident or loss;
 - ii. Provision of basic information from which safer practices and work surroundings may be developed and provided to employees.
- c) When an employee is involved in a vehicle accident while on duty or driving a City vehicle or equipment, the employee shall, as soon as practical, submit to an alcohol and drug test if the employee is at fault, and the damage to the vehicle/equipment driven by the employee or any other vehicle involved is in excess of \$1000.00 or results in injury.
- d) Should private property be damaged or destroyed the following steps should be taken:
 - i. The owner should be notified of the incident as soon as possible. The Department Head shall notify the City's Risk Manager immediately of the incident, and include a statement of the private property damaged or destroyed with an estimated value of the private property loss and photographs;
 - ii. For incidents involving City vehicles or P.O.V. being operated for City Business, a Vehicle Incident/Accident report and a Supervisor's Investigation Report shall be completed as and forwarded to the Risk Manager as soon as possible

PART II Vehicle Inspections and Maintenance

The Fleet Manager, or his designee is responsible for all maintenance, repairs, and work performed on all City Vehicles. No work, alteration, or repairs shall be performed on any City Vehicle without the authorization of the Fleet Manager or designee.

1. **Routine And Preventive Maintenance:** The following outlines those procedures and/or requirements deemed fundamental to the safe operation and/or upkeep of the City's vehicle fleet.

- a) All employees that are assigned a vehicle are responsible for keeping the vehicle clean.
- b) Each user shall ensure that all safety and operational components of the vehicle are in good working before taking the vehicle out on the Road.
- c) The Fleet Department shall perform a monthly inspection of all vehicles to ensure all fluids, lights, breaks, and all other safety devices are in good working condition. Said information shall be recorded and placed in the vehicle asset file. As part of this inspection, the vehicle shall be inspected for any damage that may have occurred between the prior inspection. Each vehicle will be assigned a specific tie for the inspection, and users are expected to bring the vehicle to the maintenance facility for the inspection. It is anticipated that these inspection will take less than 15 minutes. The Department Heads will be responsible for assigning this responsibility within their department for vehicles not specifically assigned to any particular employee.
- d) Employees assigned vehicles will receive messages from the Fleet Department when the vehicles are scheduled for preventive maintenance work. For vehicles not assigned to a specific employee, the notification will be sent to the Department Head. It is imperative that these schedules be adhered to. If for any reason, the appointment cannot be made, the Fleet Manager shall be notified as soon as possible, and the appointment shall be re-scheduled.
- e) The following shall be, as a minimum, required to provide in all vehicles.
 - i. First Aid Kits specified and issued by City of Marathon.
 - ii. Fire Extinguisher (ABC type).

2. **Non-Routine Maintenance:** The following procedures shall be followed for non-routine maintenance or any mechanical issues on City Vehicles.

- a) In the event that maintenance needs arise that are above and beyond that required by the Preventive Maintenance Schedule, the user of the vehicle or Department Head shall immediately notify the Fleet Manager, either verbally or through email, of the issue.
- b) The Fleet manager will apprise the user and Department Head and with approval make the necessary arrangements to schedule the repair, and provide an estimate of required part and other cost. The Fleet Manager will notify the user and Department Head once all repairs are complete and the vehicle can be placed back into service.

- c) The City is utilizing an asset management system, and all records of inspection, routine maintenance, repairs as well as noted damage to any vehicles will be kept and available upon request to the Fleet Manager.

PART III New Vehicle Purchase

As the City continues to grow, the need for new and replacement vehicles will be an ongoing function. While each department Head shall determine the need and type of vehicles needed to meet their needs several factors should be considered when purchasing new vehicles. With the advancement of technology, all newer vehicles operate with computer systems, and the diagnosis of the same requires specific software for the make of vehicles. This software typically is upgraded every year to keep up with the newer model vehicles. As such a different software is required for each make. To minimize the yearly expense in updating this software, it is best to minimize the different makes of vehicles in the City's fleet. Maintaining smaller variations in vehicle manufactures also allows the City to purchase routine parts in bulk and keep parts for routine maintenance on hand making the repair and maintenance process more efficient. While this policy is not meant to prevent a specific purchase as may be needed, consideration in the purchasing of specific Make and Models would help the City control the cost of maintaining its fleet. Department Heads are encouraged to discuss the purchase of new vehicles with the Fleet Manager prior to any new purchase.



CITY COUNCIL AGENDA STATEMENT

Meeting Date: November 12, 2024

To: Honorable Mayor and City Council

From: Brian Shea, Planning Director

Through: George Garrett, City Manager

Agenda Item: **Ordinance 2024-10**, Amending the City's Land Development Regulations Relating to Chapter 107, Article 5, "Setbacks and Height", Section 107.36 "Exception To Setback"; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability; Providing For The Transmittal Of This Ordinance To Florida Commerce After Final Adoption By The City Council; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.

RECOMMENDATION:

Staff recommends APPROVAL.

APPLICANT: City of Marathon

REQUEST:

The proposed ordinance has been drafted to create an exception to the side setback for the allowance of steps to access electric meters.

Purpose of Proposed Amendment:

The purpose of the amendment is to expand upon existing exceptions to setback, recognizing the importance of elevating electrical equipment above flood, while still providing access to the raised electrical.

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;

The City of Marathon has language requiring mechanical, electrical, and plumbing to be located above flood. The Florida Keys Electric Cooperative has specific requirements for access platforms for meters. These reference platform depth requirements with NEC 110.26(A)(1). In effort to ensure the equipment is located above flood but still accessible requires an exception to be included for the platforms.

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

The proposed text amendment is consistent with the Comprehensive Plan and LDRs. This ordinance will aid in implementing Policy 4-1.3.3 entitled Surface Water Management and Flood Damage Prevention. New development encroaching into the 100 year floodplain shall incorporate elevation and flood protection measures sufficient to protect against the 100 year flood. The City

shall maintain consistency with program policies of the National Flood Insurance Program. The City shall monitor new cost effective programs for minimizing flood damage. Such programs may include modifications to construction setback requirements or other site design techniques, as well as upgraded building and construction techniques. Specifically, this addresses “modifications to construction setback requirements” to further allow for the elevation of equipment servicing the building.

C. Weather regulations 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. It also is consistent with the language of the other jurisdictions in the Florida Keys Electric Cooperative service area.

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

Planning Commission recommended approval 5-0.

NOTES:

FLORIDA KEYS ELECTRIC COOPERATIVE DOES NOT REQUIRE ELECTRIC METERS AND MAIN DISCONNECTS BE PLACED ABOVE FLOOD LEVELS. THE FOLLOWING REQUIREMENTS MUST BE FOLLOWED WHEN THE AUTHORITY HAVING JURISDICTION REQUIRES THE ELECTRIC METER TO BE PLACED ABOVE FLOOD LEVEL AND AN NEC COMPLIANT PLATFORM IS REQUIRED.

FKEC ACCESS REQUIREMENTS:

TO ENSURE FKEC METER SERVICE AND LINE WORKERS HAVE SAFE ACCESS TO FKEC'S ELECTRIC METERS, FIXED STAIRS AND AN ADEQUATELY SIZED WORK AREA MUST BE PROVIDED FOR ANY METER SOCKET LOCATED GREATER THAN SIX FEET ABOVE GRADE.

- THIS WORK AREA MUST BE BUILT IN COMPLIANCE WITH THE MOST RECENT VERSION OF THE NATIONAL ELECTRICAL CODE (NEC)
- IF STAIRS ARE DIRECTLY BEHIND THE METER, A MOVABLE GUARD MUST BE INSTALLED TO BLOCK A WORKER FACING THE METER FROM STEPPING BACKWARDS ONTO THE STAIRS.
- THE ELECTRIC METER MAY BE LOCATED WHERE FIXED OUTSIDE STAIRS HAVE BEEN CONSTRUCTED, INCLUDING STAIRS THAT LEAD TO A LANDING ON A PORCH OR DECK SERVING EITHER A FRONT OR REAR ENTRANCE OF THE DWELLING. IF FKEC DETERMINES THAT THE METER IS TO BE INSTALLED ON THE SIDE OF THE RESIDENCE, OR ON A PART OF THE BUILDING THAT IS NOT SERVED BY STAIRS, THEN STAIRS AND A PLATFORM THAT COMPLY WITH THE REQUIREMENTS OF BOTH THE AUTHORITY HAVING JURISDICTION AND THE SIZE OF THE WORK AREA DESIGNATED BY THE NEC WILL BE REQUIRED TO BE CONSTRUCTED AND MAINTAINED.
- THE STAIRS AND THE LANDING, INCLUDING THE SPECIFIED WORK AREA, MUST BE MAINTAINED IN GOOD AND SOUND CONDITION AND MAY NOT BE REMOVED. EITHER THE REMOVAL OF OR FAILURE TO MAINTAIN THE STAIRS, LANDING, AND WORK AREA THAT PROVIDE ACCESS TO THE ELECTRIC METER COULD RESULT IN DISCONTINUANCE OF ELECTRIC SERVICE.

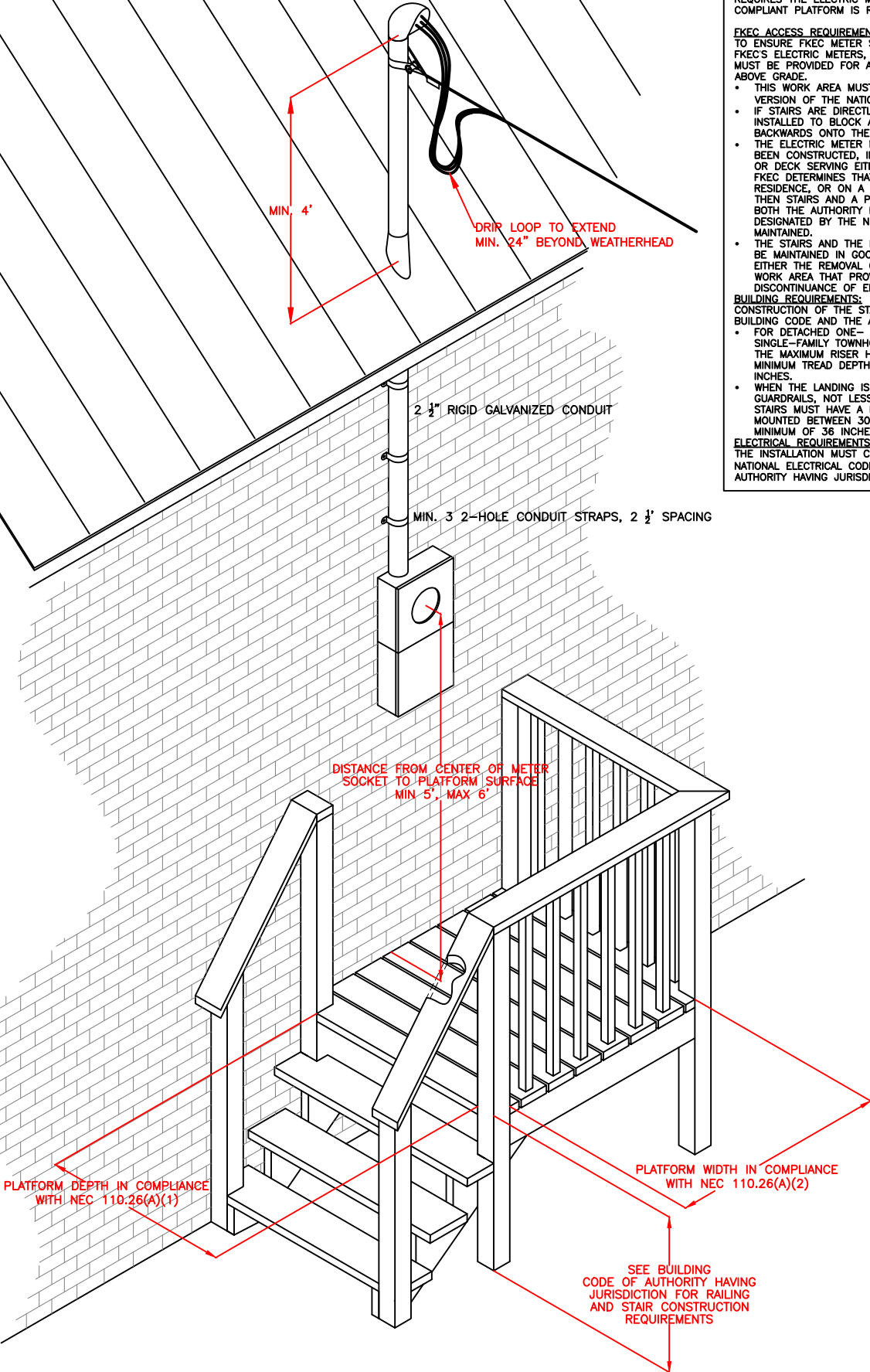
BUILDING REQUIREMENTS:

CONSTRUCTION OF THE STAIRS AND LANDING ARE SUBJECT TO THE FLORIDA BUILDING CODE AND THE AUTHORITY HAVING JURISDICTION.

- FOR DETACHED ONE- AND TWO-FAMILY DWELLINGS AND ATTACHED SINGLE-FAMILY TOWNHOUSES, THE MINIMUM TREAD DEPTH IS 9 INCHES AND THE MAXIMUM RISER HEIGHT IS 8 INCHES. FOR ALL OTHER BUILDINGS, THE MINIMUM TREAD DEPTH IS 11 INCHES AND THE MAXIMUM RISER HEIGHT IS 7 INCHES.
- WHEN THE LANDING IS MORE THAN 30 INCHES ABOVE THE ADJOINING GRADE, GUARDRAILS, NOT LESS THAN 36 INCHES IN HEIGHT, ARE REQUIRED. THE STAIRS MUST HAVE A HANDRAIL ON AT LEAST ONE SIDE AND MUST BE MOUNTED BETWEEN 30 AND 38 INCHES IN HEIGHT. THE STAIRS MUST BE A MINIMUM OF 36 INCHES IN WIDTH.

ELECTRICAL REQUIREMENTS:

THE INSTALLATION MUST COMPLY WITH APPLICABLE REQUIREMENTS OF THE NATIONAL ELECTRICAL CODE (NEC), THE FLORIDA BUILDING CODE, AND ALL AUTHORITY HAVING JURISDICTION CODE REQUIREMENTS.



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FLORIDA KEYS
ELECTRIC
ASSOCIATION INC.
TAVERNIER, FLORIDA
ENGINEERING SERVICES

DRAWN	366JE	SERVICE ENTRANCE REQ'S			
DESIGN	366JE	OVERHEAD METER INSTALLATION REQUIREMENTS (ELEVATED PLATFORM)			
CHECKED	-				
APPD.	-	DWG. NO.	SHEET	SCALE	REV.
DATE	10/10/19	-	6 of 7	NONE	0

NOTES:

FLORIDA KEYS ELECTRIC COOPERATIVE DOES NOT REQUIRE ELECTRIC METERS AND MAIN DISCONNECTS BE PLACED ABOVE FLOOD LEVELS. THE FOLLOWING REQUIREMENTS MUST BE FOLLOWED WHEN THE AUTHORITY HAVING JURISDICTION REQUIRES THE ELECTRIC METER TO BE PLACED ABOVE FLOOD LEVEL AND AN NEC COMPLIANT PLATFORM IS REQUIRED.

FKEC ACCESS REQUIREMENTS:

TO ENSURE FKEC METER SERVICE AND LINE WORKERS HAVE SAFE ACCESS TO FKEC'S ELECTRIC METERS, FIXED STAIRS AND AN ADEQUATELY SIZED WORK AREA MUST BE PROVIDED FOR ANY METER SOCKET LOCATED GREATER THAN SIX FEET ABOVE GRADE.

- THIS WORK AREA MUST BE BUILT IN COMPLIANCE WITH THE MOST RECENT VERSION OF THE NATIONAL ELECTRIC CODE (NEC)
- IF STAIRS ARE DIRECTLY BEHIND THE METER, A MOVABLE GUARD MUST BE INSTALLED TO BLOCK A WORKER FACING THE METER FROM STEPPING BACKWARDS ONTO THE STAIRS.
- THE ELECTRIC METER MAY BE LOCATED WHERE FIXED OUTSIDE STAIRS HAVE BEEN CONSTRUCTED, INCLUDING STAIRS THAT LEAD TO A LANDING ON A PORCH OR DECK SERVING EITHER A FRONT OR REAR ENTRANCE OF THE DWELLING. IF FKEC DETERMINES THAT THE METER IS TO BE INSTALLED ON THE SIDE OF THE RESIDENCE, OR ON A PART OF THE BUILDING THAT IS NOT SERVED BY STAIRS, THEN STAIRS AND A PLATFORM THAT COMPLY WITH THE REQUIREMENTS OF BOTH THE AUTHORITY HAVING JURISDICTION AND THE SIZE OF THE WORK AREA DESIGNATED BY THE NEC WILL BE REQUIRED TO BE CONSTRUCTED AND MAINTAINED.
- THE STAIRS AND THE LANDING, INCLUDING THE SPECIFIED WORK AREA, MUST BE MAINTAINED IN GOOD AND SOUND CONDITION AND MAY NOT BE REMOVED. EITHER THE REMOVAL OF OR FAILURE TO MAINTAIN THE STAIRS, LANDING, AND WORK AREA THAT PROVIDE ACCESS TO THE ELECTRIC METER COULD RESULT IN DISCONTINUANCE OF ELECTRIC SERVICE.

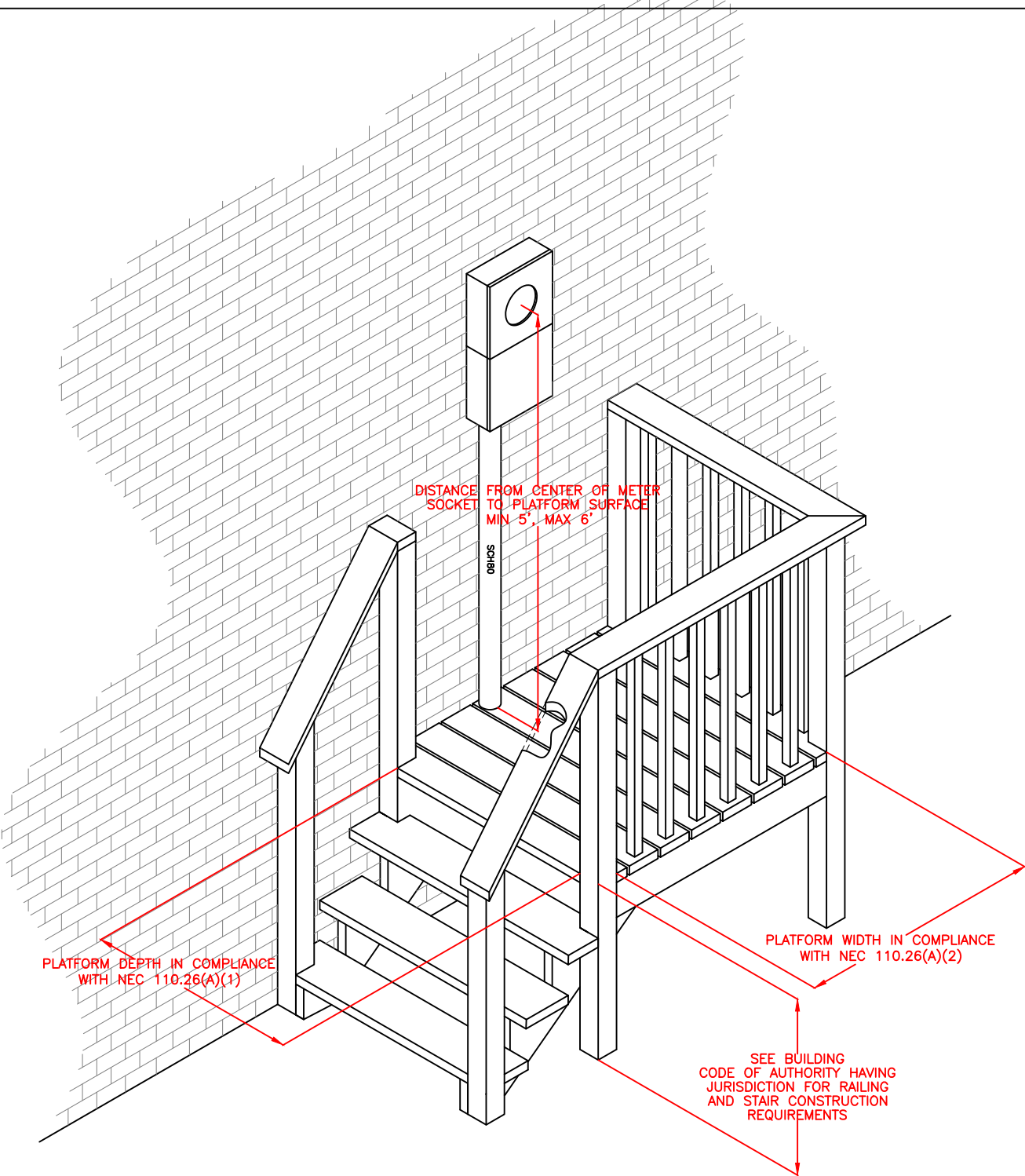
BUILDING REQUIREMENTS:

CONSTRUCTION OF THE STAIRS AND LANDING ARE SUBJECT TO THE FLORIDA BUILDING CODE AND THE AUTHORITY HAVING JURISDICTION.

- FOR DETACHED ONE- AND TWO-FAMILY DWELLINGS AND ATTACHED SINGLE-FAMILY TOWNHOUSES, THE MINIMUM TREAD DEPTH IS 9 INCHES AND THE MAXIMUM RISER HEIGHT IS 8 INCHES. FOR ALL OTHER BUILDINGS, THE MINIMUM TREAD DEPTH IS 11 INCHES AND THE MAXIMUM RISER HEIGHT IS 7 INCHES.
- WHEN THE LANDING IS MORE THAN 30 INCHES ABOVE THE ADJOINING GRADE, GUARDRAILS, NOT LESS THAN 36 INCHES IN HEIGHT, ARE REQUIRED. THE STAIRS MUST HAVE A HANDRAIL ON AT LEAST ONE SIDE AND MUST BE MOUNTED BETWEEN 30 AND 38 INCHES IN HEIGHT. THE STAIRS MUST BE A MINIMUM OF 36 INCHES IN WIDTH.

ELECTRICAL REQUIREMENTS:

THE INSTALLATION MUST COMPLY WITH APPLICABLE REQUIREMENTS OF THE NATIONAL ELECTRICAL CODE (NEC), THE FLORIDA BUILDING CODE, AND ALL AUTHORITY HAVING JURISDICTION CODE REQUIREMENTS.



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NO.	REVISION	DATE	DWN.	CHECK	APPD.



FLORIDA KEYS
ELECTRIC
ASSOCIATION INC.
TAVERNIER, FLORIDA
ENGINEERING SERVICES

DRAWN	366JE
DESIGN	366JE
CHECKED	-
APPD.	-
DATE	10/10/19

SERVICE ENTRANCE REQ' S				
UNDERGROUND METER INSTALLATION REQUIREMENTS (ELEVATED PLATFORM)				
DWG. NO.	-	SHEET	SCALE	REV.
		4 of 7	NONE	0

Sponsored By: Shea
Public Hearing Dates: September 16, 2024
October 8, 2024
November 12, 2024
Enactment Date: November 12, 2024

**CITY OF MARATHON, FLORIDA
ORDINANCE 2024-10**

AN ORDINANCE AMENDING THE CITY’S LAND DEVELOPMENT REGULATIONS RELATING TO CHAPTER 107, ARTICLE 5, “SETBACKS AND HEIGHT”, SECTION 107.36 “EXCEPTION TO SETBACK”; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS THEREOF FOUND TO BE IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO FLORIDA COMMERCE AFTER FINAL ADOPTION BY THE CITY COUNCIL; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Local Government Comprehensive Planning and Land Development Regulations 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, pursuant to Sections 380.05 and 380.0552, *Florida Statutes*; and

WHEREAS, Florida 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, the City of Marathon (“City”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, *Florida Statutes*; and

WHEREAS, it is the intent of the City Council to ensure FEMA compliance with new construction; and

WHEREAS, it is the intent of the City Council to amend the setback exceptions to allow for access platforms; and

WHEREAS, The City Council intends to adopt the language and further the policies of the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA THAT

~~Strikethrough~~ = deletion

Bold underline = addition

SECTION 1. The above recitals are true, correct, and incorporated herein by this reference.

SECTION 2. Chapter 107, Article 5, Section 107.36 “Exception To setback” is hereby amended as attached in Exhibit A.

SECTION 3. Any provisions of the Code of Ordinances of the City of Marathon, Florida or Ordinances or parts of Ordinances that are 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 section, sentence, 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 sections, sentences, clauses, or phrases of this 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 that the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the “Ordinance” shall be changed to “Section” or other appropriate word.

SECTION 6. This Ordinance shall become effective immediately upon approval.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12TH DAY OF NOVEMBER, 2024.

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:

NOES:

ABSENT:

ABSTAIN:

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:**

Steven Williams, City Attorney

Sec 107.36 Exception To Setback

A. Side Yard.

1. For parcels in the MU districts, and for duplexes and multi-unit, affordable dwellings in certain residential zoning districts, the required interior side yard setbacks may be reduced through the conditional use process established in Article 13, Chapter 102.
 2. Driveways, which may include a turnaround area; walkways not to exceed five (5) feet wide and landscape features such as, but not limited to; decorative fountains and landscape lighting may be allowed provided that:
 - a. All accessory structures in the front yard setback shall maintain the required side setback;
 - b. Must be detached from ~~principle~~ principal structure and be nonenclosed;
 - c. Must maintain all required bufferyard and landscape street treatments of Article 8 "Landscaping" of this Chapter;
 - d. The open space requirements of Article 9 of this Chapter are met;
 - e. Shall be located within existing cleared areas before encroaching into areas of native vegetation;
 - f. All new impervious area is subject to the stormwater management requirements established in Article 11 of this Chapter.
 3. Accessory stairs and platforms to elevate mechanical, plumbing and electrical equipment. Accessory structures, limited to stairs and platforms, may be permitted within a required side yard setback on a parcel developed exclusively with a residential use if the following provisions are met:
 - a. The accessory structure is required to elevate mechanical, plumbing and electrical equipment at or above required flood elevations;
 - b. The accessory structures are situated at least two (2) feet from the side yard property line; and
 - c. The accessory structures must be constructed to avoid any off-site discharge of stormwater from the subject parcel in accordance with Article 11 of this Chapter; and
 - d. In no event shall the total combined area of all accessory structures occupy more than 80 percent (80%) of the required side yard setback area.
- B. *Small Lots.* In all residentially zoned districts, for parcels 4,500 square feet or less in size, the front and rear setback requirements are reduced to ten (10) feet each.
- C. *Front Yard.* In all residentially zoned districts, driveways, which may include a turnaround area; walkways not to exceed five (5) feet wide and landscape features such as, but not limited to, decorative fountains and landscape lighting may be allowed provided that:
1. All accessory structures in the front yard setback shall maintain the required side setback;
 2. Must be detached from ~~principle~~ principal structure and be nonenclosed;
 3. Must maintain all required bufferyard and landscape street treatments of Article 8 "Landscaping" of this Chapter;
 4. The open space requirements of Article 9 of this Chapter are met;

5. Shall be located within existing cleared areas before encroaching into areas of native vegetation;
 6. All new impervious area is subject to the stormwater management requirements established in Article 11 of this Chapter.
- D. *Rear Yard.* For landlocked residential parcels an exception to the rear yard setback may be allowed for detached accessory structures provided that:
1. The entire parcel is brought into compliance with the stormwater management requirements established in Article 11 of this Chapter;
 2. A minimum five-foot setback from each property line in the rear setback is maintained;
 3. Must maintain all required bufferyard and landscape street treatments of Article 8 "Landscaping" of this Chapter;
 4. The open space requirements of Article 9 of this Chapter are met;
 5. Shall be located within existing cleared areas before encroaching into areas of native vegetation.
 6. Accessory stairs and platforms to elevate mechanical, plumbing and electrical equipment. Accessory structures, limited to stairs and platforms, may be permitted within a required rear setback on a parcel developed exclusively with a residential use if the following provisions are met:
 - a. The accessory structure is required to elevate mechanical, plumbing and electrical equipment at or above required flood elevations;
 - b. The accessory structures are situated at least five (5) feet from the rear yard property line; and
 - c. Maximum shoreline setbacks are to be maintained and, in no event shall a shoreline setback be less than ten (10) feet from mean high water;
 - d. The accessory structures must be constructed to avoid any off-site discharge of stormwater from the subject parcel in accordance with Article 11 of the Chapter; and
 - e. In no event shall the total combined area of all accessory structures occupy more than 60 percent (60%) of the required rear yard setback area.

Sponsored by: Garrett
Introduction Date: November 12, 2024
Public Hearing Dates: November 12, 2024
December 10, 2024
Enactment date: December 10, 2024

**CITY OF MARATHON, FLORIDA
ORDINANCE 2024-13**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AN
ORDINANCE OF THE CITY OF MARATHON, FLORIDA; AMENDING
CHAPTER 2, ARTICLE VI, DIVISION 2 OF THE CODE OF THE CITY OF
MARATHON, PERTAINING TO PURCHASING REQUIREMENTS;
PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN
THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City Council of the City of Marathon has conducted its purchasing in accordance with a series of policies and procedures but has never formalized that process in a formal ordinance which will mandate its application;

WHEREAS, custom and good government practice would dictate that such processes be formally adopted and approved by the Council; and

WHEREAS, this Ordinance purports to include a majority of such informal processes and procedures as well as address others in a more comprehensive manner to ensure the City procures goods and services on terms and conditions most favorable to the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:¹

Section 1. The above recitals are true, correct, and incorporated herein by this reference.

Section 2. Chapter 2, Article VI, Division 2 of the Code of Ordinances, City of Marathon, Florida, is hereby amended to read as follows:

Chapter 2- Administration

Article VI. – Finance

Division 2. Purchasing

¹ / Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~striketrough~~.

Section 2-172. Purpose.

The purpose of the purchasing procedures of the City of Marathon (hereinafter, "chapter") is to provide for the fair and equitable treatment of all persons involved in purchasing by the City , to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

Section 2-173. Applicability.

This chapter applies to contracts for the procurement of supplies, services and construction entered into by the City after the effective date of this chapter. It shall apply to every expenditure of public funds by the City for public purchasing irrespective of the source of the funds. When the procurement involves the expenditure of federal assistance or state assistance of contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal law and regulations or state law or regulations. Nothing in this chapter shall prevent the City from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law. This ordinance and the process and procedures set forth herein shall supersede and render null and void any prior policy or procedure.

Section 2-174. Public access to procurement information.

Procurement information shall be a public record to the extent provided in Chapter 119, Florida Statutes, and shall be available to the public as required by such statute.

Section 2-175. Establishment of purchasing agent.

The City Manager or his/her designee (for all purposes) shall be the chief purchasing agent of the City. Subject to the terms of this chapter, and unless the City Attorney, when asked, determines there is an exception to the requirements herein, the purchasing agent shall contract for, procure or so process the procurement, purchase, storage and distribution all supplies, materials, equipment and certain contractual services required by any office, department or agency of the City. The purchasing agent shall establish and enforce specifications, inspect or supervise the inspection of all deliveries and have full and complete charge of, and be responsible for, all supplies, materials, and equipment purchased for or belonging to the City. All expenditures pursuant to this chapter shall conform to the provisions of the City Charter and Code.

Section 2-176. Unauthorized purchases.

Except as herein provided in this chapter, it shall be a violation of this chapter for any City officer, employee, or other person to order the purchase of, or make any contract for, materials, supplies or services within the purview of this chapter, in the name of or on behalf of the City other than through the purchasing agent or a designee of the purchasing agent, and the City shall not be bound by any purchase order or contract made contrary to the provisions herein.

Section 2-177. Purchasing limitations and prohibitions; effect on competitive bidding requirement.

- A. Purchases less than ~~\$15,000~~ ~~\$2,500~~. Purchases of ~~\$15,000-2,500~~ or less will not require use of formal or informal bidding procedures. However, the purchasing agent making the purchase is still required to make a reasonable attempt to insure that the City receives a competitive price that is consistent with the desired quality of materials, workmanship or level of performance.
- B. Purchases in excess of \$15,000 but less than ~~\$25,000~~ \$35,000. Purchases in excess of \$15,000 but less than ~~\$25,000~~ \$35,000 will require at least three (3) written quotes. A copy of the quotes will be sent to the Finance Department. The originating department will also retain the necessary documentation within their files to demonstrate compliance with these procedures. ~~Such purchases in this category must be authorized by the City Manager and placed on a City Council agenda as a consent item for approval prior to execution of the contract or consummation of the purchase.~~ Purchases in excess of \$15,000 but less than \$35,000 may be made or entered into by the City Manager without submittal to the City Council. Purchases in excess of \$35,000 must be authorized by the City Manager and placed on a City Council agenda for approval prior to execution of the contract or consummation of the purchase. The City Manager may approve contract change orders less than ~~\$25,000~~ \$35,000 and necessary to address emergencies (that is, unforeseen circumstances) that occur between City Council meetings which would stop or significantly delay the progress. . Said change orders will require an after-the-fact approval by the City Council at the next Council meeting if they are in an amount over \$35,000. Other provisions for emergency authorizations are set forth in Section 2-184 H. 1. herein below.
- C. Purchases in excess of ~~\$25,000~~ \$35,000. For purchases in excess of ~~\$25,000~~ \$35,000, the City Council shall follow the formal competitive bidding provisions below. Any contract extension or renewal of any existing contract requiring the expenditure of ~~\$25,000~~ \$35,000 or more pursuant to the terms thereof shall be approved by the City Council, unless allowed under the terms stated in the contract originally approved by Council. Unless allowed under the terms stated in the contract originally approved by the Council. ~~A change order increasing the value of a contract that was originally approved by Council, regardless of the dollar amount of that change order, shall require Council approval.~~ In addition, Any change order which results in a total contract value of ~~\$25,000~~ \$35,000 or more will require City Council approval. Changes to purchase previously approved by the City Council may be authorized by the City Manager provided that total dollar amount and other substantial matters of the purchase do not exceed the City Council authorized maximum.
- D. Donated Assets. Acceptance by the City of donated assets, such as equipment, land or vehicles, must be approved by the City Council.
- E. Budget approved appropriation. The City Manager may not purchase or contract for any item or service which exceeds any budget appropriation until such a time the City Council amends the budget to increase the appropriation to the applicable level. The City Manager is authorized to execute budget line item transfers.

- F. No financial interest. No member of the City Council or any employee of the City of Marathon shall have a financial interest or a personal beneficial interest, either directly or indirectly, in any purchase of items furnished to or used for or by the City.
- G. No split. It is an express violation of this ordinance to intentionally “split” contracts, purchase orders or check requests for the purpose of avoiding dollar limitations set out in this policy.

Section 2-178. Competitive bidding procedure.

A. Purchases between \$15,000 and under ~~\$25,000~~ \$35,000.

- 1) Whenever competitive bidding is required by this chapter, the City Manager shall direct that bid proposals which provide specifications for the purchase or contract be prepared.
- 2) The City Manager shall solicit bids from at least three persons or entities engaged in the business of furnishing such materials, supplies, equipment and public improvements or rendering such services.
- 3) The City Manager may publish a public invitation to bid items under ~~\$25,000~~ \$35,000.
- 4) Bids shall be awarded to the lowest, most responsive, responsible bidder, as determined by the City Council and/or the City Manager as the case may be, subject to the right of the City to reject any and all bids, to waive any irregularity in the bids or bidding procedures and subject also to the right of the City to award bids and contracts to bidders other than the low bidder. Until a formal contract is executed, the City reserves the right to reject all bids.

B. Purchases of ~~\$25,000~~ \$35,000 or more. Bids for purchases of ~~\$25,000~~ \$35,000 or more shall be awarded in the same manner as purchases as set forth in A., except these additional requirements shall pertain:

- 1) Conditions for use. All contracts with the City in amounts over ~~\$25,000~~ \$35,000 shall be awarded by competitive sealed bidding except as otherwise provided in this Chapter, or as otherwise approved by City Council.
- 2) Invitation for bids. An invitation for bids (including RFPs and RFQs) shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.
- 3) Public notice. Public notice of the invitation for bids shall be given not less than 14 calendar days prior to the date set forth in the notice for the opening of bids. Such notice may be given by publication in a subscription newspaper of general circulation in the City. The notice shall state the place, date, and time of bid opening. All bids shall be received in the City Manager's office on, or before, the date and time set forth in the notice.

C. Bid Opening Procedure; Awarding of Bids.

- 1) Sealed bids shall be opened by the City Manager or his appointed representative in the presence of two witnesses; one of which will be the City Clerk or the Clerk's appointed representative. The opening of the sealed bids shall be recorded by the City Clerk or the clerk's representative at the date and time specified in the bid proposal. The names of the witnesses and of the City Manager or his appointed representative together with a copy of the bid proposal and the date and time of the opening of the bids shall be filed with the City Clerk.
- 2) Whenever required by the bid proposal, all bid bonds, cash, insurance, checks or other security accompanying the bid shall be received and maintained for safekeeping by the City Clerk. The City Clerk shall be responsible for the return of the bid bonds, cash, insurance, checks or other security of unsuccessful bidders.
- 3) Upon completion of the bid opening and reading, all bids received will be deposited with the City Manager or his designee for tabulation and/or recommendation to the City Council.
- 4) Upon submission of the bid tabulation and recommendation to the City Manager or City Council, as the case may be, the City Manager or the City Council shall accept, reject or refer for additional review the bid tabulation and recommendation.
- 5) The award of a bid will not have the same effect as the award of a contract. The award of a bid will signify the selection of a vendor with which the City will negotiate a contract. In the event that negotiations between the City and that vendor are unsuccessful, the City will thereafter negotiate with the next bidder on the recommended list created by the City Manager.

D. Cancellation of invitations for bids or requests for proposals. An invitation for bids, or request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole, or in part, as may be specified in the solicitation, when it is in the best interests of the City. The reasons therefore shall be made part of the contract file. Each solicitation issued by the City shall state that the solicitation may be canceled and that any bid or proposal may be rejected, in whole or in part, in the best interests of the City. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items.

E. Correction or withdrawal of bids; cancellation of awards. In general, bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. However, correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted, where appropriate. Mistakes discovered before bid opening may be modified, or the bid may be withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to time set for bid opening. After bid opening, no

changes in bid prices or other provisions of bids prejudicial to the interest of the City, or fair competition, shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

- 1) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
- 2) The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the purchasing agent.
- 3) Notwithstanding the foregoing, the City Council shall have the authority to waive any and all irregularities in any and all proposals.

Section 2-179. Award.

A. All contracts shall be awarded by the City Manager or City Council, as the case may be, as stated above, to the lowest responsible and responsive bidder. In addition to price, there shall be considered the following:

- (1) The capacity, ability and skill of the provider to perform the contract;
- (2) Whether the provider can perform the contract within the time specified without delay or interference;
- (3) The character, integrity, reputation, judgment, experience and efficiency of the provider;
- (4) Professional licensure required when service of a skilled nature as required by law to perform such service and/or skill;
- (5) The quality of performance of previous contracts;
- (6) The previous and existing compliance by the provider with laws and ordinances relating to the contract;
- (7) The ability of the provider regarding future maintenance and service for the use of the subject of the contract;
- (8) The City Manager may, by administrative order, establish a set of criteria of a numerical nature that may be utilized in awarding contracts hereunder.

B. The contract shall be awarded by the City Manager or the City Council, as the case may be, with reasonable promptness by appropriate written notice to the lowest responsible and

responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

- C. In the event the lowest, most responsive and responsible bid for a project exceeds available funds, and the City Council does not make available additional funds, the City Manager is authorized, when time or economic considerations preclude re-solicitation of bids, to negotiate an adjustment of the bid price as long as the scope of work is not changed with the lowest, most responsive and responsible bidder, in order to bring the bid within the amount of available funds. Final negotiation shall be in written form as approved by the City Manager.
- D. The City retains the right to reject all bids should negotiations fail. This negotiation may not be used to ascertain the lowest responsive and responsible bid.
- E. Until a formal contract is executed, the City reserves the right to reject all bids.

Section 2-180. Responsibility of bidders or offerors.

If a bidder or offeror who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility, setting forth the basis of the finding shall be prepared by the City Manager or the purchasing agent. Grounds for determination of non responsibility may include, but are not limited to, the unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to non responsibility. A copy of the determination shall be sent promptly to the non-responsible bidder or offeror. The final determination shall be made part of the contract file and be a public record.

Section 2-181. One response.

If only one responsive bid or proposal for commodity or contractual service is received, in response to an invitation for bid/proposal, an award may be made to the single bidder/proposer, if the City Manager finds the price submitted is fair and reasonable, and that other prospective bidders had reasonable opportunity to respond, or there is not adequate time for re-solicitation. Further, the City Manager reserves the right, if it is in the best interests of the City, to negotiate with the sole bidder/proposer for the best terms, conditions and price. The City Manager shall document the reasons that such action is in the best interest of the City. Otherwise, the bid/proposal may be rejected and:

- A. New bids or offers may be solicited;
- B. The sole bid/proposal may be rejected;
- C. If the City Manager determines in writing that the need for the supply or service continues, but that the price of the one bid/proposal is unreasonable and there is not time for re-solicitation or re-solicitation would likely be futile, the procurement may then be conducted under § 2-184 F., as appropriate.

Section 2-182. Bidding documentation to remain property of City.

All bids and accompanying documentation received from bidders in response to the invitation to bid shall become the property of the City and will not be returned to the bidders. In the event of contract award, all documentation and work product produced as part of the contract shall become the exclusive property of the City. This subsection is applicable to request for proposal and request for letter of interest documents, which also become property of the City.

Section 2-183. Waiver of competitive bidding procedures.

The City Council may authorize at a public meeting after majority vote the waiver of competitive bidding procedures upon the recommendation of the City Manager that it is in the City's best interest to do so, to obtain goods and services which cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services, or other factors. Purchases authorized by waiver process shall be acquired after conducting a good faith review of available sources and negotiation as to price, delivery and terms.

Section 2-184. Exemptions from competitive bidding.

The following shall be exempt from the competitive bidding procedures outlined in this chapter:

- A. Transactions described in Section 2-177 A. & B. of this chapter.
- B. Contracts for professional services, except for those contracts of more than \$25,000 \$35,000 for professional services governed by Florida Statutes § 287.055 (the Consultants Competitive Negotiations Act).
- C. Purchases made under state general service administration contracts, federal, county or other governmental contracts or competitive bids with other governmental agencies with a substantially similar competitive bidding process.
- D. Purchases arising out of or because of emergencies which shall be defined as a situation, occurrence or matter necessitating immediate or quick action and not permitting adequate time to utilize the competitive bidding process. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the item(s) procured under the contract, and the identification number of the contract file. Emergency purchases are further discussed in Subsection H. herein below.
- E. Under circumstances where time constraints do not permit the preparation of clearly drawn specifications or situations where, after competitive bidding, no bids meeting bid requirements are received, all compliant bids received are too high, or all bids are rejected for failure to meet bid requirements (i.e., bids are noncompliant).
- F. Supplies, equipment or services available from a sole source only may be exempted from the bidding requirements of this chapter by the City Manager upon the filing of a written request by a department head to the City Manager outlining the conditions and circumstances involved, after conducting a good faith review of available sources, finding that there is only one source for the required supply, brand, service, or construction item

capable of fulfilling the needs of the City. ~~Subject to the requirements of Florida Statutes Section 287.057(3)(C),~~ The City Manager or purchasing agent shall conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurements shall be available as a public record and shall identify each purchase order and/or contract.

G. Exempt contractual services and products. Other exempt contractual services and products not subject to the competitive procurement requirements of this Code are listed as follows:

- 1) Academic program reviews or lectures or seminars by individuals.
- 2) Artistic services which are original and creative in character and skill in a recognized field of artistic endeavor such as music, dance, drama, painting, sculpture and the like. However, contracts for artistic instructors, coaches and assistants are deemed contractual services subject to the requirements of competitive procurement.
- 3) Performing artists and entertainers as approved by the City Manager/purchasing agent when deemed in the City's best interests, for the benefit of the citizens of Marathon and the general public at any City function.
- 4) Advertising.
- 5) Utilities, including but not limited to, electric, water and telephone.
- 6) Items purchased for resale to the public.

H. Competitive proposals shall not be required when a purchase is made for materials, equipment, prefabricated elements and components, appliances, fixtures and supplies, bought under a sales tax saving procedure constituting part of a construction project award, which construction contract has been awarded in accordance with this chapter.

- 1) As indicated in Section 2-177 D. the City Manager is hereby authorized to use his discretion to approve change orders with respect to the utility project in amounts not to exceed ~~\$25,000~~ \$35,000 to address emergencies of unforeseen problems that occur between the City Council meetings which would stop or significantly delay the progress of the project provided however that this change order shall receive after-the-fact approval at the next scheduled Council meeting. Otherwise, in the event of an emergency situation which requires the immediate purchase of goods or supplies, the following procedures will apply:
 - i. A state of emergency must be declared by either the President of the United States or the Governor of Florida or Monroe County.
- 2) Purchases of ~~\$25,000~~ \$35,000 or less may be approved by the City Manager without further approval of the City Council and without requirements for advertising and competitive bids.

- 3) Purchases of more than ~~\$25,000~~ \$35,000 may be approved by the City Council at a public meeting without the requirements for advertising and competitive bidding.

In all cases, when purchases have been made under the authority granted above, the responsible department will submit a report to the City Manager documenting the nature, circumstances and declaration of the emergency and the necessity of the purchases. If the purchase would have required Council approval, a report of the entire matter will be forwarded to Council within 30 days of the purchase authorization.

Section 2-185. Contract administration.

- A. A contract administration system designed to ensure that a bidder/offeror/contractor is performing in accordance with the solicitation under which a contract was awarded and the terms and conditions of the contract shall be maintained by the City Manager.
- B. All determinations and other written records pertaining to the solicitation, award or performance of a contract shall be maintained for the City in a contract file by the City Manager and be retained and disposed of in accordance with the records retention guidelines and schedules approved by the City Clerk.

Section 2-186. Purchase Orders and Check Requests.

- A. Purchase orders. A purchase order is required for purchases of any equipment, materials or contractual services whose cost is in excess of \$15,000 ~~2,500~~. A purchase order represents both a request to acquire an item and the form on which to record the required authorizations. Purchase orders should be used whenever possible, as check requests are for purchases that have already been made. In those instances where a vendor will not accept a purchase order as a commitment of the City, a check request should be used. The originating department will be responsible for completely and accurately preparing the purchase order. This should include the following:
 - 1) Complete name and address of the vendor and vendor number, if known.
 - 2) Date prepared.
 - 3) A description of the item(s) purchased in sufficient detail for adequate identification.
 - 4) The account number(s) and amount(s) to be charged and the total amount of the purchase order.
 - 5) The signature of the appropriate department director.

After the purchase order has been properly prepared, it must be signed by the appropriate department head and by the City Manager. Purchase orders charged to more than one department must have the signature of all department heads affected.

After the purchase order has been prepared, the originating department shall send the purchase order to the Finance Department for review and approval. When a purchase order is received in the Finance Department, it will be reviewed for accuracy, completeness and verification that there are sufficient funds remaining in the budget. After all information has been checked, the Finance Department will authorize the purchase order by issuing a purchase order number.

Once all required authorizations have been obtained, the Finance Department will retain the original to enter into the accounts payable system and return a copy to the originating department. All open purchase orders will be shown as “encumbrances” of the account number(s) charged. Once paid, the encumbrance will be deleted and shown as an expenditure/expense on the monthly expenditure reports.

A purchase order will then be given to the vendor or supplier. Once the items have been received and accepted by the City, the invoice shall be signed indicating receipt and, along with all the other relevant supporting documentation, should be attached to a copy of the purchase order and forwarded to the Finance Department. Another copy of the purchase order should be retained in the originating department’s files for auditing purposes. The Finance Department will verify that all required supporting documentation is attached including evidence that the items have actually been received and accepted by the City, that the correct account number(s) and amount(s) have been charged, and the information contained on the invoice agrees with the purchase order. Any differences or discrepancies between the purchase order and invoice must be documented and reconciled before payment will be made. The Finance Department will then process payment to the vendor.

- B. Check Requests. A check request form records required authorization for disbursement of City funds. Check request forms should be used for, but are not limited to, the purchase and/or payment of seminar and conference registrations, travel expenses, payments for contractual services under existing contracts (such as maintenance contracts), professional services under approved contracts, minor office or operating supplies or similar types of transactions. Routine items such as utility bills (water, electric, and phone) do not require a check request. These items should be coded with the appropriate account number, approved by an authorized signer, and then forwarded to the Finance Department. The originating department will be responsible for completely and accurately preparing the check request. This should include the following:

- 1) Complete name and address of the vendor and the vendor number if known.
- 2) Date prepared and date check is required.
- 3) A description of the items purchased in sufficient detail for adequate identification.
- 4) The account number(s) and amount(s) to be charged and total amount of the check request.
- 5) If the check request is for a purchase of more than \$15,000 ~~2,500~~, evidence of three (3) quotes must be attached and the City Manager must approve.

- 6) If the check request is for a purchase of less than \$15,000 ~~2,500~~, written justification must be included.
- 7) If the check request is for a reimbursement, all required receipts must be attached.
- 8) The authorized signature of the appropriate department director.
- 9) If the vendor is a sole source, the check request must be approved if over \$15,000 ~~2,500~~, in addition to all other required approvals, by the City Manager.
- 10) An invoice, along with packing slip, delivery receipt, or other appropriate documentation must be attached to the check request. Documentation must also include the initials or signature of the person verifying that the items have been received and accepted by the City if other documentation is not available and the account numbers to be charged.

After the department head has approved and signed the check request, it is then sent to the Finance Department for review and approval. Departments shall keep a copy of all check requests for review and fiscal/budgetary control purposes.

The Finance Department shall review the check request for accuracy and completeness, and is responsible for verifying that:

- 1) All required documentation supporting the check request is attached.
- 2) Supporting documentation that the items have been received and accepted by the City.
- 3) The correct account number(s) and amount(s) have been charged.
- 4) There are sufficient funds remaining in the line item(s) budget(s) to make the purchase.
- 5) The check request has been authorized for payment as indicated in Section 2-178.

Section 2-187. Ethics in public contracting.

In addition to all ethical rules and guidelines set forth by the State of Florida, the Code of the City of Marathon, Monroe County Code, if any and as applicable to the City of Marathon, the City Manager may impose any one or more of the following sanctions on a City employee for violations of ethical standards including, but not limited to, oral or written warnings or reprimands, suspension with or without pay for specified periods of time or termination of employment. For nonemployees, for violations of ethical standards, the City Council may terminate any contract with the City of Marathon.

Section 3. The provisions of the Marathon City Code 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 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.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, THIS 10TH DAY OF DECEMBER, 2024**

THE CITY OF MARATHON, FLORIDA

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:**

Steve Williams, City Attorney

COUNCIL AGENDA STATEMENT



Meeting Date: November 12, 2024

To: Honorable Mayor and City Council

From: George Garrett, City Manager

Agenda Item: **Resolution 2024-108**, Authorizing The City To Extend The Agreement With Ballard Partners, Inc. For Professional Consulting And Lobbying Services Before The Legislature Of The State Of Florida; Authorizing The City Manager To Expend Budgeted Funds, And Execute The Extension Agreement; And Providing An Effective Date

BACKGROUND & JUSTIFICATION:

The City has contracted with Ballard Partners for lobbying and professional consulting services before the State of Florida since 2013. Ballard Partners has been very effective on the City's behalf before the Florida Legislature, the executive branch of the Florida government and various regional and local governments. Ballard Partners has also kept the City informed on budget and policy differences, funding on items affecting the Florida Keys, including economic development incentives, and the State's tourism marketing activities.

The yearly rate of \$60,000 is included in the City's proposed budget for FY 2025. The contract extension otherwise does not otherwise change from the language in the previous version of the contract; other than the term.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	<u>X</u>	_____
2. Other _____	_____	_____
3. Not applicable _____		

FISCAL NOTE:

Funding for this agreement is included in the adopted FY25 City Council and Wastewater Utility Budgets (50%/50% split)

RECOMMENDATION:

Approval of Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-108**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA AUTHORIZING THE CITY TO EXTEND THE AGREEMENT WITH BALLARD PARTNERS INC. FOR PROFESSIONAL CONSULTING AND LOBBYING SERVICES BEFORE THE LEGISLATURE OF THE STATE OF FLORIDA; AUTHORIZING THE CITY MANAGER TO EXPEND BUDGETED FUNDS, AND EXECUTE THE EXTENSION AGREEMENT; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Marathon (the “City”) recognizes the importance of monitoring and participating in the State legislative process in order to protect the interests of the City and its residents; and

WHEREAS, the Consultant and City, through mutual negotiation, have agreed upon a scope of services and fee for legislative consulting services on behalf of the City before the Florida Legislature, the executive branch of the Florida government, and various regional and local governments; and

WHEREAS, the firm of Ballard Partners, Inc. (the “Consultant”), wishes to extend the term of the agreement for one year in order to continue to provide professional legislative consulting and lobbying services before the legislature of the State of Florida on behalf of the City.

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

Section 1. The above recitals are true and correct and incorporated herein by this reference.

Section 2. The extension to the professional services agreement between the City and Consultant, a copy of which is attached as Exhibit “A,” together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is hereby approved.

Section 3. 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 NOVEMBER, 2024.**

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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

**EXTENSION TO CONTRACT
FOR
LOBBYING SERVICES**

This extension to the Contract for Lobbying Services (the “Extension”) made and entered into this ___ day of November, 2024 between the City of Marathon, Florida, a municipal corporation organized and existing under the laws of the State of Florida, with its address at 9805 Overseas Highway, Marathon, Florida, 33050 (hereinafter referred to as “City”) and Ballard Partners Inc., a Florida corporation, with its address at 403 East Park Ave., Tallahassee, FL 32301, (hereinafter referred to as “Consultant”).

W I T N E S S E T H:

WHEREAS, on August 30, 2013, the City and Consultant entered into a Contract for Lobbying Services (the “Contract”); and

WHEREAS, the City and Consultant have extended the contract every year for an additional year since; and

WHEREAS, the City and the Consultant desire to extend the term as set forth in contract herein.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth in this Extension and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby amend the Agreement to read as follows:

Section 2. Term/Commencement Date

2.1 TERM:

This Contract shall continue through October 1, 2025 unless terminated earlier in accordance with Section 8.

[THE REMAINDER OF THIS PAGE SHALL REMAIN BLANK]

IN WITNESS WHEREOF, City and Contractor have set their hands and seals, as of the day and year first above written.

Attest:

City Of Marathon, Florida

Diane Clavier,
City Clerk

George Garrett,
City Manager

Approved As To Form And Legality For The Use And Reliance Of The City Of Marathon,
Florida Only:

Steve Williams, City Attorney

Ballard Partners Inc.

Mr. Brian D. Ballard, President

COUNCIL AGENDA STATEMENT



Meeting Date: November 12, 2024

To: Honorable Mayor & Members of the City Council

From: Dan Saus, Utilities Manager

Through: George Garrett, City Manager

Agenda Item: **Resolution 2024-109**, Awarding Change Order #2 For the SA7 Filter Upgrades Project To Reynolds Construction.; Approving A Change In Contract Amount From \$11,413.33; Authorizing The City Manager To Execute The Contract And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

Change Order #2 is attached as Exhibit “A” details the Scope of Work and cost breakdown for the required work changes in the SA7 Filter Upgrades project. The changes include modifications to the generator stairs platform required because the filter manufacturer failed to supply a “left hand discharge” filter as ordered. City staff, consisting of the Utility Director and the Utility Staff, have reviewed the proposal and the proposal is reasonable for the work and approval is recommended.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	<u>X</u>	_____
2. Other – 2010 Sewer Mandate	<u>X</u>	_____
3. Not applicable	<u>X</u>	_____

FISCAL NOTE:

The adopted FY25 Wastewater Utility budget includes appropriations of \$100,000 for the SA7 filter upgrade project.

RECOMMENDATION:

Approval of Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-109**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING CHANGE ORDER #2 TO THE CONTRACT WITH REYNOLDS CONSTRUCTION IN AN AMOUNT NOT TO EXCEED \$11,413.33 FOR THE POWER CONDITIONING PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Change Order #2 is attached as Exhibit “A” details the Scope of Work and cost breakdown for the required work changes in the SA7 Filter Upgrade project; and

WHEREAS, the Staff recommends the City Council to approve Change Order #2 for the additional work described to the proposal from Reynolds Construction, in an amount not to exceed \$11,413.33, as provided on Exhibit “A.

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 are incorporated herein by this reference.

Section 2. Change Order #2, between the City and the Reynolds construction for the SA 7 Filter Upgrade Project a copy of which is attached as Exhibit “A,” together with such non-material changes as may be acceptable to the City Manager and approved as to form by the City Attorney, is hereby approved. The City Manager is authorized to execute Change Order #2 on behalf of the City and expend budgeted funds.

Section 3. 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 NOVEMBER 2024.

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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

CHANGE ORDER

CHANGE ORDER NO. 2

TO: City of Marathon

PROJECT: City of Marathon A7 Filter Upgrades Project

CONTRACTOR: Reynolds Construction, LLC

DATE: September 25, 2024

This Change Order will authorize the following change to the Agreement:

The Work as set forth in the Agreement is hereby amended to include the items set forth on **Exhibit "1"** attached hereto and by this reference made a part hereof.

This Change Order constitutes full, final, and complete compensation to the Contractor for all costs, expenses, overhead, and profit, and any damages, and/or time adjustments of every kind that the Contractor may incur in connection with the above referenced changes in the Work, and any other effect on any of the Work under the Agreement. The Contractor acknowledges and agrees that (a) the Contract Price of \$ 1,225,000.00 under the Agreement will be [**changed**] by this Change Order, and (b) the schedule for performance of Work will be [**changed**] by this Change Order. Contractor expressly waives any claims for any additional compensation, damages or time extensions in connection with the above-referenced changes. Except as herein or heretofore expressly modified, all terms of the Agreement shall remain in full force and effect and shall cover the performance of, and payment for, any work authorized hereunder. Any defined terms not defined in this Change Order shall have the meanings set forth in the Agreement.

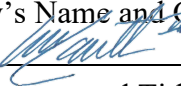
By signing below the parties indicate acceptance of this Change Order as set forth herein.

CONSENT OF SURETY TO CHANGE ORDER

The Surety Agrees that this change order is not a cardinal change and if the Change Order includes an increase in the Contract amount, then the penal amount of the payment and performance bond issued for this Contract is increased by the dollar amount of this Change Order.

Travelers Casualty and Surety Company of America (Seal)


Surety's Name and Corporate Seal

By: 
Signature and Title William A. Kantlehner, III
Attorney-in-Fact

City of Marathon

By: _____
Name: George Garrett
Title: City Manager
Date: _____



Attest: 
Signature and Title Elizabeth Dawson
Attorney-in-Fact

Contractor: Reynold's Construction LLC


By: 
Name: Josh Vondersaar
Title: VP
Date: 10/3/2024

Exhibit "1"

CHANGE ORDER SUMMARY

This Change Order is necessary to cover changes in the Work to be performed under this Agreement. Except as may be modified herein all of the provisions of the Agreement apply to and govern all Work under this Change Order.

THE FOLLOWING CHANGES ARE MADE TO THE AGREEMENT DOCUMENTS:

- (1) Original Contract Price \$1,225,000.00
- (2) Current Contract Price (Adjusted by Previous Change Orders) \$1,225,000.00
- (3) Total Proposed Change in Contract Price \$11,413.33
- (4) New Contract Price (Item 2 + Item 3) \$1,236,413.33
- (5) Original Contract Time (Days)..... 300 Days
- (6) Current Contract Time (Adjusted by Previous Change Orders)387 Days
- (7) Total Proposed Change in Contract Time 100 Days
- (8) New Contract Time (Item 6 ± Item 7)487 Days
- (9) Original Contract Substantial Completion Date April 27, 2024
- (10) New Contract Substantial Completion Date October 31, 2024


CHANGE ORDER HISTORY						
Item No.	Description	Current Contract Amount	Additive Change	Deductive Change	Net Change In Contract Price	Net Change Contract Time
1.	Time Extension	\$1,225,000.00	N/A	N/A	\$0.00	87
2.	CO2	\$1,225,000.00	\$11,413.33	N/A	\$11,413.33	100
Total					\$0.00	87

The Change Order is a result of:

This change order is a result of the impacts of reversed grating and filter orientation. Additionally, this change order covers the modifications to the generator stairs platform, to position the spiral staircase on the West side of the filter platform. This request was made by the City to address access concerns. These unforeseen additions to have resulted in additional time to complete the project.

The Cost Breakdown is as follows:

WORK ITEM DESCRIPTION	PRICE
PCO1	\$ 11,413.33
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
TOTAL	\$ 11,413.33

	Reynolds Construction 300 East Broad St Fairburn, GA 30213	CHANGE PROPOSAL SUMMARY NO:
PROJECT NAME: Area 7 WWTP Headworks & Filter Upgrades		PROJ. NO.:
LOCATION: Marathon, FL		DATE: 08/26/24
OWNER: City of Marathon		DRAWING NO.:
ENGINEER:		SPEC. SECTION:
REFERENCE PCO NO.: 001 FIELD DIRECTIVE NO.: N/A RFI NO.: N/A OTHER:		
DESCRIPTION: Generator Stair Relocation & 6" Check Valve Install		
This proposal is inclusive of all labor, equipment, & materials for the relocation of the existing generator stair & the installation of the 6" Kennedy check valve supplied by the City of Marathon.		
PRICING INFORMATION		
1. DIRECT LABOR 1.A PRODUCT LABOR: 1.B <input type="checkbox"/> FOREMAN <input type="checkbox"/> SUPERINTENDENT 1.C OFFICE ENGINEERING: 1.D BURDEN	SKILL/TRADE See backup sheet for breakdown Safety QA/QC Superintendent - (JL) Project Engineer Project Manager - (JB) Labor Burden (included in Rates)	MAN-HOURS 60 0 0 0 0 3 -
	RATE \$ 88.24 \$ 86.28 \$ 98.74 \$ 86.28 \$ 98.74 -	COST \$ 4,440.60 \$ - \$ - \$ - \$ - \$ 296.22 -
		\$ 4,736.82
2. MATERIALS AND EQUIPMENT 2.A INCORPORATED IN WORK: 2.B CONSUMED IN PERFORMANCE: 2.C EQUIPMENT: 2.D DIRECT COSTS: 2.E SALES TAX: 7.5%	DESCRIPTION See Detail Break Down Small Tools and Expendables (5% of field labor) - (STC pending task) See Backup Sheet Fuel and Service 20% of Equip Cost	QUANTITY 1 1 1
	UNIT LS LS	UNIT PRICE \$ 4,401.36 \$ - \$ - \$ -
		\$ 4,623.39
		\$ 346.75
		\$ 4,970.14
3. SUBCONTRACTORS 3.A DIRECT: 3.B LOWER TIER:	NAME See Detail Sheet	DESCRIPTION OF WORK
		\$ -
		\$ -

Contract Time Extension Costs		Days Requested	Daily Rate	COST
	Contractor Extension Costs	0	0	\$ -
	Subcontractor Extension Costs	0	0	\$ -
*(daily rate is subject to change per actual OH items)				Total Time Extension Costs \$ -
EXTENSION OF CONTRACT TIME:				
* Each location will have approx. two days added. Metals may add additional days.				
CONFIRMED	This Proposal does not include any \$ for extension or acceleration but the right to ask for these costs at a later date is expressly reserved if determined to be necessary.			
N/A	Extension cost is included in this proposal			
N/A	Acceleration cost to maintain project schedule are included in this proposal. *			
5. FEE STRUCTURE				
	Rate	COST	Overhead 10%	SUBTOTAL
A. Contractor				
1. Direct Labor:		\$ 4,736.82	15%	\$ 5,447.34
2. Material & Equipment:		\$ 4,970.14	15%	\$ 5,715.66
3. Subcontractors:		\$ -	5%	\$ -
4. Bond & Insurance:	1.95%	\$ 217.68	15%	\$ 250.33
TOTAL COST OF THIS CHANGE PROPOSAL (All deductions shown in parentheses):			TOTAL	\$ 11,413.33
RECORD DOCUMENTS: As part of this Change Proposal, the Contractor shall provide applicable record drawing information affected by this change.				
Signed: Jason Brownlee				
Title: Project Manager			Date: 08/26/24	
Contractor: Reynolds Construction, LLC				
ACCEPTANCE BY OWNER				
Signature of Owner's Authorized Representative: _____ Date: _____				
Engineer to prepare necessary change order		Engineer to Re-negotiate change proposal as noted above		Other as above
OWNER:	CONTRACTOR: Reynolds Construction		PROJECT	
ENGINEER:	FIELD:		NO.:	
	OTHER:		DATE:	

CHARLEY TOPPINO & SONS, INC.

P. O. BOX 787

KEY WEST, FL 33041

Ph: (305)296-5606

Fax: (305)296-1207

Contractor's License No:

**Customer Information****REYNOLDS CONSTRUCTION, LLC**

300 EAST BROAD STREET

FAIRBURN, GA 30213

Phone:

Fax:

Invoice

Inv No: 55569

Date: 6/20/2024

Page 1 of 1

Invoice Description

PO #22307 - DOT CRUSHED ROCK - PICK UP

Item No	Date	Description of Work	Units	Unit Cost	Amount
1	06/20/2024	DOT CRUSHED LIMEROCK BASE	4.57	72.10	329.50 *
2	06/20/2024	TICKET #191731 CUSTOMER ACCOUNT TERMS: Payment Terms are Net 30 Days, 5% Late Fees assessed to all Past Due Invoices, Past Due Invoices accrue interest until paid (18% per annum) Terms are subject to change. Please refer to your Customer Account Terms Notice for additional information.	0.00	0.00	0.00
3		Sales Tax @ 7.50%	0.00	0.00	24.71
Total Invoice Amount:					\$354.21

Total Amount Due This Invoice: \$354.21

RECEIVEDBy *Freddie.Churbock* at 1:43 pm, Jun 24, 2024

MONROE CONCRETE PRODUCTS, INC.

P.O. DRAWER 1149
KEY WEST, FL 33041

Invoice

Invoice No: 205106 Date 02/15/2024

(305)296-5606

Fax: (305)296-1207

Page 1 of 1

Billing Information:	Invoice Description:
REYNOLDS CONSTRUCTION, LLC 300 EAST BROAD STREET FAIRBURN, GA 30213 (877) 770-0127 Fax:	59255 OVERSEAS HWY - 5089 PUMPMIX

Item	Date	Description of Work	Units	Unit Cost	Amount
1	02/15/2024	5000 PSI WITH ASTM #89 PEA ROCK - PUMP MIX MARATHON PLANT - TICKETS #14763 & 14765	4.00	210.50	842.00 *
2	02/15/2024	FUEL SURCHARGE-MARATHON PLANT	2.00	10.00	20.00 *
3	02/15/2024	ENVIRONMENTAL FEE-MARATHON PLANT	2.00	8.00	16.00 *
4	02/15/2024	CUSTOMER ACCOUNT TERMS: Payment Terms are Net 30 Days, 5% Late Fees assessed to all Past Due Invoices, Past Due Invoices accrue interest until paid (18% per annum) Terms are subject to change. Please refer to your Customer Account Terms Notice for additional information.			
5		Sales Tax @ 7.50 %			65.85
Total Invoice Amount					943.85



COUNCIL AGENDA STATEMENT



Meeting Date: November 12, 2024

To: Honorable Mayor & Members of the City Council

From: Dan Saus, Utilities Manager

Through: George Garrett, City Manager

Agenda Item: **Resolution 2024-110**, Waiving The City's Purchasing Policies And Procedures And Approving A Sole Source Purchase Of Wastewater Treatment Membrane Upgrades For Service Area 5 Wastewater Treatment Facility From Kubota Membrane USA, In An Amount Not To Exceed \$269,183.00; Authorizing The City Manager To Execute Purchase Orders, Appropriating Budgeted Funds On Behalf Of The City; And Providing For An Effective Date

BACKGROUND & JUSTIFICATION:

The City of Marathon purchased the Service Area 5 "Little Venice" wastewater treatment plant from the FCAA and since then has continued to upgrade the facility to meet all FDEP permit requirements. The latest membrane technology has been very successful, but we recently found that the supporting structures made of 304SS are failing. After negotiations with Kubota, they have agreed to replace all of structures with 316SS along with any damaged membrane units. Approx. 90 units have already been replaced under warranty and we expect that number to rise to about 150 by the end of this upgrade. Recent king tides and development have caused us to unexpectedly need expanded hydraulic capacity at the plant. Newer membrane technology allows us replace the current ones with units that provide 50% more hydraulic capacity. Since all of the frames need replacing, this is the perfect time to upgrade to the newer units. The attached proposal will achieve this capacity expansion while also replacing all the needed structures at minimal cost to the city.

The Utilities Director and Operations staff have reviewed the proposal we received and propose recommendation of award. Kubota is the original supplier of membranes for the facility and therefore is the best supplier capable of providing this equipment and service. The membrane upgrade may qualify for grant funding.

CONSISTENCY CHECKLIST:

1. Comprehensive Plan
2. Other – 2010 Sewer Mandate
3. Not applicable

Yes	No
<u>X</u>	_____
<u>X</u>	_____
<u>X</u>	_____

FISCAL NOTE:

Approval of this resolution will appropriate funds in the FY25 Wastewater Utility budget for this purchase.

RECOMMENDATION: Approve Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-110**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, WAIVING THE CITY'S PURCHASING POLICIES AND PROCEDURES AND APPROVING A SOLE SOURCE PURCHASE OF WASTEWATER TREATMENT MEMBRANE UPGRADES FOR SERVICE AREA 5 FROM KUBOTA MEMBRANE USA, IN AN AMOUNT NOT TO EXCEED \$269,183.00; AUTHORIZING THE CITY MANAGER TO EXECUTE PURCHASE ORDERS; APPROPRIATING FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Ordinance 2015-14, the City Council of the City of Marathon, Florida (the "City"), adopted Purchasing Policies and Procedures after determining that it was fiscally prudent and in the best interests of the City's residents for the City to adopt policies and procedures for City employees and officials regarding the purchasing and acquisition of contractual services, equipment, goods, professional services and other similar types of services; and

WHEREAS, in accordance with Section 2-183 and 2-184(F), the City may waive competitive bidding procedures to obtain goods and services which cannot be acquired through the normal purchasing process, and in this case, where only one vendor possesses the unique and singularly available capability to meet the requirement for wastewater equipment and supplies which are in the City's best interest; and

WHEREAS, the City's wastewater treatment plants and collection systems consist of specialized equipment requiring products and supplies for repairs and maintenance by specified vendors, and Kubota Membrane USA is the sole source of the original membranes for the City's Service Area 5 wastewater treatment plant as provided by Exhibit "A", which are distributed solely by Kubota Membrane USA; and

WHEREAS, the City Manager recommends the City Council waive the City's purchasing policies and procedures due to the sole source status of the vendor, Kubota Membrane USA, in an amount not to exceed \$269,183.00, as provided on Exhibit "A" for the replacement membranes for Service Area 5.

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 are incorporated herein by this reference.

Section 2. Based upon the recommendation of the City Manager the City Council finds that sole source vendor purchases of specialized equipment requiring products and supplies for repairs and maintenance of the City's wastewater treatment systems is in the best interest of the City and approves the purchase.

Section 3. The City’s purchasing policies and procedures are hereby waived and the City Council hereby approves sole source purchase of membrane replacement from Kubota Membrane USA for the City’s wastewater treatment plant five. The City Manager is hereby authorized to execute a purchase with Kubota Membrane USA as described in the proposal attached hereto as Exhibit “A,” and expend budgeted funds.

Section 4. 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 NOVEMBER, 2024.

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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

Proposal for the
Marathon WRF, FL Capacity Increase
Membrane Bioreactor System



Prepared By:

KUBOTA Membrane USA
19910 North Creek Parkway, Suite 100
Bothell, WA 98011
425-898-2858

Local Representation By:

Ben Mcdorman ,Moss Kelley, Inc.
7284 West Palmetto Park Road
Suite 304 Boca Raton, FL 33433
954-755-2092

October 4, 2024

Dan Saus, P.E.
Utilities Director
City of Marathon
9805 Overseas Highway
Marathon, Florida 33050

Subject: Area 5 MBR system capacity increase and rebuilding existing membrane units

Dear Dan,

Thank you for your patience in preparing this proposal. As we discussed by phone, there are some moving pieces here to deal with.

Here is what we were thinking as we put this proposal together. I hope it makes sense to you.

- There is significant corrosion damage to most (if not all) of the submerged membrane wetted metal components. Some of the damage to some of the membranes is likely the result of metal rust fragments breaking off and damaging the sheets. **All of the membrane frames, diffuser cases, and guiderails will need to be replaced. They will all be replaced to 316SS for added corrosion resistance. Kubota cannot guarantee against corrosion on the wetted parts.**
- You need additional hydraulic capacity to process higher wet weather and peak season flows.
- The limitation is that we cannot fit any more units inside the tanks. We can only go deeper.
- The minimum side water depth for the SP600 unit is 15 feet. Your tank appears to be 16 feet to the top of the wall. That leaves only 1 foot of freeboard (not enough). Solution can perhaps be to add a 12-to-18-inch metal box to the top of each tank to give another 1 to 1.5 feet of freeboard. Our proposal does not include this box, but we can likely help Reynolds come up with a fabrication drawing for them to provide.
- Since all of the existing metal components are in pretty bad shape, it makes most sense to go with the SP600 units, so we will end up with 3 SP600 membrane units per train. Each train has membrane avg day hydraulic capacity of 300,000 gallons per. Total capacity is 900,000 on average day flow basis at 15.5 gfd. Peak day flows can be higher. Review of effluent piping etc., downstream of membrane tanks, should occur to consider any bottlenecks.

- To our understanding, two of the three trains have been inspected. Train 1 needs one new SP600. Train 2 is good. Train 3 should be mostly good, but there may be a few damaged ones to be found.

Please let Ben or I know if you have any questions, comments, or concerns.

Best regards,

Damone Supica
Regional Manager MBR Systems
KUBOTA Membrane USA Corporation
Cell: 425-248-7897
Email: damone.supica@kubota.com
Cc: Ben Mcdorman, Moss Kelley

MBR Specifications

Below listed specifications of the proposed MBR system.

Description	Specification – Flamingo
Submerged Membrane Unit Model	SP600
Membrane Type	Flat Plate
Membrane Surface Area per Unit	6,458 ft ²
Design MLSS at MBR	12,000 mg/L
Number of MBR Tanks	3Tanks
Total Number of Submerged Membrane Units	9 (3 SP600 SMU per tank)
Water Temperature	60 °F to 95 °F
Influent Wastewater pH	6-8



Scope of Supply

The items included in the following scope list will be supplied by KMU and are included in the price listed below

Major Equipment and Instrumentation

Kubota will supply two new SP600 units complete along with component parts to rebuild seven (7) additional SP600 modules. All new diffuser cases and diffusers, guide pipes and guide rails will be supplied.

All interconnecting piping between the membrane units and the permeate/air headers to be supplied by installing contractor.

Name	Type	Manufacturer	Model	Materials	Motor HP	Quantity*
Membrane Bioreactor (MBR) Tank Equipment						
Submerged Membrane Unit (SMU)	Flat Plate	KUBOTA	SP600	316SS	-	2
SP300 Membrane Frames	Flat Plate	KUBOTA	SP300	316SS	-	14
SMU Guide/Stabilizer Set	Guide and Stabilizer Set	KUBOTA	-	316SS	-	9 sets
SP600 Diffuser cases with new diffusers	Medium Bubble	KUBOTA	SP600	316SS	-	7
Inspection and commissioning Services	Field Services	KUBOTA	-	-	-	1
Freight to jobsite	Freight	KUBOTA	-	-	-	1

Direct Services

Kubota will supply field support technician(s) to inspect the rebuild and reinstallation of all the SP600 modules proposed.

Product Engineering and Design Support

KMU will provide the following product engineering and design services:

- Deliverables during this phase of work will include:
 - MBR Mechanical Drawings showing dimensioned membrane arrangement plans, sections, and details including piping for the membrane basin.
 - Manufacturer cut sheets for all KMU supplied equipment.
 - MBR installation instruction manual.
 - MBR equipment list.
- Design Coordination Meetings – KMU will attend design coordination meetings at the engineer’s facility for the project kickoff.

Field Services

KMU will provide a field service technician to inspect the SP600 module rebuild process and ensure membranes are reinstalled for optimal operations.

Membrane Warranty

Kubota will provide a 5-year membrane warranty, and 1-year mechanical equipment warranty is included in the budgetary price proposed and goes into effect at the commencement date of commissioning. The warranty included is a guarantee that the products supplied by Kubota are free from defect in material or workmanship. Labor for membrane or equipment repair/replacement is excluded from KMU’s obligation. **KMU’s membrane warranty is governed by the Kubota Products Warranty Terms and Conditions, which are incorporated herein by reference as part of this proposal and are available upon request.**

Delivery Schedule

Typical lead times for submittals, equipment, and Submerged Membrane Units are as follows:

- Submittals: 2-4 weeks after Contractor agreement.
- Submerged Membrane Units: 16 weeks after approval of submittals.

Firm Proposal Price

Firm proposal price for the equipment and instrumentation described herein is shown below

Firm Proposal Price	
Price for attached scope of supply	\$269,183 excluding sales tax

Tax and duties are not included. Tax will be added to this total at the time of sale based on the applicable tax rate.

Payment Terms

Kubota's Payments Terms are as follows:

- 10% down with purchase order
- 10% upon delivery of submittal
- 75% upon delivery of equipment
- 5% upon MBR startup commission

Exclusions to Kubota

The following items are not currently included in the Kubota:

- Equipment classified as Class I, Division I in accordance with NFPA Standard 820 except as noted in the Scope of Supply.
- Equipment, instrumentation, piping, valves, and services not expressly listed above.
- Electrical works, MCC, VFDs, conduit, wiring, terminations, wire labeling.
- Surge protection for analog input, analog output, discrete input, discrete output signals and instrument power in the MBR PLC.
- Surge protection for field devices at the field device location, including signal and power circuits.
- Onsite internet connection is by others.
- Civil works including installation of equipment, piping, and wiring.
- All piping that is outside of the MBR basins.
- Wall pipe, link seal, sleeve, and any kind of penetration seal.
- Piping and mechanical installation.
- Installation of items shipped loose is by others.
- Equipment access platforms, walkways, ladders, and stairs.
- Covers over process and membrane tanks.
- Pump supply for transferring bulk chemical to the skid-mounted chemical tank.
- Seismic design or calculations other than for seismic anchorage of the SMUs.
- Hoist and crane equipment above the process tanks and in the equipment building for installation and removal of the submerged membrane units and ancillary equipment.
- Anchor bolts, brackets, and fasteners for equipment listed in the Scope of Supply table above.
- Heating and ventilation.
- Plant electrical distribution system.
- All interconnect Ethernet and power wiring.
- Instrumentation wiring, conduit, and other appurtenances required to provide connections as needed between the terminal boxes at the membrane equipment, pumps, blowers, etc., and the PLC control panel.
- Any material or labor for concrete work, grouting, or sealant.
- Shop priming, surface preparation, or shop or field coating, painting, cleaning, or welding for any piping.
- All wrapping tape or cathodic protection.
- Labor for equipment installation.

- Raw materials, chemicals, and utilities during equipment startup and operation.
- Laboratory services and operating and maintenance personnel during equipment checkout, startup, and operations.
- Any on-site painting or touchup painting of equipment supplied.
- Materials or labor for heat tracing or insulation.
- Utilities such as clean water and electricity during clean water test, seeding, and commissioning.
- Sludge seeding supply sourcing, transportation, pumping, or temporary filter requirements.
- Unloading and receiving equipment and instrumentation.
- Surge protection for analog input, analog output, discrete input, discrete output signals and instrument power in the MBR PLC.
- Surge protection for field devices at the field device location, including signal and power circuits.
- Equipment lifts or hoists except for Kubota SMU.
- Storage facility or area onsite that can properly store equipment and instrumentation.
- AIS and BABA requirements do not apply to this project.
- Kubota has not reviewed process tankage volumes and equipment to verify if additional upgrades are required. Verification of plant hydraulics including effluent permeate piping is required to insure sufficient capacity exists and will not create bottlenecks through the process.

COUNCIL AGENDA STATEMENT



Meeting Date: November 12, 2024

To: Honorable Mayor & Members of the City Council

From: George Garrett, City Manager

Agenda Item: **Resolution 2024-111**, Approving And Authorizing The City Manager To Enter Into An Agreement With Culver’s Cleaning Company For Cleaning Services At Marathon City Hall, Fire Station And Utility/Public Works Building In An Amount Not To Exceed \$53,300 Per Year; And Providing For An Effective Date

BACKGROUND & JUSTIFICATION:

The City of Marathon published an RFP for cleaning services for the City Hall Offices, the Fire Station public areas and the Utility/Public Works building office area. Four contractors submitted bids, Culvers Cleaning was ranked the highest by staff and as the current contractor, has performed to the City’s satisfaction. The rate is the same as it was previously. The contract has a provision for two extensions of one year each.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	_____	_____
2. Other – 2010 Sewer Mandate	_____	_____
3. Not applicable	x_____	_____

FISCAL NOTE:

Funding for this contract is included in the adopted FY25 General Services and Wastewater Utility budgets

RECOMMENDATION: Approval

Cleaning Services

Evaluator	Contractors Enterprises	Culvers	Klen Space	Clean Space
Brian Shea, Director of Planning	0	80	65	87.4
Carlos Solis, P.E. Public Works Director	90.8	95	52	93.4
George Garrett, City Manager	<u>68.8</u>	<u>90</u>	<u>77</u>	<u>82.4</u>
Total Score	159.6	265	194	263.2

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-111**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CULVER'S CLEANING COMPANY FOR CLEANING SERVICES AT MARATHON CITY HALL, FIRE STATION AND UTILITY/PUBLIC WORKS BUILDING IN AN AMOUNT NOT TO EXCEED \$53,300 PER YEAR; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Marathon, Florida (the "City") published a Request For Proposals (the "RFP") closing on October 15, 2024, to select a qualified firm to provide cleaning services at City Hall, Utility/Public Works Building and Marathon Fire Station (the "Services"); and

WHEREAS, four bidders responded to the RFP to provide the Services and Culver's Cleaning Company was the highest ranked responsive bidder by staff; and

WHEREAS, the City wishes to enter into an agreement with Culver's Cleaning Company to provide the Services in an amount not to exceed \$53,300 per year.

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 are incorporated herein.

Section 2. The agreement between the City and Culver's Cleaning Company, to provide the Services, a copy of which is attached as Exhibit "A" together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is approved.

Section 3. 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 NOVEMBER, 2024.

THE CITY OF MARATHON, FLORIDA

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:**

City Attorney, Steven T. Williams

EXHIBIT A”

CONTRACT

THIS CONTRACT is made this _____ day of November, 2024 by and between the City of Marathon, Florida (the “City”) and Culvers Cleaning Company (the “Contractor”).

The parties, for the consideration provided for below, mutually agree as follows:

1. **SCOPE OF WORK** -The Contractor shall furnish all labor, materials, supervision, equipment, supplies, and incidentals required to perform the scope of work as follows:

The work specified in this Section consists of the routine cleaning services not limited to but including the following:

- A. Clean and care for buildings and facilities in order to ensure they are maintained in a safe and healthy manner.
- B. Maintain storage areas and cleaning equipment, materials, and supplies in a safe and orderly manner in order to ensure the safety of staff and the public.
- C. Specifically, but not limited to but including the following:
 - a) All cleaning supplies and waste receptacle bags are to be provided by Bidder, with the exception of the following supplies: hand soap, dish soap, dishwasher soap, paper towels, toilet paper, tissues.
 - b) Empty all waste receptacles into dumpster as well as remove recycle goods to the recycle bins as scheduled.
 - c) Refill towel, toilet paper and soap dispensers in bathrooms as needed.
 - d) Wash and disinfect all washroom floors, toilets, toilet seats, hand dryers and fixtures every weekday.
 - e) Wash glass entry doors daily and windows and solid doors and handles every other day unless needed more frequently.
 - f) Spot clean any marks from walls, doors, hardware, and glass as needed.
 - g) Pick up and discard any trash from entrance ways daily (workweek)
 - h) Sweep and vacuum floors every weekday.
 - i) Wash tile and terrazzo floors weekly unless needed more frequently.
 - j) Buff terrazzo floors quarterly or as needed more frequently.
 - k) Shampoo carpets quarterly unless needed more frequently (spot clean)
 - l) Dust desks, computers, phones, lamps, window sills, window blinds, wall hangings and base boards weekly.
 - m) Remove cobwebs as needed.
 - n) Clean all interior windows weekly or as needed more frequently.

- o) Clean kitchens and Sanitize kitchen surfaces and fixtures every weekday.
- p) Monthly clean the light fixtures
- q) Report any acts of vandalism or damages.
- r) Maintenance of Inventory. The contractor must inform the City when inventory supplies are low, with 4 days minimum notice of running out of product.

The work shall be performed between 7 am and 8 am for the Fire Station and City Hall Council Chambers and after 5 pm at City Hall and Public Works/Utility Building weekdays and anytime Saturday, Sunday or official holidays and will not exceed 35 hours per week.

2. COMPENSATION/PAYMENT

2.1 . Contractor shall provide the City with an invoice on a monthly basis within ten (10) days of the end of each month stating the services provided in the preceding month.

2.2. The City shall make payment on said invoices of approved amounts due, that are not subject to set off, as required under the Florida Prompt Payment Act. No payments shall be due or payable for Work not performed or materials not furnished.

2.3. The Contractor shall be compensated at the unit prices specified in the Bid Schedule based upon the actual Work completed for the month. (\$1,025.00 weekly based on 35 hours per week)

2.4 In the event that all or a portion of an invoice submitted to the City for payment to the Contractor is disputed, or additional backup documentation is required, the City shall notify the Contractor within fifteen (15) working days of receipt of the invoice of such objection, modification, or additional documentation request. The Contractor shall provide the City within five (5) working days of the date of the City's notice. The City may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the Contractor. The City, at its sole discretion, may pay to the Contractor the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

3. **TERM-** This Agreement shall be effective upon execution by both parties and shall continue for a term of two (2) years. The City may, at its sole option, extend this Agreement on the same terms and conditions for an additional term of two (2) one (1) year extensions. Such extensions shall be effective upon receipt of a written notice from the City to the Contractor received no later than 30 days prior to the date of termination.

4. **CONTRACTOR'S DUTY TO INSPECT** -The Contractor has carefully examined the described City Hall premises and has made sufficient tests and other investigations to fully satisfy himself as to site conditions, and he assumes full responsibility, therefore. The Contractor shall be responsible for the repair or replacement of any facility damaged by the Contractor.

5. **NON-WAIVER-** The failure of either party to this Contract to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this

Contract shall not be construed as a waiver of the violation or breach, or of any future violation, breach, or wrongful conduct.

6. **PROTECTION OF PROPERTY AND THE PUBLIC-** The Contractor shall continuously maintain adequate protection of all his Work from damage and shall protect public and private property from injury or loss arising in connection with this contract as follows:

6.1. The Contractor shall take all necessary precautions for the safety of employees in the performance of the Work on, about or adjacent to the premises, and shall comply with all applicable provisions of Federal, State, and local laws, including, but not limited to the requirements of the Occupational Safety and Health Act of 1970, and amendments thereto, the Construction safety Act of 1969, and amendments thereto, and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed.

7. **INDEMNIFICATION**

7.1. The Contractor shall indemnify and hold harmless the City, its officers, agents and employees from and against all liability, claims, damages, losses and expenses, including reasonable attorney's fees and costs at both trial and appellate levels arising out of or resulting from the performance of Work under this contract, caused by any act or omission of the Contractor or anyone directly or indirectly employed by Contractor or anyone for whose acts Contractor may be liable.

7.2. This indemnification obligation shall survive the termination of this Agreement.

7.3. The Contractor shall defend the City or provide for such defense, at the City's option.

7.5. The Contractor shall be held responsible for any violation of laws, rules, regulations, or ordinances affecting in any way the conduct of all persons engaged in, or the materials or methods used by him, on the Work. The contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of the Work under this contract. Contractor shall secure and pay for all permits, fees, licenses, and inspections necessary for the execution of the Work, and upon termination of this contract for any reason, Contractor shall transfer such permits, if any, and if allowed by law, to the City.

8. **CONTRACT DOCUMENTS** -The following documents shall, by this reference, be considered part of this Contract:

Instructions to Bidders.

All Addendums.

Contract Agreement.

Proposal

Detailed Specifications.

Qualification Statement.

Insurance Certificates

Licenses

9. CONTRACTOR'S EMPLOYEES

- 9.1. Contractor's employees shall serve the public in a courteous, helpful, and impartial manner.
- 9.2. The contractor shall, upon receipt of a written request from the City, immediately exclude any employee of Contractor from providing Work under this Agreement.
- 9.3. The Work contemplated in this Agreement is on public property, accordingly no alcoholic beverages shall be allowed.
- 9.4. Contractor's employees shall wear a clean uniform that provides identification of both the Contractor's company and the name of the employee.
- 9.5 Any contractor or employee of contractor that will have access to Any City of Marathon Building or the Fire Station during non-business hours or weekends must provide a clear background check by a company whose business it is to provide backgrounds to include a criminal check. The successful Bidder shall, within ten (10) days of notice of the Award of the contract, deliver to the City a fully executed contract and all requested certificates of insurance and clear background checks with listing of employees who will have access to City Hall or the Fire Station.

10. VEHICLES AND EQUIPMENT -Contractor shall have on hand at all times and in good working order such vehicles, machinery, tools, accessories, and other items necessary to perform the Work under this Agreement. All vehicles used by Contractor to provide services under this agreement shall be painted uniformly with the name of Contractor, business telephone number, and the number of the vehicle in letters legible by the public. The City may require the repair or replacement of equipment as reasonably necessary. No other advertising shall be permitted on the vehicles.

11. INSURANCE - Contractor shall secure and maintain throughout the duration of this Contract, insurance of such type and in such amounts as required by the City Manager. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. The Contractor shall include the City as an additional insured on all insurance policies. The insurance coverages shall include a minimum of:

11.1 Worker's Compensation and Employer's Liability Insurance: Coverage to apply for all employees at minimum statutory limits as required by Florida Law. Contractors with Worker's Compensation exemption shall not hold the City liable for employee injury or claims.

11.2 Comprehensive Automobile and Vehicle Liability Insurance: Motor vehicle liability insurance, including applicable no-fault coverage, with limits of liability of not less than \$500,000 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

11.3 **Commercial General Liability.** Commercial general liability coverage with limits of liability of not less than \$1,000,000 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability.

11.4 **Certificates of Insurance** shall be provided to the City at the time of execution of this Contract and certified copies provided if requested. Certificates of Insurance shall include the City as additional insured or certificate holder. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the City before any policy or coverage is cancelled or restricted.

12. **ASSIGNMENT AND AMENDMENT** -No assignment by the Contractor of this contract or any part of it, or any monies due or to become due, shall be made, nor shall the Contractor hire a sub-contractor to perform its duties under this Agreement without prior written approval of the City. This Agreement may only be amended by the parties with the same formalities as this Agreement.

13. **TERMINATION**

13.1. Either party may terminate this Agreement without cause upon 30 days written notice to the other party.

13.2. Upon notice of such termination, the City shall determine the amounts due to the Contractor for services performed up to the date of termination. The Contractor shall not be entitled to payment of any lost profits or for Work performed after the date of termination.

13.3. After receipt of a notice of termination, and except as otherwise directed, the Contractor shall stop all Work under this Agreement and shall do so on the date specified in the notice of termination.

13.4. The City may terminate this Agreement upon five (5) days written notice if the Contractor defaults on any material term of this Agreement.

14. **CHOICE OF LAW** -This contract shall be governed by the laws of the State of Florida. Venue shall lie in Monroe County.

15. **ATTORNEY'S FEES** -In the event either party to this Agreement is required to retain legal counsel to enforce any of its rights under this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs from the non-prevailing party together with court costs incurred in any litigation at any trial and appellate proceedings.

16. **ACCESS TO PUBLIC RECORDS-** The Contractor shall comply with the applicable provisions of Chapter 1 19, Florida Statutes. The City shall have the right to immediately terminate this contract for the refusal by the Contractor to comply with Chapter 1 19, Florida Statutes. The Contractor shall retain all records associated with this Agreement in accordance with the Florida General Records Schedule GS1-SL for State and Local Government Agencies. If the contractor has questions regarding the application of Chapter 1 19, Florida Statutes, to the contractor's duty to provide public records relating to this contract, contact the custodian of public records at Cityclerk@ci.marathon.fl.us or 305-743-0033.

17. **INSPECTION AND AUDIT-** During the term of this Agreement and for three (3) years from the date of Termination the Contractor shall allow City representatives access during reasonable business hours to Contractor's records related to this Agreement for the purposes of inspection or audit of such records. If upon audit of such records, the City determines the Contractor was paid for services not performed, upon receipt of written demand by the City, the Contractor shall remit such payments to the City.

18. **SEVERABILITY** -If a term, provision, covenant, contract, or condition of this contract is held to be void, invalid, or unenforceable, the same shall not affect any other portion of this contract and the remainder shall be effective as though every term, provision, covenant, contract or condition had not been contained herein.

19. **WAIVER OF JURY TRIAL-** The parties irrevocably, knowingly agree to waive their rights to a trial by jury in any action to enforce the terms or conditions of this Agreement.

20. **COUNTERPARTS-** This contract may be signed by one or more counterparts, each of which, when executed shall be deemed an original and together shall constitute one and the same instrument.

21. **NOTICES/ Authorized Representatives-** Any notices required by this Contract shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses

For City: George Garrett, City Manager
City of Marathon, Florida
9805 Overseas Highway
Marathon, Florida 33050

With a Copy to: Steve Williams, City Attorney
City of Marathon, Florida
9805 Overseas Highway
Marathon, Florida 33050

Contractor: Anthony Culver, Owner
Culvers Cleaning Company
P.O. Box 500333
Marathon, FL 33050

22. **INDEPENDENT CONTRACTOR.** The Contractor and its employees, volunteers and agents shall be and remain independent contractor and not agents or employees of the City with respect to all of the acts and services performed by and under the terms of this Contract. This Contract shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise, or venture between the parties.

23. **COMPLIANCES WITH LAWS.** The Contractor shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Work.

24 **SURVIVAL OF PROVISIONS.** Any terms or conditions of either this Contract that require acts beyond the date of the term of the Contract, shall survive termination of the Contract, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

25 **PROHIBITION OF CONTINGENCY FEES.** The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Contract, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

IN WITNESS WHEREOF the parties hereto have executed this Contract on the day and date first above written.

Attest:

CITY OF MARATHON

By: _____
Diane Clavier, City Clerk

By: _____
George Garrett, City Manager

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

By: _____
Steve Williams, City Attorney

Signed, sealed, and witnessed in the
presence of:

CONTRACTOR:

By: Angela Davis-Culver

By: Anthony Culver

(*) In the event that the Contractor is a corporation, there shall be attached to each counterpart a certified copy of a resolution of the board of the corporation, authorizing the officer who signs the contract to do so on its behalf.

COUNCIL AGENDA STATEMENT



Meeting Date: November 12, 2023

To: Honorable Mayor and City Councilmembers

From: Jennifer Johnson, Finance Director

Through: George Garrett, City Manager

Agenda Item: **Resolution 2024-112**, Amending The City's Fiscal Year 2023-2024 Budget;
And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

In accordance with Florida Statutes, it is necessary for the City Council to adjust the Fiscal Year 2023-2024 budget to reflect anticipated changes in year-end revenues and expenditures.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	_____	_____
2. Other _____	_____	_____
3. Not applicable <u> X </u>		

FISCAL NOTE:

Approval of the resolution will formally amend the FY23-24 Adopted Budget.

RECOMMENDATION: Council Approve Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-112**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MARATHON, FLORIDA, AMENDING THE CITY'S
FISCAL YEAR 2023-2024 BUDGET; AND PROVIDING FOR
AN EFFECTIVE DATE**

WHEREAS, the City of Marathon (the “City”) adopted a budget for Fiscal Year 2023-2024 via Resolution 2023-92;

WHEREAS, in accordance with Florida Statutes it is necessary for the City Council to adjust the budget to reflect unanticipated year end revenues and expenditures for Fiscal Year 2023-2024.

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

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

Section 2. The budget amendment for Fiscal Year 2023-2024, beginning October 1, 2023 and ending September 30, 2024, attached as Exhibit ‘A’ is approved.

Section 3. 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 NOVEMBER, 2024.**

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:

NOES:

ABSENT:

ABSTAIN:

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:**

City Attorney

**City of Marathon
Budget Amendment
Fiscal Year 2023-2024**

EXHIBIT A

Fund	Adopted Budget FY 23/24	Budget Amendment	Amended Budget FY 23/24
General Fund			
Revenues			
Ad Valorem Taxes (97% collection rate)	\$ 9,790,156	\$ 244,000	\$ 10,034,156
Communications Tax	633,426	-	633,426
Total Taxes	10,423,582	244,000	10,667,582
Local Business Tax (County Occupational Licenses)	48,000		48,000
Taxi Permits	3,300		3,300
Vacation Rental Permit & Agent Fees	717,060	-	717,060
FEMA FWS Review & Processing Fees & Inspection Fees	6,000	-	6,000
Planning & Zoning Fees	65,000	-	65,000
Fire Inspection Fees (including vacation rentals)	315,000	270,000	585,000
Total License and Permits	1,154,360	270,000	1,424,360
SAFER Grant	593,811	(593,811)	-
Sales Tax Revenue - State Revenue Sharing	386,255	-	386,255
Fuel and Motor Fuel Tax	46	-	46
Mobile Home License	5,000	-	5,000
DEO/DEP Grants	60,000	(60,000)	-
Alcoholic Beverage License	18,000	-	18,000
Marathon Middle School Fire Academy MOU	50,000	-	50,000
Half Cent Sales Tax	2,368,226	-	2,368,226
Firefighter Supplemental Comp	9,000	-	9,000
Tourist Development Council Grant	203,050	-	203,050
Payment in Lieu of Taxes-Local Units	12,064	-	12,064
Total Intergovernmental Revenue	3,705,452	(653,811)	3,051,641
Key Colony Beach Fire/EMS	550,000	150,000	700,000
EMS Services	925,000	-	925,000
Recreation Program Revenue	25,000	-	25,000
Total Charges for Services	1,500,000	150,000	1,650,000
Traffic Court Fines	110,000	-	110,000
Code Enforcement Fines	300,000	360,000	660,000
Local Ordinance Parking Fines	1,170,350	-	1,170,350
Fines - Local Training	8,300	-	8,300
Total Fines and Forfeits	1,588,650	360,000	1,948,650
Interest Income	435,000	311,000	746,000
Rents & Other	12,000	-	12,000
Miscellaneous Revenue	50,000	-	50,000
Total Miscellaneous Revenues	497,000	311,000	808,000

**City of Marathon
Budget Amendment
Fiscal Year 2023-2024**

EXHIBIT A

Fund	Adopted Budget FY 23/24	Budget Amendment	Amended Budget FY 23/24
General Fund (continued)			
Transfer from Stormwater Utility Fund	25,000	-	25,000
Transfer from Capital Infrastructure Fund	487,287	-	487,287
Transfer from Wastewater Enterprise Fund	335,307	-	335,307
Transfer from Impact Fee Fund	480,000	(480,000)	-
Administrative Fee-Building	553,741	-	553,741
Administrative Fee-Marina	25,000	-	25,000
Total Other Sources	1,906,335	(480,000)	1,426,335
Unappropriated Fund Balance(Deficit), October 1	22,333,335	201,917	22,535,252
Reserved Fund Balance, October 1	592,529	-	592,529
Total Fund Balance, October 1	22,925,864	201,917	23,127,781
Total General Fund Revenues & Reserves BOY	\$ 43,701,243	\$ 403,106	\$ 44,104,349
General Fund Expenditures			
City Clerk	\$ 341,244	\$ -	\$ 341,244
City Manager	329,236	-	329,236
Code	777,597	(100,000)	677,597
Council	591,925	115,000	706,925
Finance	433,600	-	433,600
Fire/EMS	7,568,987	(593,811)	6,975,176
General Services	1,460,414	-	1,460,414
Information Technology	739,019	(200,000)	539,019
Legal	589,123	(100,000)	489,123
Nearshore Waters Management-Ports	119,400	-	119,400
Parks and Recreation	2,276,659	-	2,276,659
Planning	1,402,978	(570,000)	832,978
Police Services	2,529,891	-	2,529,891
Public Works	1,431,091	(200,000)	1,231,091
Total Expenditures	20,591,164	(1,648,811)	18,942,353
Reserved Fund Balance @ September 30	592,529	-	592,529
Unreserved Fund Balance @ September 30	22,517,550	2,051,917	24,569,467
Total Fund Balance, Sept 30	23,110,079	2,051,917	25,161,996
Total General Fund Expenditures & Reserves	\$ 43,701,243	\$ 403,106	\$ 44,104,349

COUNCIL AGENDA STATEMENT



Meeting Date: November 12, 2024

To: Honorable Mayor and Council Members

From: Ted Lozier, Code Director

Through: George Garrett, City Manager

Agenda Item: **Resolution 2024-113**, Approving An Amended Agreement Between The City Of Marathon And Jeff D. Vastola, Esq. For Code Enforcement Special Magistrate Services; And Providing For An Effective Date.

BACKGROUND

The City of Marathon entered into a one-year agreement with Jeff Vastola in 2021 to perform Code Compliance Special Magistrate services . The terms of this agreement allow for the option to renew the agreement for additional one-year periods. The City continues to require the services of a Code Compliance Special Magistrate, and the parties wish to enter into an additional one-year period. The agreement also provides for the hourly rate be adjusted annually by an Amendment to the Agreement, after mutual written agreement of the parties, and approved by City Council. The parties have negotiated an Amendment to increase the hourly basis rate of \$250 to \$275. All other terms and conditions of the Contract shall remain in full force and effect.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	N/A	_____
2. Other – 2010 Sewer Mandate	N/A	_____

FISCAL NOTE:

The Adopted FY25 Code Department Budget in the General Fund includes appropriations of \$16,000 for this service.

RECOMMENDATION:

Approval of Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-113**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING AN AMENDED AGREEMENT BETWEEN THE CITY OF MARATHON AND JEFF D. VASTOLA, ESQ. FOR CODE ENFORCEMENT SPECIAL MAGISTRATE SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Resolution 2021-115 the CITY of Marathon (“City”) and Jeff Vastola entered into an agreement to perform services associated with presiding over Code Compliance Hearings as a Code Compliance Special Magistrate; and

WHEREAS, the Agreement provides for additional one-year renewals; and

WHEREAS, the City continues to require the services of a Code Compliance Special Magistrate; and

WHEREAS, the parties wish to enter into an additional one-year period; and

WHEREAS, the Agreement provides for the hourly rate be adjusted by an Amendment to the Agreement, after mutual written agreement of the parties, annually. The parties have negotiated an Amendment to increase the hourly basis rate of \$250 to \$275. All other terms and conditions of the Contract shall remain in full force and effect.

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 Council hereby approves an additional one-year period of the Agreement, as Amended, between Jeff Vastola and the City, a copy of which is attached hereto as Exhibit “A,” for code enforcement special magistrate services, together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney.

Section 3. The City Manager is authorized to execute the contract on behalf of the City.

Section 4. 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 NOVEMBER 2024.**

THE CITY OF MARATHON, FLORIDA

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:**

Steve Williams, City Attorney

**AMENDMENT TO AGREEMENT
FOR
SPECIAL MAGISTRATE SERVICES**

This amendment to the Agreement for Code Compliance Special Magistrate services (the “Amendment”) made and entered into this ___ day of November 2024 between the City of Marathon, Florida, a municipal corporation organized and existing under the laws of the State of Florida, with its address at 9805 Overseas Highway, Marathon, Florida, 33050 (hereinafter referred to as “City”) and Jeff D. Vastola, Esq. with his address at 9141 Overseas Highway, Suite 3, Marathon, Florida, 33050, (hereinafter referred to as “Special Magistrate”).

W I T N E S S E T H:

WHEREAS, in November of 2021, the City and the Special Magistrate entered into an Agreement for Code Compliance Special Magistrate Services (the “Agreement”); and

WHEREAS, the City and Special Magistrate desire to renew the term for one year to expire in 2025.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth in this Amendment and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby amend the Agreement to read as follows:

Section 1.0 Term

1.2 The term of this Agreement shall continue through November 30, ~~2024~~ 2025, unless otherwise terminated as provided herein.

Section 3.0 Compensation

3.1.1 The CITY shall pay SPECIAL MAGISTRATE on an hourly basis at a rate of ~~\$250.00~~ \$275.00 per hour for all of SPECIAL MAGISTRATE's time, inclusive of all costs incurred to provide said services. There will be no additional charges for office overhead to include administrative assistants/secretaries and other support personnel. The CITY will not provide reimbursement for travel, meals, or mileage.

All other terms and conditions of the Agreement shall remain in full force and effect.

[THE REMAINDER OF THIS PAGE SHALL REMAIN BLANK]

IN WITNESS WHEREOF, the City and Special Magistrate have set their hands and seals, as of the day and year first above written.

Attest:

City Of Marathon, Florida

Diane Clavier,
City Clerk

George Garrett,
City Manager

Approved As To Form And Legality For The Use
And Reliance Of The City Of Marathon, Florida Only:

Steve Williams, City Attorney

Special Magistrate

Jeff D. Vastola, Esq.

COUNCIL AGENDA STATEMENT



Meeting Date: November 12, 2024

To: Honorable Mayor and City Councilmembers

From: Jennifer Johnson, Finance Director

Through: George Garrett, City Manager

Agenda Item: **Resolution 2024-114**, Amending A Grant Agreement With The Florida Department Of Environmental Protection LP44044; Authorizing The City Manager To Execute The Grant Amendment On Behalf Of The City; And Providing For An Effective Date

BACKGROUND & JUSTIFICATION:

In 2013 the City entered into an interlocal agreement with Monroe County and other local stakeholders in the Florida Keys that agreed upon a calculation for the distribution of future funding received from the State. The Florida Keys Environmental Stewardship Act was passed by the Florida State Legislature and signed into law in 2016.

Staff recommends approving the amendment #6 to extend the grant agreement until the end of June 2026. This grant was used to satisfy the 25% match requirement from the Monroe County interlocal agreement for the USDA NRCS grant funding for the Hurricane Irma canal debris removal project. This grant agreement also allows for the maintenance of canals and culverts in the City of Marathon. This project will improve water quality for the Florida Keys environment, visitors, businesses and residents.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	<u>X</u>	<u> </u>
2. Other – 2010 Sewer Mandate	<u> </u>	<u> </u>
3. Not applicable	<u> </u>	<u> </u>

FISCAL NOTE:

Approval of this resolution extends the agreement to June 30, 2026.

RECOMMENDATION: Approval of Resolution

Sponsored by: Garrett

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-114**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AMENDING A GRANT AGREEMENT WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR LP44044; AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT AMENDMENT ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Department of Environmental Protection (DEP) has provided a grant amendment for reimbursement funding canal and culvert projects in the City of Marathon; and

WHEREAS, the City Council desires to approve the grant amendment with DEP For LP44044 extending the agreement to June 30, 2026.

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 are incorporated herein.

Section 2. The City Council hereby approves the Grant Agreement, in Exhibit “A,” with the Florida Department of Environmental Protection for LP44044.

Section 3. The City Manager is authorized to execute the Grant Agreement with the Florida Department of Environmental Protection.

Section 4. 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 NOVEMBER 2024.

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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:**

Steven Williams, City Attorney

**AMENDMENT NO. 6
TO AGREEMENT NO. LP44044
BETWEEN
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND
CITY OF MARATHON**

This Amendment to Agreement No. LP44044 (Agreement), as previously amended, is made by and between the Department of Environmental Protection (Department), an agency of the State of Florida, and the City of Marathon (Grantee), on the date last signed below.

WHEREAS, the Department entered into the Agreement with the Grantee for City of Marathon Marine Debris Removal (Project), effective August 22, 2018; and,

WHEREAS, the Grantee has requested an extension of the Agreement due to delays related to identifying priority project locations; and,

WHEREAS, other changes to the Agreement are necessary; and,

WHEREAS, the parties have agreed to amend the Agreement as set forth herein.

NOW THEREFORE, the parties agree as follows:

1. Section 3. of the Standard Grant Agreement is hereby revised to change the Date of Expiration to December 31, 2026. The Department and the Grantee shall continue to perform their respective duties during this extension period pursuant to the same terms and conditions provided in the Agreement.
2. Attachment 3-5, Revised Grant Work Plan, is hereby deleted in its entirety and replaced with Attachment 3-6, Revised Grant Work Plan, as attached to this Amendment and hereby incorporated into the Agreement. All references in the Agreement to Attachment 3 shall hereinafter refer to Attachment 3-6, Revised Grant Work Plan.
3. Attachment 5-4, Revised Special Audit Requirements, is hereby deleted in its entirety and replaced with Attachment 5-5, Revised Special Audit Requirements, attached hereto and made a part of the Agreement. All references in the Agreement to Attachment 5 shall hereinafter refer to Attachment 5-5, Revised Special Audit Requirements.
4. Exhibit A-1, Revised Progress Report Form, is hereby deleted in its entirety and replaced with Exhibit A-2, attached hereto and made a part of the Agreement. All references in the Agreement to Exhibit A shall hereinafter refer to Exhibit A-2.
5. All other terms and conditions of the Agreement remain in effect. If and to the extent that any inconsistency may appear between the Agreement and this Amendment, the provisions of this Amendment shall control.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

The parties agree to the terms and conditions of this Amendment and have duly authorized their respective representatives to sign it on the dates indicated below.

CITY OF MARATHON

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

By: _____
Authorized Signature

By: _____
Secretary or Designee

George Garrett, City Manager
Print Name and Title

Angela Knecht, Division Director
Print Name and Title

Date: _____

Date: _____

Sarah Louissaint, DEP Grant Manager

Nathan Jagoda, DEP QC Reviewer

List of attachments/exhibits included as part of this Amendment:

<u>Specify Type</u>	<u>Letter/ Number</u>	<u>Description</u>
Attachment	3-6	Revised Grant Work Plan
Attachment	5-5	Revised Special Audit Requirements
Exhibit	A-2	Progress Report Form

ATTACHMENT 3-6 REVISED GRANT WORK PLAN

PROJECT TITLE: Marathon Marine Debris Removal

PROJECT LOCATION: The Project will be located within the City of Marathon in Monroe County, Florida.

PROJECT BACKGROUND: In 2017, the Florida Keys was hit with a Category 4 hurricane that deposited large amounts of debris in the canals and waterways of Monroe County, Florida. Monroe County obtained a grant from the United States Department of Agriculture, Natural Resources Conservation Service (NRCS) to provide reimbursement for Hurricane Irma debris removal from the canals. The City of Marathon (Grantee) and Monroe County executed an interlocal agreement to have debris removed from the canals within the City of Marathon's boundaries.

The project will positively affect the water quality in the City's canals and adjacent nearshore waters, which include the Florida Bay and Atlantic Ocean within the Florida Keys National Marine Sanctuary and surrounding the Florida Keys Area of Critical State Concern.

PROJECT DESCRIPTION: The Grantee, through an Interlocal Agreement with Monroe County, will remove the Hurricane Irma debris from select canals located within the City of Marathon. The Grantee will provide funding for its share of the County wide project.

The Grantee will also utilize a contractor to provide project management to confirm compliance with NRCS requirements and all state statutes and local ordinances. The Grantee's consultant shall provide project management and disaster related services in canals and temporary debris management area (TDMA) sites. The consultant will oversee the contractor activity and manage the marine debris site and address daily safety reports and corrective action recommendations. In addition, the Grantee will monitor the activities conducted under local, state and federal permit requirements for applicable marine debris removal work.

Additionally, the Grantee will perform the muck dredging and spoil management and culvert maintenance for various canals within the City. The ultimate disposal of the muck is the responsibility of the City and must be in compliance with applicable laws and rules.

TASKS: All documentation should be submitted electronically unless otherwise indicated and should be submitted prior to the expiration of the grant agreement.

Task 1: Marine Debris Removal

Deliverables: The Grantee will remove debris from canals and provide maintenance to canals and culverts located in the City of Marathon in accordance with the contract documents.

Documentation: The Grantee will submit: 1) signed summary of activities completed for the period of work covered in the payment request, using the format provided by the Department's Grant Manager; and 2) records of the amount of debris removed and any records associated with disposal of the removed material. Upon request by the Department's Grant Manager, the Grantee will provide additional supporting documentation relating to this task.

Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables are completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement no more frequently than monthly.

For the task for which advance payment is approved, the reference to “payment” in the Payment Request Schedules shall mean submittal of invoice(s), and the Grantee shall submit invoice documentation and proof of payment quarterly until the entire advance payment is reconciled.

Task 2: Project Management and Disaster Related Services

Deliverables: The Grantee will provide project management services related to Marathon Marine Debris Removal, to include review of documents and forms, budget oversight, preparation and submittal of quarterly progress reports, processing of payment requests and related documentation, field engineering services, construction observation, site meetings with construction contractor(s) and design professionals, overall project coordination and supervision, and other disaster related services.

Documentation: The Grantee will submit a signed summary of activities completed for the period of work covered in the payment request, using the format provided by the Department’s Grant Manager. Upon request by the Department’s Grant Manager, the Grantee will provide additional supporting documentation relating to this task.

Performance Standard: The Department’s Grant Manager will review the documentation to verify that the deliverables are completed as described above. Upon review and written acceptance by the Department’s Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement no more frequently than monthly.

PROJECT TIMELINE & BUDGET DETAIL: The tasks must be completed by the corresponding task end date. Cost reimbursable grant funding must not exceed the budget amounts as indicated below.

For any Task with a Budget Category of Contractual Services, the Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work.

Task No.	Task Title	Budget Category	Budget Amount	Task Start Date	Task End Date
1	Marine Debris Removal	Contractual Services	\$4,947,548.44	07/01/2018	06/30/2026
2	Project Management	Contractual Services	\$375,000.00	07/01/2018	06/30/2026
Total:			\$5,322,548.44		

Note that, per Section 8.h. of Attachment 1 of the Agreement, authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the Department if the Legislature reduces or eliminates appropriations. Extending the contract end date carries the risk that funds for this project may become unavailable in the future. This should be a consideration for the Grantee with this and future requests for extension.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Revised Special Audit Requirements
(State and Federal Financial Assistance)

Attachment 5-5

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the agreement*) to the recipient (*which may be referred to as the "Recipient", "Grantee" or other name in the agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEP Department staff, limited scope audits as defined by 2 CFR 200.425, or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330

1. A recipient that expends \$1,000,000 or more in Federal awards in its fiscal year, must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of Environmental Protection. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR 200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200.514 will meet the requirements of this part.
2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508-512.
3. A recipient that expends less than \$1,000,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F-Audit Requirements. If the recipient expends less than \$1,000,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F-Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <https://sam.gov/content/assistance-listings>.

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such recipient (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department of Environmental Protection by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal year ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$750,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen/>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and required by PART I of this form shall be submitted, when required by 2 CFR 200.512, by or on behalf of the recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.36 and 200.512
 - A. The Federal Audit Clearinghouse designated in 2 CFR §200.501(a) (the number of copies required by 2 CFR §200.501(a) should be submitted to the Federal Audit Clearinghouse), at the following address:

By Mail:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at <http://harvester.census.gov/facweb/>

2. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

- A. The Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

- B. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<http://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

4. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

5. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with 2 CFR 200, Subpart F-Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (non and for-profit organizations), Rules of the Auditor General, should indicate the date and the reporting package was delivered to the recipient correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award and this Agreement for a period of **five (5)** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **three (3)** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Note: If the resources awarded to the recipient represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program A	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	
Federal Program B	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	

Note: Of the resources awarded to the recipient represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below:

Federal Program A	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	
Federal Program B	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	

Note: If the resources awarded to the recipient for matching represent more than one federal program, provide the same information shown below for each federal program and show total state resources awarded for matching.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program A	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category
Federal Program B	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

Note: If the resources awarded to the recipient represent more than one state project, provide the same information shown below for each state project and show total state financial assistance awarded that is subject to section 215.97, F.S.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program A	State Awarding Agency	State Fiscal Year ¹	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Original Agreement	Florida Department of Environmental Protection	2017-2018	37.039	Statewide Water Quality Restoration Projects - LI 1593A	\$1,877,375.00	141115
Amendment 1	Florida Department of Environmental Protection	2017-2018	37.039	Statewide Water Quality Restoration Projects - LI 1593A	\$375,000.00	141115
Amendment 3	Florida Department of Environmental Protection	2017-2018	37.039	Statewide Water Quality Restoration Projects - LI 1593A	(\$269,577.80)	141115
Amendment 3	Florida Department of Environmental Protection	2019-2020	37.039	Statewide Water Quality Restoration Projects - LI 1660A	\$269,577.80	141115
Amendment 4	Florida Department of Environmental Protection	2019-2020	37.039	Statewide Water Quality Restoration Projects - LI 1660A	\$70,173.44	141115
Amendment 4	Florida Department of Environmental Protection	2022-2023	37.039	Statewide Water Quality Restoration Projects - LI 1669	\$3,500,000.00	141115
Amendment 5	Florida Department of Environmental Protection	2022-2023	37.039	Statewide Water Quality Restoration Projects - LI 1669	(\$500,000.00)	141115
State Program B	State Awarding Agency	State Fiscal Year ²	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category

Total Award	\$5,322,548.44	
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¹ Subject to change by Change Order.

² Subject to change by Change Order.

Note: List applicable compliance requirement in the same manner as illustrated above for federal resources. For matching resources provided by the Department for DEP for federal programs, the requirements might be similar to the requirements for the applicable federal programs. Also, to the extent that different requirements pertain to different amount for the non-federal resources, there may be more than one grouping (i.e. 1, 2, 3, etc.) listed under this category.

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<https://sam.gov/content/assistance-listings>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>], and State Projects Compliance Supplement (Part Four: State Projects Compliance Supplement [https://apps.fldfs.com/fsaa/state_project_compliance.aspx]). The services/purposes for which the funds are to be used are included in the Agreement's Grant Work Plan. Any match required by the Recipient is clearly indicated in the Agreement.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Exhibit A-2
Progress Report Form**

The current **Exhibit A, Progress Report Form** for this grant can be found on the Department's website at this link:

<https://floridadep.gov/wra/wra/documents/progress-report-form>

Please use the most current form found on the website, linked above, for each progress report submitted for this project.

COUNCIL AGENDA STATEMENT



Meeting Date: November 12, 2024

To: Honorable Mayor and City Councilmembers

From: Jennifer Johnson, Finance Director

Through: George Garrett, City Manager

Agenda Item: **Resolution 2024-115**, Amending A Grant Agreement With The Florida Department Of Environmental Protection For Deep Well, Transmission Piping & Pumping Station Project LP0724; Authorizing The City Manager To Execute The Grant Amendment On Behalf Of The City; And Providing For An Effective Date

BACKGROUND & JUSTIFICATION:

In 2013 the City entered into an interlocal agreement with Monroe County and other local stakeholders in the Florida Keys that agreed upon a calculation for the distribution of future funding received from the State. The Florida Keys Environmental Stewardship Act was passed by the Florida State Legislature and signed into law in 2016.

Staff recommends utilizing the final direct appropriation of Stewardship funding of \$1,866,666.72 for the City deep well, transmission piping & pumping project. This is a cost reimbursable grant.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	<u>X</u>	_____
2. Other – 2010 Sewer Mandate	_____	_____
3. Not applicable	_____	_____

FISCAL NOTE:

Approval of this agreement will provide the City with cost reimbursement funding up to \$5,366,666.72 (an increase of \$1,866.666.72) for the City of Marathon deep well, transmission piping & pumping project and extends the agreement to April 30, 2027.

RECOMMENDATION: Approval of Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-115**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AMENDING A GRANT AGREEMENT WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR LP0724 DEEP WELL, TRANSMISSION PUMPING & PIPING PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT AMENDMENT ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Department of Environmental Protection (DEP) has provided a grant amendment for reimbursement funding canal and culvert projects in the City of Marathon; and

WHEREAS, the City Council desires to approve the grant amendment with DEP for the deep well, transmission piping & pumping project for an additional \$1,866,666.72 of funding that was appropriated by the State in FY2024 and extend the agreement to April 30, 2027.

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 are incorporated herein.

Section 2. The City Council hereby approves the Grant Agreement, in Exhibit “A,” with the Florida Department of Environmental Protection for LP0724 deep well, transmission piping & pumping project..

Section 3. The City Manager is authorized to execute the Grant Agreement with the Florida Department of Environmental Protection.

Section 4. 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 NOVEMBER 2024.

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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:**

Steven Williams, City Attorney

**AMENDMENT NO. 1
TO AGREEMENT NO. LPA0724
BETWEEN
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND
CITY OF MARATHON**

This Amendment to Agreement No. LPA0724 (Agreement) is made by and between the Department of Environmental Protection (Department), an agency of the State of Florida, and the City of Marathon (Grantee), on the date last signed below.

WHEREAS, the Department entered into the Agreement with the Grantee for Deep Well, Transmission Piping & Pumping Stations (Project), effective April 16, 2024; and,

WHEREAS, \$1,866,666.72 in additional funding for this Project is provided under Line Item 1736 of the 2024-2025 General Appropriations Act; and the total funding for this Agreement is now \$5,366,666.72; and,

WHEREAS, the reimbursement period for the additional funding provided under Line Item 1736 of the 2024-2025 General Appropriations Act begins on July 1, 2024; and,

WHEREAS, other changes to the Agreement are necessary; and,

WHEREAS, the parties have agreed to amend the Agreement as set forth herein.

NOW THEREFORE, the parties agree as follows:

1. Section 5. of the Standard Grant Agreement is hereby revised to the following:

Total Amount of Funding:	Funding Source?	Award #s or Line Item Appropriations:	Amount per Source(s):
\$5,366,666.72	<input checked="" type="checkbox"/> State <input type="checkbox"/> Federal	Keys, GAA LI 1613, FY 21-22, GR	\$3,500,000.00
	<input checked="" type="checkbox"/> State <input type="checkbox"/> Federal	Keys, GAA LI 1736, FY 24-25, GR	\$1,866,666.72
	<input type="checkbox"/> Grantee Match		
Total Amount of Funding + Grantee Match, if any:			\$5,366,666.72

2. Attachment 3, Grant Work Plan, is hereby deleted in its entirety and replaced with Attachment 3-1, Revised Grant Work Plan, as attached to this Amendment and hereby incorporated into the Agreement. All references in the Agreement to Attachment 3 shall hereinafter refer to Attachment 3-1, Revised Grant Work Plan.
3. Attachment 5, Special Audit Requirements, is hereby deleted in its entirety and replaced with Attachment 5-1, Revised Special Audit Requirements, attached hereto and made a part of the Agreement. All references in the Agreement to Attachment 5 shall hereinafter refer to Attachment 5-1, Revised Special Audit Requirements.
4. All other terms and conditions of the Agreement remain in effect. If and to the extent that any inconsistency may appear between the Agreement and this Amendment, the provisions of this Amendment shall control.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

The parties agree to the terms and conditions of this Amendment and have duly authorized their respective representatives to sign it on the dates indicated below.

CITY OF MARATHON

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

By: _____
Authorized Signature

By: _____
Secretary or Designee

George Garrett, City Manager
Print Name and Title

Angela Knecht, Division Director
Print Name and Title

Date: _____

Date: _____

Sarah Louissaint, DEP Grant Manager

Nathan Jagoda, DEP QC Reviewer

List of attachments/exhibits included as part of this Amendment:

<u>Specify Type</u>	<u>Letter/ Number</u>	<u>Description</u>
Attachment	3-1	Revised Grant Work Plan
Attachment	5-1	Revised Special Audit Requirements

**ATTACHMENT 3-1
REVISED GRANT WORK PLAN**

PROJECT TITLE: Deep Well, Transmission Piping & Pumping Stations

PROJECT LOCATION: The Project will be located in the City of Marathon within Monroe County; Lat/Long (24.7519, -80.9769).

PROJECT BACKGROUND: The City of Marathon (Grantee) was involved in litigation over the City's shallow well sewer system. As part of the settlement of the litigation the City agreed to install a deep well system. The new deep well system will require transmission piping and pumping stations to connect the City's five existing wastewater treatment facilities to a new deep well disposal system.

PROJECT DESCRIPTION: The Grantee will design a deep injection well, pumping stations and transmission piping to connect and convert the City's shallow well system to a deep injection well system.

Task 1: Preconstruction Activities

Deliverables: The Grantee will complete the design of a deep injection well, pumping stations and transmission piping and obtain all necessary permits for construction of the project. Activities necessary for design, such as surveys, geotechnical evaluations, and environmental assessments, are eligible under this task.

Documentation: The Grantee will submit a signed summary of activities completed for the period of work covered in the payment request, including the percentage of design complete and permitting status, using the format provided by the Department's Grant Manager. For the final documentation, the Grantee will also submit a copy of the design completed with the funding provided for this task, a list of all required permits identifying issue dates and issuing authorities, and copies of any surveys, assessments, or other documents funded under this task. Upon request by the Department's Grant Manager, the Grantee will provide additional supporting documentation relating to this task.

Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables have been completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement no more frequently than monthly.

PROJECT TIMELINE & BUDGET DETAIL: The tasks must be completed by the corresponding task end date. Cost reimbursable grant funding must not exceed the budget amounts as indicated below.

For any Task with a Budget Category of Contractual Services, the Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work.

Task No.	Task Title	Budget Category	Grant Amount	Task Start Date	Task End Date
1	Preconstruction Activities	Contractual Services	\$5,366,666.72	07/01/2023	04/30/2027
Total:			\$5,366,666.72		

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Revised Special Audit Requirements
(State and Federal Financial Assistance)

Attachment 5-1

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the agreement*) to the recipient (*which may be referred to as the "Recipient", "Grantee" or other name in the agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEP Department staff, limited scope audits as defined by 2 CFR 200.425, or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330

1. A recipient that expends \$1,000,000 or more in Federal awards in its fiscal year, must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of Environmental Protection. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR 200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200.514 will meet the requirements of this part.
2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508-512.
3. A recipient that expends less than \$1,000,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F-Audit Requirements. If the recipient expends less than \$1,000,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F-Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <https://sam.gov/content/assistance-listings>.

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such recipient (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department of Environmental Protection by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal year ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$750,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen/>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and required by PART I of this form shall be submitted, when required by 2 CFR 200.512, by or on behalf of the recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.36 and 200.512
 - A. The Federal Audit Clearinghouse designated in 2 CFR §200.501(a) (the number of copies required by 2 CFR §200.501(a) should be submitted to the Federal Audit Clearinghouse), at the following address:

By Mail:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at <http://harvester.census.gov/facweb/>

2. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

- A. The Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

- B. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<http://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

4. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

5. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with 2 CFR 200, Subpart F-Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (non and for-profit organizations), Rules of the Auditor General, should indicate the date and the reporting package was delivered to the recipient correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award and this Agreement for a period of **five (5)** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **three (3)** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Note: If the resources awarded to the recipient represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program A	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	
Federal Program B	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	

Note: Of the resources awarded to the recipient represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below:

Federal Program A	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	
Federal Program B	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	

Note: If the resources awarded to the recipient for matching represent more than one federal program, provide the same information shown below for each federal program and show total state resources awarded for matching.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program A	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category
Federal Program B	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

Note: If the resources awarded to the recipient represent more than one state project, provide the same information shown below for each state project and show total state financial assistance awarded that is subject to section 215.97, F.S.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program A	State Awarding Agency	State Fiscal Year ¹	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Original Agreement	Department of Environmental Protection	2021-2022	37.039	Statewide Water Quality Restoration Projects - LI 1613	\$3,500,000.00	141115
Amendment 1	Department of Environmental Protection	2024-2025	37.039	Statewide Water Quality Restoration Projects - LI 1736	\$1,866,666.72	141115
State Program B	State Awarding Agency	State Fiscal Year ²	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category

Total Award	\$5,366,666.72	
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Note: List applicable compliance requirement in the same manner as illustrated above for federal resources. For matching resources provided by the Department for DEP for federal programs, the requirements might be similar to the requirements for the applicable federal programs. Also, to the extent that different requirements pertain to different amount for the non-federal resources, there may be more than one grouping (i.e. 1, 2, 3, etc.) listed under this category.

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<https://sam.gov/content/assistance-listings>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>], and State Projects Compliance Supplement (Part Four: State Projects Compliance Supplement [https://apps.fldfs.com/fsaa/state_project_compliance.aspx]). The services/purposes for which the funds are to be used are included in the Agreement's Grant Work Plan. Any match required by the Recipient is clearly indicated in the Agreement.

¹ Subject to change by Change Order.

² Subject to change by Change Order.

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-116**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF MARATHON, FLORIDA AS THE OWNER, AND BOOT KEY VIEW CONDOMINIUM AS LESSEE FOR SUBMERGED LANDS IDENTIFIED BY REAL ESTATE NUMBER 00355400-000000; INCLUDING, BUT NOT LIMITED TO ESTABLISHING A LEASE AREA, LEASE AMOUNT, LEASE DURATION, AND RELEASE OF LIABILITY; AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon, Florida (the “City”) is the owner of certain properties exisiting below the mean high waters of the State of Florida, further identified by real estate number 00355400-000000 and located within the geographical bounds of Boot Key Harbor (the “Property”); and

WHEREAS, Boot Key View Condominium (the “Lessee”) desires to lease certain portions of said Property for the purposes of docking facilities associated with the Lessee’s upload property identified by real estate number 00355370-002000; and

WHEREAS, the parties have agreed to lease terms including, but not limited to, lease area, lease amount, lease duration, and release of liability; and

WHEREAS, the City believes that the Lease Agreement is in the best interst of the Parties and of the residents of the City of Marathon, Florida.

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

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

Section 2. The Lease Agreement between the City and the Lessee attached hereto as “Exhibit A,” is hereby approved. The City Manager is authorized to execute the Lease Agreement on behalf of the City.

Section 3. Effective Date. This resolution shall take effect immediately upon adoption.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, THIS 12th DAY OF NOVEMBER 2024.**

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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

SUBMERGED LAND LEASE

THIS SUBMERGED LAND LEASE ("Lease") dated as of _____, 20____ made by and between the **CITY OF MARATHON**, a Florida municipal corporation, having an address at 9805 Overseas Highway, Marathon, Florida 33050 ("Lessor"), and **Boot Key View Condominium, Inc.** having an address at 307 Sombrero Blvd, Apt 2, Marathon, Fl 33050 ("Lessee").

RECITALS

1. Lessor owns certain submerged real property located in Monroe County, Florida as more particularly described as Exhibit 'A' attached hereto and by this reference made a part hereof (the "Premises") upon which Lessee constructed a docking facility in conjunction with an upland 8 unit family residences without fueling facilities and without live-aboards (the "Dock").

2. Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, the Premises solely for the operation, use, maintenance and repair of the Dock, subject to the terms and conditions of this Lease.

NOW, THEREFORE, in consideration of the Premises and the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

SECTION 1. DEFINITIONS

In addition to any terms defined elsewhere in this Lease, the following terms set forth below, when used in this Lease, shall be defined as follows:

(a) "Additional Rent" shall mean all monetary obligations of Lessee to Lessor (other than Base Rent) payable pursuant to this Lease.

(b) "City" shall mean the City of Marathon in its capacity as a municipal government, and not as Lessor under this Agreement.

(c) "COE" shall mean the United States Army Corps of Engineers and any other federal agencies which assist the COE with its permitting process.

(d) "County" shall mean Monroe County, a political subdivision of the State.

(e) "Effective Date" shall mean _____, 20____.

(f) "FDEP" shall mean the Florida Department of Environmental Protection.

(g) "FFWCC" shall mean the Florida Fish and Wildlife Conservation Commission.

(h) "Governmental Approvals" shall mean all governmental and quasi-governmental approvals and permits from Governmental Authorities for all approvals and permits such as environmental approvals, dock permits, building permits, coastal systems permits, and all other governmental approvals required to develop, construct, repair, operate and maintain the Improvements on the Premises.

(i) "Governmental Authorities" shall mean the federal government, the State, County, and City including all agencies and subdivisions of each of them including, but not limited to, the COE, FDEP, FFWCC

(j) "Improvements" shall collectively mean the following: (i) the Dock, (ii) any and all fixtures, permanently affixed equipment, signs, facilities, utilities constructed in connection with the foregoing, and (iii) all other structures or improvements now or hereafter constructed on or offsite in connection with the Premises and all additions, alterations, modifications, renovations, and replacements thereto.

(k) "Indemnitees" shall mean Lessor, its elected officials, employees, agents, and consultants as well as their respective successors and assigns.

(l) "Lease Year" shall mean the twelve (12) month period beginning on the Effective Date and each anniversary thereof.

(m) "Permitted Use" shall mean the permitted uses which may be made of the Premises pursuant to Section 5 of this Lease.

(q) "Person" shall mean any individual, trust, estate, partnership, joint venture, company, corporation, association, or any other legal entity or business enterprise.

(n) "Rent" shall mean the Base Rent and any Additional Rent.

(o) "State" shall mean the State of Florida.

(p) "Surviving Obligations" shall mean upon the expiration or earlier termination of this Lease the obligations of Lessee, including: (i) the obligation to pay Rent which is due and unpaid through the effective date of such expiration or termination (prorated through the date of such termination) to the extent due, (ii) compliance with the provisions of Section 12 (Indemnity) for matters arising prior to the date of termination of this Lease, (iii) Section 23 (Environmental Compliance), and (iv) and any other obligation identified as surviving obligation in this Lease.

SECTION 2. LETTING.

(a) Let. The Lessor hereby lets to Lessee and Lessee hereby hires and takes from the Lessor the Premises.

(b) Uses. Lessee agrees to operate the Premises only for the Permitted Uses provided, further, if the Lessee shall, subject to the terms of this Lease, make the Premises available to Persons other than the Lessee by sublease or otherwise, the Lessee shall do so without discrimination and shall refrain from imposing or levying excessive, discriminatory or otherwise unreasonable charges or fees in connection with the Premises.

(c) As Is. Except as may be otherwise provided in this Lease, the Premises and all components thereof, are hereby demised in **"AS IS CONDITION"** and **"WITH ALL FAULTS."** Following the Effective Date, the Lessee shall **ASSUME ALL RISKS** with respect to the condition of the Premises and of non-compliance of the Premises, or any part thereof, with any laws, ordinances, rules, or regulations of Governmental Authorities, except as otherwise set forth in this Lease. The Lessee hereby releases the Lessor of and from any and all claims and liabilities whatsoever on account of the condition of the Premises.

(d) Quiet Enjoyment. Lessee, upon paying the Rent herein reserved and performing and observing all of the other terms, covenants and conditions of this Lease on the Lessee's part to be performed and observed, shall peacefully and quietly have, hold and enjoy the Premises during the Term, subject to the terms and conditions of this Lease.

SECTION 3. TERM.

(a) Term. The term ("Term") of this Lease shall commence on the Effective Date and shall terminate on the last day of the tenth (10th) Lease Year of this Lease ("Termination Date"), unless sooner terminated as provided herein. The Term as defined herein shall also include renewals or extensions thereto.

(b) Renewal. Any renewal of this Lease shall be at the sole option of the Lessor. Such renewal will be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. In the event that Lessee is in full compliance with the terms of this Lease including the Permitted Use requirements set forth in Section 5 below, the Lessee may apply in writing for a renewal of the Term. Such application for renewal must be received by Lessor no sooner than one hundred twenty (120) days and no later than thirty (30) days prior to the Termination Date of the original or then current Term. Any renewal of the Term granted by the Lessor shall commence on the last day of the then current Term. If the Lessee fails to timely apply for renewal, or in the event the Lessor does not grant a renewal, the Lessee, at its cost and expense, shall vacate the Premises and remove all Improvements prior to the expiration of the Term subject to the provisions of Section 19 below. The obligation to remove all Improvements upon the expiration or earlier termination of this Lease shall constitute an affirmative covenant upon the Lessee and is intended to and shall run with the title to the Upland (as defined below) and shall be binding upon Lessee and Lessee's successors in title or successors in interest.

(c) Upland. During the Term, Lessee shall maintain a leasehold or fee simple title interest in the upland real property adjacent to the Premises (the "Upland") and, if such interest expires, terminates or is extinguished for any reason whatsoever including, but not limited to the sale or conveyance of the Upland, Lessor shall have the option to immediately terminate this Lease upon written notice to the Lessee, in which case the Rent shall be prorated as of the date of termination and the parties shall be relieved of all rights and obligations hereunder except for the Surviving Obligations. Prior to any sale or conveyance of the Upland, Lessee shall notify the potential buyer or grantee in writing of Lessor's termination right as set forth herein and, if Lessor elects not to terminate this Lease, Lessee and the buyer or grantee, as applicable, shall execute any documents required by the Lessor to effect and assignment and assumption of this Lease. Failure to do so will not relieve the Lessee from responsibility for full compliance with the terms and conditions of this Lease which include, but are not limited to, payment of all Rent prior to such assignment.

SECTION 4. RENT.

(a) Base Rent. Commencing on the Effective Date, Lessee shall pay to Lessor the amount of **One Hundred Eighty Eight Dollars and 00/100 Dollars (\$188.00)** ("Base Rent") plus applicable sales tax, which Base Rent shall be paid annually on the first day of each Lease Year in advance commencing on the Effective Date. If the Effective Date does not fall on the first day of the month, in order for the annual installments of Base Rent to be paid on the first day of the first month of each Lease Year, the Base Rent shall be prorated for the number of days remaining in the month in which the Effective Date occurs. Annual installments of Base Rent shall then be paid on the first day of the first month of each Lease Year during the Term with the last year's Base Rent prorated in order to account for the initial proration

relative to the Effective Date. The Base Rent for the remaining years of the Term shall be adjusted (upwards only) pursuant to Section 18-21.011, Florida Administrative Code. The Lessor will notify the Lessee in writing of the amount and the due date of the increased Base Rent; provided, however, the failure of the Lessor to provide said notice shall not relieve the Lessee of payment of Base Rent in which case Lessee shall pay Lessor the Base Rent in the amount of prior Lease Year's Base Rent which shall be due on the anniversary of the date the prior Lease year's Base Rent was due until such time as Lessee receives Lessor's notice of the increased Base Rent.

The Base Rent shall be modified annually based on fluctuations of the Consumer Price Index ("CPI") with a ten percent (10%) cap on annual adjustments. The CPI is averaged over a five year period and the resulting percentage of change is then applied to the previous annual Base Rent. Upon request by the Lessor, Lessee shall promptly provide any and all information in a certified form and to calculate the Base Rent, including wet slip rental information, if applicable. In addition, if the wet slip rental rates change during the applicable Lease Year, Lessor shall submit a revised rate schedule within thirty (30) days following the effective date of the rate change. The Lessor reserves the right to assess retroactively additional payments, which shall constitute Additional Rent hereunder, when the actual rental rates or total number of linear feet for rent used to determine the Base Rent differs from the rental rates or total number of linear feet for rent supplied by the Lessee.

(b) Examination of Books and Records. For the purpose of this Lease, Lessee hereby authorizes Lessor to examine, for the Term including any extensions thereto, plus three (3) additional years after the expiration or earlier termination of the Term, at all reasonable hours and at Lessee's place of business or such other address within the City as provided by Lessee, the books, records, contracts, and other documents confirming and pertaining to the computation of Base Rent payments as specified in Section 4(a) above. The Lessee shall secure, maintain, and keep all books and records for the Term including any extensions thereto, plus three (3) additional years. This period shall be extended for an additional two (2) years upon request for examination of all books records and accounts for Rent payment verification purposes by the Lessor.

(c) Licenses, Fees and Taxes. Lessee shall pay, on or before their respective due dates, to the appropriate collecting authority, all taxes, licenses, permits, assessments, and fees of Governmental Authorities, which are now or may hereafter be levied upon the Premises and this Lease, or upon Lessee, or upon any of Lessee's property used in connection therewith including, but not limited to the Improvements, or upon the Rent or other sums payable hereunder, including, but not limited to any applicable ad valorem, sales or excise taxes, and shall maintain in current status all licenses and permits, now or hereafter required by Governmental Authorities for the operation of the Premises and the Improvements.

(d) Additional Rent. If the Lessor is required or elects to pay any sum or sums or incur any obligations or expense by reason of the failure, neglect or refusal of Lessee to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Lease which breach is not cured by Lessee within the applicable cure period, Lessee agrees to pay the reasonable sums so paid or the reasonable expense so incurred, including all interest, costs, damages and penalties, and reasonable attorneys' fees and costs, and each and every part of the same shall be and become Additional Rent payable within thirty (30) calendar days after written demand therefor.

(e) Late Payments: Interest. Lessor shall be entitled to collect interest at the highest non-usurious rate permitted by law per annum from the date any sum is due to Lessor until the date paid on any amounts that are not paid within ten (10) days of their due date under this Lease. The right of Lessor to require payment of such interest and the obligation of the Lessee to pay same shall be in

addition to and not in lieu of the right of the Lessor to enforce other provisions herein and to pursue other remedies provided by law.

(f) Place of Payments. All payments of Rent required to be made by the Lessee to Lessor under this Lease shall be made payable to "City of Marathon" and shall be paid to the Lessor at the City of Marathon, 9805 Overseas Highway, Marathon, Florida 33050 or to such other office or address as may be substituted therefor. All Rent (together with all applicable sales tax thereon) shall be payable without demand, offset or deduction, other than as set forth in this Lease.

SECTION 5. RIGHTS AND USES OF THE LESSEE.

(a) Permitted Use. Lessee shall be permitted to utilize the Premises solely for the operation, use, maintenance and repair of the Improvements. Lessee shall not alter or modify, or seek to alter or modify, in any manner the approved land use of the Premises or the type of land use of the Upland (e.g., commercial to multi-family residential) without first obtaining the Lessor's written consent in the form of an amendment to this Lease and the payment of additional fees, if applicable, and the removal of that portion of the Improvements which are no longer authorized pursuant to the amendment to the Lease. No Improvements shall be constructed in any manner that would cause harm to wildlife or the environment. Lessee shall ensure that no permanent, temporary or floating structures, fences, docks, pilings or any structure whose use is not water dependent shall be erected or conducted over the Premises without prior written consent from the Lessor, which consent may be withheld in Lessor's sole and absolute discretion. No additional structures and/or activities including dredging, relocation/realignment or major repairs or renovations to authorized structures, shall be erected or conducted on or over the Premises without prior written consent from the Lessor which consent may be withheld in Lessor's sole and absolute discretion. Unless specifically authorized in writing by the Lessor such activities or structures shall be considered unauthorized and, in addition to a breach of the terms and conditions of this Lease, a violation of City Code, and shall subject the Lessee to administrative fines under Chapter 18-14, Florida Administrative Code. This foregoing shall not apply to minor structural repairs required to maintain the authorized Improvements in a good state of repair in the interests of public health, safety or welfare; provided however, that such activities shall not exceed the activities authorized by this Lease.

(b)f Prohibited Uses. Lessee shall be expressly prohibited from utilizing the Premises for the following:

(1) The construction, installation, operation, or use of fueling facilities of any kind whatsoever.

(2) Mooring or docking (either temporarily or permanently) of any vessel not registered or titled in accordance with Chapters 327 and 328, Florida Statutes.

(3) Any use that requires the use or storage of Materials (as defined in Section 23(a) below at the Premises.

(4) Any use of the Premises for residential purposes or living quarters of any kind whatsoever including, but not limited to live-aboards.

(5) Any use which is not a Permitted Use as set forth in Section 5(a) above.

(6) Any use prohibited by law.

SECTION 6. GENERAL OBLIGATIONS OF LESSEE.

(a) Encumbrances. Lessee hereby represents, warrants and covenants to the Lessor that the fee simple title to the Premises shall be at all times free and clear of all liens, claims and encumbrances created by or through Lessee (other than those created or consented to by Lessor). If any lien or notice of lien shall be filed against the fee simple title of the Premises created by or through Lessee, the Lessee shall, within thirty (30) calendar days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, or order of a court of competent jurisdiction. Lessee shall not be deemed to be Lessor's agent so as to confer upon any contractor or subcontractor providing labor or services that are material to the Premises (whether in connection with Lessee's Improvements or otherwise) a construction lien, mechanic's lien or both against Lessor's estate under the provisions of Chapters 255 and 713, Florida Statutes, as amended from time to time. The foregoing shall be contained in a notice or memorandum to be recorded in the Public Records of Monroe County in accordance with Chapters 255 and 713, Florida Statutes.

(b) Title to Premises. Except for its rights in and to this Lease, Lessee shall make no claim of title or interest to the Premises by reason of the occupancy or use thereof, and all title and interest to the Premises is vested in the Lessor.

(c) In the event that the Improvements or any portion thereof are determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with the riparian rights of property owner(s) adjacent to the Premises, Lessee agrees to either obtain written consent in a form and substance acceptable to Lessor for the offending structure from the affected riparian owner or to remove the interference or encroachment within sixty (60) days from the date of the adjudication. Failure to comply with the foregoing shall constitute a material breach of this Lease and shall be grounds for immediate termination of this Lease at the option of the Lessor notwithstanding any notice requirements and cure periods otherwise provided in this Lease.

(d) Garbage. Lessee shall remove from the Premises and Improvements or otherwise dispose of all garbage, debris and other waste materials (whether solid or liquid) arising out of the use of the Premises and Improvements or out of any operations conducted thereon in accordance with applicable law. Any of such as may be temporarily stored in the open, shall be kept in suitable garbage and waste receptacles. When effecting removal of all such waste, Lessee shall comply with all laws, ordinances, rules, regulations and procedures of all applicable Governmental Authorities. Without limiting the foregoing, Lessee shall place and maintain covered, secure trash receptacles, preferably of fifty (50) gallon capacity, of a sufficient number and at appropriate locations on the over water structures within the Premises to encourage facility users to discard litter in an acceptable manner and prevent litter from being discarded into the waters above the Premises.

(e) Waste. Lessee shall commit no legal nuisance, waste or injury on the Premises and shall not do or permit to be done anything which may result in the creation or commission or maintenance of such material nuisance, waste or legal injury upon or to the Premises.

(d) Signs. No permanent or temporary signs directed to the boating public shall be erected or placed within the Premises and/or the Improvements. Lessee shall install and maintain manatee awareness signs, at locations and of a format acceptable to the Division of Marine Resources, Office of Protected Species Management, advising boaters to exercise caution due to the presence of manatee in the area. Lessee shall install and maintain manatee information displays, in locations and of a format acceptable to the Division of Marine Resources, Office of Protected Species Management, informing the boating public of the habitat and mannerisms of the manatee and potential threat boats can impose on the continued existence of the endangered manatee. Lessee hereby accepts the responsibility to contact and

comply with the requirements of the Division of Marine Resources, Office of Protected Species Management, MS 245, Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399, within six (6) months of receipt of executed lease. Lessee also agrees to provide an affidavit signed by the Lessee stating the required signs and displays have been installed and satisfy the requirements of the Division of Marine Resources, Office of Protected Species Management.

SECTION 7. COMPLIANCE WITH LAWS.

Lessee shall comply with all laws, ordinances, resolutions and governmental rules, regulations and orders of Governmental Authorities as may be in effect now or at any time during the Term of this Lease, all as may be amended, which are applicable to Lessee, the Premises, the Improvements, or the operations conducted at the Premises. A violation of any of such laws, ordinances, resolutions, rules, regulations or orders, as amended, not cured within the applicable cure period shall constitute a material breach of this Lease, and in such event Lessor shall be entitled to exercise any and all rights and remedies hereunder and at law and in equity.

SECTION 8. MAINTENANCE AND REPAIR.

(a) Lessee shall throughout the Term assume the entire responsibility and shall relieve the Lessor from all responsibility for all repair, maintenance and replacements on the Premises (which shall include, without limitation, the Improvements thereon) whether such repair, maintenance and replacements are ordinary or extraordinary, structural or otherwise. Maintenance, repairs, replacements and capital improvements shall be in quality and class comparable to similar properties, to preserve the Premises and Improvements in good order and condition. During the Term, Lessee shall be required to keep all Improvements in good and useable condition throughout the Term of this Lease.

(b) If Lessee fails or neglects to fulfill its repair and maintenance obligations under Section 8(a) above and such failure continues for thirty (30) days following written notice from Lessor to Lessee specifying the nature of such failure or neglect and Lessee does not contest or dispute the failure or neglect set forth in Lessor's notice, Lessor shall have the right, but not the obligation to perform such repairs and maintenance obligations on behalf of Lessee. If Lessor performs such repairs and maintenance obligations pursuant to the terms and conditions of this Section, Lessee agrees to pay Lessor the cost thereof as Additional Rent within ten (10) days following written demand therefore.

SECTION 9. INSURANCE REQUIREMENTS FOR LESSEE.

(a) Casualty Insurance. Lessee shall, during the Term of this Lease, insure and keep insured to the extent of not less than 100% of the insurable replacement value thereof, the Improvements and fixtures and attached equipment on the Premises against such hazards and risks as may now or in the future be included under the Standard Form of Fire and Extended Coverage insurance policy of the State of Florida.

(b) Comprehensive General Liability Insurance to protect against bodily injury liability and property damage in an aggregate amount of not less than One Million Dollars (\$1,000,000) with a Two Million Dollars (\$2,000,000) umbrella per occurrence, combined single limit. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include: Premises and Operations, Independent Contractors and Broad Form Contractual Coverage covering all liability arising out of the terms of this Lease.

(c) Workers' Compensation and Employer's Liability Insurance to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include: Employers' Liability with a limit of Five Hundred Thousand Dollars (\$ 500,000) each accident. Lessee must be in compliance with all applicable State and federal workers' compensation laws, including US Longshore and Harbor Workers Compensation Act, Jones Act (maritime), Federal Employers Liability Act (railroad), etc.

(d) Certificates. Lessee shall furnish to the Lessor, certificates of insurance or endorsements evidencing the insurance coverages specified by this Article prior to the Effective Date of this Lease. The required certificates of insurance shall name the types of policies provided, refer specifically to this Lease, and state that such insurance is as required by this Lease. All policies of such insurance and renewals thereof shall name the Indemnitees as additional insureds as their interests may appear.

(e) Cancellation. Coverage is not to cease and is to remain in force (subject to cancellation notice) throughout the term of this Lease and until all performance required hereunder is completed. All policies must be endorsed to provide Lessor with at least thirty (30) calendar days' notice of cancellation, restriction or both. If any of the insurance coverages will expire prior to the termination of this Lease, copies of renewal policies shall be furnished at least sixty (60) calendar days' prior to the date of their expiration.

(f) Continued Obligations. Compliance with the foregoing requirements shall not relieve the Lessee of its liability and obligations under any other provision of this Lease.

(g) Liability policies shall be endorsed to provide the following: That such insurance is primary to any other insurance available to the City with respect to claims covered under the policy and that such insurance applies separately to each insured against whom or which claims are made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

SECTION 10. DAMAGE TO OR DESTRUCTION OF PREMISES.

(a) Removal of Debris. If the Improvements located on the Premises or any part thereof shall be damaged by fire, the elements, or other casualty, Lessee shall promptly remove, or cause to be promptly removed, all debris resulting from such damage from the Premises, and Lessee shall promptly take such actions and cause such repairs to be made to the Premises as will place the Premises in a neat and orderly condition and as are necessary for the safety of persons and property. To the extent, if any, that the removal of debris under such circumstances is covered by Lessee's insurance, the proceeds thereof shall be paid to Lessee for such purpose.

(b) Minor Damage. If Improvements located on the Premises or any part thereof shall be damaged by fire, the elements, or other casualty but not rendered unusable, then there shall be no abatement of Rent and the Lease shall continue in full force and effect. Lessee may repair and restore the Improvements at the expense of Lessee and, if such damage is covered by Lessee's, insurance, the proceeds thereof shall be made available to Lessee for that purpose.

SECTION 11. CONDEMNATION.

If at any time during the Term of this Lease, the Premises or, as determined among the parties, any portion thereof, as would render the balance of the Premises not suitable for the Permitted Use enumerated in this Lease shall be taken by transfer or exercise of eminent domain power by any Governmental Authority, the Lease shall terminate upon the date that possession is surrendered to the condemning authority, at which time Rent and other charges shall be apportioned, except that this provision shall not release the parties from any liability or claims arising prior to the date of such termination nor other Surviving Obligations. The Lessor shall be entitled to the condemnation award for the Premises and Lessee

shall be permitted to make separate claim to the condemning authority for its leasehold interest hereunder. Lessor shall not be obligated to raise any defense to any proposed acquisition or use of the Premises by any condemning authority.

SECTION 12. INDEMNITY.

Lessee shall indemnify and hold harmless the Indemnitees from and against any and all claims, costs, losses and damages, liabilities, expenditures, or causes of action of any kind (including negligent, reckless, or willful or intentional acts or omissions of the Lessee, any subcontractor, any supplier, any Person directly or indirectly employed by any of them to perform or furnish any work or anyone for whose acts any of them may be liable), arising from, relative to, or caused in connection with this Lease except, and only to the extent, such is caused by the Lessor's gross negligence. This indemnity includes, but is not limited to, claims attributable to bodily injury, sickness, disease or death, or to injury or destruction of tangible property, including the improvements, and including the loss of use resulting therefrom. Payment of any amount due pursuant to this Section 12 shall, after receipt of written notice by Lessee from the Lessor that such amount is due, be paid by Lessee if the Lessor becomes legally obligated to pay same, or the Lessee agrees that it is responsible for said claim, or in the alternative, the Lessor, at the Lessor's option, may make payment of an amount so due and Lessee shall promptly reimburse the Lessor for same. Where the basis for a claim for damages brought against the Lessor by a third party is that the Lessor has breached a contract or other duty to the third party, and the action or inaction which constitutes the breach was a result of the negligent acts or omissions of Lessee under this Lease, then Lessee agrees, at Lessee's expense, after written notice from the Lessor to defend any action against the Lessor that falls within the scope of this Section 12, or the Lessor, at the Lessor's option, may elect not to tender such defense and may elect instead to secure its own attorney to defend any such action. If the claimant prevails in a lawsuit which alleged that the breach was a result of the negligent act or omissions of the Lessee under this Lease, then the reasonable costs and expenses of the Lessor incurred in defending such action shall be payable by Lessee. If the Lessor requests the Lessee to defend such action on behalf of the Lessor and the Lessor is not found liable for any damages which are expressly or impliedly claimed to be the result of the Lessee's acts or omissions, then, the Lessor shall reimburse the Lessee all the reasonable fees and costs expended in the defense. If either the Lessor or Lessee is required to incur attorneys' fees or costs to enforce this Section 12, the prevailing party in any litigation shall recover all of their attorneys' fees and costs at both trial and appellate levels. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

SECTION 13. RIGHTS OF ENTRY RESERVED.

(a) Access. The Lessor, by its officers, employees, agents, representatives and contractors shall have the right at all reasonable times and upon reasonable advance notice to enter upon the Premises and Improvements for the purpose of inspecting same. The Lessor may also observe the performance by the Lessee of its obligations under this Lease and for the doing of any act for which the Lessor may be obligated or have the right to do under this Lease or otherwise, subject to the provisions of this Lease, provided in connection with such access, such party shall use reasonable efforts to minimize disruption to the operations being conducted upon the Premises and Improvements.

(b) No Eviction. The exercise of any or all of the foregoing rights by the Lessor or others to the extent permitted by this Lease shall not be or be construed to be an eviction of the Lessee nor be

made the grounds for any abatement of Rent nor any claim or demand for damages, consequential or otherwise.

SECTION 14. ASSIGNMENT AND SUBLETTING.

(a) Assignment. This Lease shall not be assigned or otherwise transferred without prior written consent of the Lessor, which consent may be withheld by the Lessor in its sole and absolute discretion. Such assignment or other transfer shall be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. Any assignment or other transfer without prior written consent of the Lessor shall be null and void and without legal effect.

(b) Subletting. Lessee shall not sublet portions or the whole of the Premises and the Improvements, or grant licenses or concessions thereat (all of the foregoing being deemed a "Sublease") without the prior written consent of the Lessor in each instance, which consent may be withheld by the Lessor in its sole and absolute discretion. The following terms and conditions shall apply in each instance where Lessor has consented to a sublease:

(1) Each Sublease shall contain a self-operative provision that it is subject and subordinate to this Lease and any amendments, modifications and extensions thereof, including, but not limited to, all use restrictions.

(2) No Sublease shall relieve Lessee from liability for any of its obligations hereunder, and in the event of any such Sublease, Lessee shall continue to remain primarily liable for and continue to make payments for the payments required to be made pursuant to this Lease and for the performance and observance of the other agreements on its part herein contained.

(3) The form of such Sublease shall be subject to the review and approval of the Lessor and shall, at a minimum, contain all of the material provisions of this Lease with respect to the obligations of Lessee.

SECTION 15. DEFAULT; TERMINATION.

(a) Default. If any one or more of the following events shall occur, same shall be an event of default under this Lease:

(1) Lessee shall voluntarily abandon the Premises or discontinue its operations on the Premises for a period of thirty (30) consecutive calendar days, other than as a result of casualty, condemnation, major renovation, or one or more acts of force majeure; or

(2) Any lien, claim or other encumbrance which is filed against the Lessor's fee simple title to the Premises (other than that created by or through Lessor) is not removed, or if the Lessor is not adequately secured by bond or otherwise with respect to any lien against the fee simple title of the Premises (other than that created by or through Lessor), within thirty (30) calendar days; or

(3) The Lessee shall fail to pay the Rent when due to the Lessor and Lessee shall continue in its failure to make any such payments for a period of ten (10) calendar days; or

(4) The Lessee shall fail to make any other payment required hereunder when due to the Lessor and shall continue in its failure to make any such other payments required hereunder for a period of ten (10) calendar days; or

(5) The Lessee shall fail to keep, perform and observe each and every non-monetary promise, covenant and term set forth in this Lease on its part to be kept, performed or observed within thirty (30) calendar days (except where fulfillment of its obligation requires activity over a greater period of time and the Lessee shall have commenced to perform whatever may be required for fulfillment within thirty (30) calendar days and continues such performance without material interruption); provided, however, the foregoing shall not apply if Lessee's failure to perform is due directly to the acts or omissions of Lessor; or

(6) To the extent permitted by law, if Lessee makes an assignment for the benefit of creditors; or

(7) To the extent permitted by law, if Lessee files a voluntary petition under Title 11 of the United States Code (the "Bankruptcy Code") or if such petition is filed against Lessee and an order for relief is entered and not dismissed within sixty (60) days or if Lessee files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code or any other present or future applicable federal, state or other statute or law; or

(8) To the extent permitted by law, if within sixty (60) days after the commencement of any proceeding against Lessee seeking to have an order for relief entered against its as debtor or to adjudicate it a bankrupt or insolvent, or seeking any reorganization, arrangement, composition, readjustment or adjustment, winding-up, liquidation, dissolution or similar relief under the Bankruptcy Code or any other present or future applicable federal, state or other statute or law of any jurisdiction, domestic or foreign, such proceeding is not dismissed, or if, within sixty (60) days after the appointment, without the consent or acquiescence of Lessee, of any trustee, receiver, custodian, assignee, sequestrator or liquidator of Lessee, or of all of any of the Premises or any interest of Lessee therein, such appointment is not vacated or stayed on appeal or otherwise, or if, within thirty (30) days after the expiration of any such stay, such appointment is not vacated.

(b) Remedy. Upon the occurrence of any event set forth in Section 15(a), above, or at any time thereafter during the continuance thereof, the Lessor may at its option immediately terminate the rights of Lessee hereunder by giving written notice thereof, which termination shall be effective upon the date specified in such notice or Lessor may exercise any and all other remedies available to Lessor hereunder or at law or in equity. In the event of any such termination, Lessee shall have no further rights under this Lease and shall cease forthwith all operations upon the Premises and shall pay in full all Rent and other charges as set forth in this Lease, then due and owing, through the date of termination, and Lessee shall be liable for all Surviving Obligations as well as compensatory damages incurred by Lessor in connection with Lessee's default or the termination of this Lease upon such a default, including without limitation, all direct, indirect, and all other damages whatsoever, including punitive and consequential damages.

(c) Habitual Default. Notwithstanding the foregoing, in the event that the Lessee has defaulted in the performance of or breached the same obligation three (3) or more times in a twelve (12) month period, and regardless of whether the Lessee has cured each individual condition of breach or default, the Lessee may be determined by the Lessor to be an "habitual violator." At the time that such determination is made, the Lessor shall issue to the Lessee a written notice advising of such determination and citing the circumstances therefor. Such notice shall also advise Lessee that there shall be no further notice or grace periods to correct any subsequent breaches or defaults of that particular obligation for the balance of such twelve (12) month period and that any subsequent breaches or defaults of that particular obligation for the balance of such twelve (12) month period, taken with all previous breaches and defaults, shall be considered cumulative and collectively, shall constitute a condition of noncurable default and grounds for immediate termination of this Lease. In the event of any such subsequent breach or default of that particular obligation for the balance of such twelve (12) month period, for which the Lessee has been deemed to be a habitual violator, Lessor may terminate this Lease upon the giving of written notice of termination to the Lessee, such termination to be effective upon delivery of the notice to the Lessee.

(d) No Waiver. No acceptance by the Lessor of Rent, fees, charges or other payments in whole or in part for any period or periods after a default of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Lessee shall be deemed a waiver of any right on the part of the Lessor to terminate this Lease, or to exercise any other available remedies. Failure by Lessor or Lessee to enforce any provision of this Lease shall not be deemed a waiver of such provision or modification of this Lease. A waiver of any breach of a provision of this Lease shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Lease.

SECTION 16. REMEDIES TO BE NON-EXCLUSIVE.

(a) Cumulative Remedies. All rights and remedies of the parties hereunder or at law or in equity are cumulative, and the exercise of any right or remedy shall not be taken to exclude or waive the right to the exercise of any other, subject to the express limitations set forth in this Lease, if any. No waiver by either party of any failure to perform any of the terms, covenants, and conditions hereunder shall operate as a waiver of any other prior or subsequent failure to perform any of the terms, covenants, or conditions herein contained.

(b) Survival. Upon termination or expiration of this Lease, the Lessee shall remain liable for all obligations and liabilities that have accrued prior to the date of termination or expiration.

SECTION 17. SURRENDER.

The Lessee covenants and agrees to yield and deliver peaceably and promptly to the Lessor, possession of the Premises, on the Termination Date or earlier termination of this Lease. The Lessee shall surrender the Premises in the condition required pursuant to this Lease, reasonable wear, tear, casualty and condemnation accepted. All maintenance and repairs shall be completed prior to surrender.

SECTION 18. ACCEPTANCE OF SURRENDER OF LEASE.

No agreement of surrender or to accept a surrender of this Lease shall be valid unless and until the same shall have been reduced to writing and signed by the duly authorized representatives of the Lessor and of the Lessee in a document of equal dignity and formality herewith. Except as expressly provided in this Lease, neither the doing of nor any omission to do any act or thing by any of the officers, agents or employees of the Lessor shall be deemed an acceptance of a surrender of letting under this Lease.

SECTION 19. REMOVAL OF PROPERTY.

(a) Removal. Immediately upon the termination or earlier expiration of this Lease, Lessee shall remove the Improvements and any other personal property from the Premises. Lessee shall immediately repair any damage to the Premises caused by its removal of the Improvements and any personal property. If the Lessee shall fail to remove the Improvements and any personal property by the expiration or earlier termination of this Lease, then, Lessee shall be considered to be holding over and subject to charges under Section 25(l), hereof, and after fourteen (14) calendar days following said termination or expiration, at the Lessor's option: (i) title to same shall vest in the Lessor, at no cost to the Lessor; or (ii) Lessor may remove such property to a public warehouse for deposit; or (iii) Lessor may retain the same in its own possession and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, second, to any sums owed by the Lessee to the Lessor, with any balance remaining to be paid to the Lessee; or (iv) Lessor may dispose of such property in any manner permitted by law. If the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Lessor upon demand. In the event Lessee fails to pay such expenses to Lessor following demand therefore, Lessor is hereby authorized to file a claim of lien for such expenses upon the Upland and thereafter foreclose upon such Claim of lien in accordance with applicable law.

(b) Survival. The provisions of this Section shall survive the expiration or termination of this Lease.

SECTION 20. NOTICES.

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

[REST OF PAGE INTENTIONALLY LEFT BLANK]

FOR LESSOR:

City of Marathon
9805 Overseas Highway
Marathon, Florida 33050
Attn: City Manager

and

City of Marathon
9805 Overseas Highway
Marathon, Florida 33050
Attn: City Attorney

FOR LESSEE:

Attn: _____

and

Attn: _____

All notices, approvals and consents required hereunder must be in writing to be effective.

SECTION 21. NON-LIABILITY OF INDIVIDUALS.

No limited partner, director, officer, administrator, official, agent or employee of the Lessor or Lessee shall be charged personally or held contractually liable under any term or provisions of this Lease or of any supplement, modification or amendment to this Lease or because of any breach thereof, or because of its or their execution or attempted execution.

SECTION 22. UTILITIES.

From and after the Effective Date, the Lessee shall pay for all water, wastewater, electric, telephone, solid waste, recycling, and all other utility and other expenses of any and all types whatsoever which are now or hereafter charged or assessed with respect to operations at the Premises. Lessee shall pay all fees or charges relative to the foregoing promptly prior to delinquency. The metering devices and utility lines installed by the Lessee for such utilities shall be installed at the cost of the Lessee and shall (to the extent owned by Lessee) become the property of the Lessor at the end of the Term. Extension of utility mains or services to meet the needs of the Lessee on the Premises shall be at the expense of the Lessee. No failure, delay or interruption in supplying any services for any reason whatsoever (whether or not a separate charge is made therefor) shall be or be construed to be an eviction of the Lessee or grounds

for any diminution or abatement of rental or shall be grounds for any claim by the Lessee under this Lease for damages, consequential or otherwise unless caused by Lessor's wrongful act or gross neglect.

SECTION 23. ENVIRONMENTAL COMPLIANCE; ENVIRONMENTAL CONTAINMENT AND REMOVAL.

(a) No Warranty by Lessor. Lessor makes no representations or warranties whatsoever as to the existence of any pollutants, or hydrocarbon contamination, hazardous materials, or other contaminants or regulated materials (collectively, "Materials") on, in or under the Premises, whether or not in violation of any law, administrative code provision, ordinance, rule, regulation, order or directive of Governmental Authorities, as amended. It shall be the sole responsibility of Lessee to make sufficient inspection of the Premises to satisfy itself as to the presence or absence of any Materials.

(b) Compliance. From and after the Effective Date, Lessee agrees to comply with all existing and future environmental laws, administrative code provisions, ordinances, rules and regulations, and the requirements of Governmental Authorities covering the Premises and Improvements

(c) Clean Up. The Release (as defined in Section 23(d) below) of any Materials on, in or under the Premises, or as a result of Lessee's operations at the Premises including any Release into the waters above the Premises (other than any Materials created by or through Lessor), that is in an amount that is in violation of any law, administrative code provision, ordinance, rule, regulation, order or directive of Governmental Authorities, as amended, by Lessee or any of its or the officers, employees, contractors, subcontractors, invitees, or agents of Lessee committed subsequent to the Effective Date of this Lease, shall be, at the Lessee's expense, and upon demand of Lessor or any Governmental Authority, immediately contained or removed to meet the requirements of applicable environmental laws, rules and regulations. If Lessee does not take action promptly to have such Materials contained, removed and abated to the extent required by law, the Lessor may upon reasonable notice to Lessee (which notice shall be written unless an emergency condition exists) undertake the removal of the Materials; however, any such action by the Lessor or any of its agencies shall not relieve the Lessee of its obligations under this or any other provision of this Lease or as imposed by law. No action taken by either the Lessee or the Lessor to contain or remove Materials, or to abate a release, whether such action is taken voluntarily or not, shall be construed as an admission of liability as to the source of or the person who caused the pollution or its release.

(d) Notice of Release. Lessee shall provide the Lessor with notice of Releases of Materials occurring at the Premises or on account of Lessee's operations at the Premises. As required by law, Lessee shall provide the Governmental Authorities with notice of spills, releases, leaks or discharges (collectively, "Release") of Materials on, in or under the Premises including any Release into the waters above the Premises which exceeds an amount required to be reported to any Governmental Authorities under applicable environmental laws, rules and regulations, which notice shall be in accordance with applicable environmental laws, rules and regulations.

(e) Cure. If Lessee is in default of its obligation to remove the Materials in violation of applicable law and such breach is not cured within the applicable cure period, and the Lessor arranges for the removal of any Materials on the Premises that were caused by the Lessee or the officers, employees, contractors, subcontractors, invitees, or agents of Lessee, the costs of such removal incurred by the Lessor shall be paid by Lessee to the Lessor within ten (10) calendar days of Lessor's written demand, with interest at the highest non-usurious rate permitted by Florida law per annum thereafter accruing.

(f) Survival. The provisions of this Section shall survive the expiration or other termination of this Lease.

SECTION 24. NON-DISCRIMINATION.

Lessee shall not discriminate against any Person because of that Person's race, color, religion, sex, national origin, age, handicap, or this Lease with respect to any activity occurring within the Premises or upon the Upland.

SECTION 25. MISCELLANEOUS.

(a) Headings. The section and paragraph headings in this Lease are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provision hereof.

(b) Jurisdiction. This Lease shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Venue for any disputes shall lie in the courts of Monroe County, Florida.

(c) Severance. In the event this Lease or a portion of this Lease is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective to the fullest extent permitted by law.

(d) Relationship of Parties/Independent Contractor. It is the intent of the parties that the relationship of Lessor and Lessee hereunder is the relationship of landlord and tenant. Services provided by Lessee shall be subject to the supervision of Lessee and such services shall not be provided by Lessee, or its agents, as officers, employees, or agents of the Lessor. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Lease. Nothing contained herein shall create or be deemed or construed to create a partnership, joint venture, joint enterprise or any other agency or other similar such relationship between the parties hereto.

(e) Third Party Beneficiaries. Neither Lessee nor Lessor intend to directly or substantially benefit a third party by this Lease. Therefore, the parties agree that there are no third party beneficiaries to this Lease and that no third party shall be entitled to assert a claim against either of them based upon this Lease.

(f) Negotiated Lease. Both parties have substantially contributed to the drafting and negotiation of this Lease and this Lease shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other. The parties hereto acknowledge that they have thoroughly read this Lease, including all Exhibits and attachments hereto, and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein.

(g) Incorporation by Reference. The truth and accuracy of each "Recitals" clause set forth above is acknowledged by the parties. The attached Exhibits to this Lease are incorporated into and made a part of this Lease and all Exhibits subsequently attached to this Lease pursuant to the terms hereof shall be deemed incorporated into and made a part of this Lease.

(h) Estoppel Statement. The parties agree that from time to time, upon not less than fifteen (15) days prior request by a party hereto, the other party will deliver a statement in writing certifying: (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the

Lease as modified is in full force and effect and stating the modifications); (b) the dates to which the Rent and other charges have been paid; (c) that neither party is in default under any provisions of this Lease, or, if in default, the nature thereof in detail; and (d) such other information pertaining to this Lease as either party may reasonably request.

(i) Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Lease and executed by the Lessor and Lessee.

(j) Prior Agreements. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Lease that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document in accordance with subparagraph (i), above.

(k) References. All personal pronouns used in this Lease shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Lease as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section of this Lease, such reference is to the Section as a whole, including all of the subsections and subparagraphs of such Section, unless the reference is made to a particular subsection or subparagraph of such Section.

(l) Holdover. It is agreed and understood that any holding over of Lessee after the termination of this Lease shall not renew and extend same, but shall operate and be construed as a license from month to month. At the option of Lessor, upon written notice to Lessee, Lessee shall be required to pay to the Lessor during any holdover period, monthly license fees which shall be equal to double the amount of the monthly installment of rental that was due and payable for the month immediately preceding the termination date of this Lease. In addition, Lessee shall be required to pay to Lessor any other charges required to be paid hereunder during any such holdover period. Lessee shall be liable to the Lessor for all loss or damage on account of any such holding over against the Lessor's will after the termination of this Lease, whether such loss or damage may be contemplated at the execution of this Lease or not. It is expressly agreed that acceptance of the foregoing payments by the Lessor in the event that Lessee fails or refuses to surrender possession shall not operate or give Lessee any right to remain in possession nor shall it constitute a waiver by the Lessor of its right to immediate possession of the premises.

(m) Agent for Service of Process. It is expressly understood and agreed that if the Lessee is not a resident of the State of Florida, or is an association, corporation or partnership without a registered agent for service of process in the State of Florida, then in any such event the Lessee does designate the Secretary of State, State of Florida, its agent for the purpose of service of process in any court action between it and the Lessor arising out of or based upon this Lease, and the service shall be made as provided by the laws of the State for service upon a non-resident, who has designated the Secretary of State as agent for service. The Lessee shall designate an agent for service process in Florida. It is further expressly agreed, covenanted, and stipulated that, if for any reason, service of such process is not possible, and as an alternative method of service of process, Lessee may be personally served with such process out of this State by certified mailing to the Lessee at the address set forth herein. Any such service out of this State shall constitute valid service upon the Lessee as of the date of mailing. It is

further expressly agreed that the Lessee is amenable to and hereby agrees to the process so served, submits to the jurisdiction, and waives any and all objections and protest thereto.

(n) Waiver of Claims. Lessor shall not be liable for any loss, damage or injury of any kind or character to any person or property (i) arising from any use of the Premises or any part thereof; (ii) caused by any defect in any building, structure, or other Improvements thereon or in any equipment or other facility located therein; (iii) caused by or arising from any act or omission of Lessee, or of any of its agents, employees, licensees or invitees; (iv) arising from any accident on the Premises or any fire or other casualty thereon; (v) occasioned by Lessee's failure to maintain the Premises and Improvements in a safe condition; or (vi) arising from any other cause; unless, in any of such events, caused by the gross negligence or willful act of Lessor. The Lessee agrees that Lessor shall not be liable for injury to Lessee's business for any loss of income therefrom or from loss or damage for merchandise or property of Lessee or its employees, invitees, customers, commercial Lessees or other persons in or about the Premises, nor shall Lessor be liable for injuries to any persons on or about the Premises whether such damage is caused by or as a result of theft, fire, electricity, water, rain or from breakage, leakage, obstruction or other defect of pipes, sprinklers, wires, appliances, plumbing, fixtures or for any other condition arising upon the Premises, or from any new construction or repair, alteration or improvement on the part of Lessee's Improvements or the equipment, fixtures or appurtenance thereof. The Lessor does not waive any rights of sovereign immunity that it has under applicable law. Notwithstanding anything contained in this Lease to the contrary, in no event shall Lessor be liable for any consequential or punitive damages in connection with this Lease.

(o) Successors and Assigns Bound. This Lease shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto where permitted by this Lease.

(p) Time of Essence. Time is expressed to be of the essence of this Lease.

(q) Written Approvals. All approvals and consents required to be obtained hereunder must be in writing to be effective. Unless otherwise specifically provided to the contrary, any consent or approval required by a party to this Agreement shall not be unreasonably withheld, conditioned or delayed.

(r) Authority of Individuals. The individuals executing this Lease on behalf of Lessee personally warrant that they have full authority to execute this Lease in a representative capacity on behalf of Lessee for whom they are acting herein.

(s) Recordation of Memorandum of Lease. The Lessee, at its own expense, shall record this fully executed Lease in its entirety in the Public Records of Monroe County, Florida within fourteen (14) days after receipt, and shall provide to the Lessor within ten (10) days following the recordation a copy of the recorded Lease in its entirety which contains the O.R. Book and Pages at which the lease is recorded.

(t) No Set Off. The Lessee acknowledges that, as of the Effective Date hereof, it has no claims against Lessor with respect to any or the matters covered by this Lease and as of the Effective Date it has no claim of set off or counterclaims against any of the amounts payable by Lessee to Lessor under this Lease. The Lessee is not entitled to setoff against the amounts payable by Lessee to Lessor pursuant to this Lease.

(u) Police/Regulatory Powers. Lessor cannot, and hereby specifically does not, waive or relinquish any of its regulatory approval or enforcement rights and obligations as it may relate to regulations of general applicability which may govern the Premises, any improvements thereon, or any operations at the Premises. Nothing in this Lease shall be deemed to create an affirmative duty of Lessor to abrogate its sovereign right to exercise its police powers and governmental powers by approving or disapproving or taking any other action in accordance with its zoning and land use codes, administrative codes, ordinances, rules and regulations, federal laws and regulations, State laws and regulations, and grant agreements. In addition, nothing herein shall be considered zoning by contract.

(v) Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your local public health unit.

(w) Broker. Each party represents to the other that it has not dealt with any broker or finder in connection with the execution of this Lease.

(x) Counterparts. This Lease may be executed in counterparts, each of which shall be deemed to be an original.

(y) Joint and Several Liability. Notwithstanding anything to the contrary contained herein, if Lessee is a general partnership or joint venture, any general partner or venturer of Lessee shall be jointly and severally liable and obligated with Lessee for the full performance of all of the terms, covenants, obligations and conditions of this Agreement.

(z) Attorneys' Fees. In the event of any litigation which arises out of, pertains to, or relates to this Lease or the breach of it, or the standard of performance required in it, the prevailing party shall be entitled to recover reasonable attorneys' fees from the non-prevailing party, subject to the limits of this Section. Where the prevailing party is awarded compensatory damages from the non-prevailing party, the amount of fees shall not exceed the amount of compensatory damages (it being the intent that no fees shall be recoverable by a prevailing party in the absence of an award of compensatory damages other than nominal damages).

[REST OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNES WHEREOF, the parties hereto have made and executed this Lease on the respective dates under each signature.

LESSOR:

CITY OF MARATHON, a Florida
municipal corporation

By: _____
George Garrett, City Manager

ATTEST:

Diane Clavier, City Clerk

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF THE
CITY OF MARATHON ONLY:

Steve Williams, City Attorney

LESSEE: _____

Witnesses:

Print Name: _____

Print Name: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF PREMISES

A portion of bay bottom in Boot Key Harbor, adjacent to the property at 307 Sombrero Blvd., Marathon FL and having Monroe County Parcel ID# 00355370-002000 as Recorded in plat Book 5, Page 101 of the Public Records of Monroe County, Florida, and more particularly described by feet and bounds as follows:

Commencing at Northwest corner of the existing seawall of the aforementioned 307 Sombrero Blvd. , bear North 00 degrees for a distance of 50 feet; thence turn East 90 degrees for a distance of 200 feet; thence turn South 180 degrees for a distance of 50 feet; thence turn west 270 degrees back to the point of Beginning.



CITY COUNCIL AGENDA STATEMENT

Meeting Date: November 12, 2024

To: Honorable Mayor and Council Members

Through: George Garrett, City Manager

Agenda item: **Resolution 2024-117**, Authorizing The City To Continue An Agreement With The Southern Group For Professional Consulting And Lobbying Services Before The Legislature Of The State Of Florida; Authorizing The City Manager To Finalize And Execute The Agreement; And Providing An Effective Date

BACKGROUND

The Southern Group has considerable lobbying experience with issues revolving around homeowners' insurance and represents FIRM, a non-profit which the City typically supports for their involvement in windstorm and flood insurance issues.

Staff believes that the continuation of services provided through The Southern Group will well round out the City's lobbying capabilities in Tallahassee this year and in coming years.

<u>CONSISTENCY CHECKLIST:</u>	N/A	Yes	No
1. Comprehensive Plan		_____	_____
2. Other – 2010 Sewer Mandate		_____	_____

FISCAL NOTE:

Funding for this agreement is included in the adopted FY25 City Council Budget.

RECOMMENDATION:

Approval

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-117**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA AUTHORIZING THE CITY TO CONTINUE AN AGREEMENT WITH THE SOUTHERN GROUP FOR PROFESSIONAL CONSULTING AND LOBBYING SERVICES BEFORE THE LEGISLATURE OF THE STATE OF FLORIDA; AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Marathon (the "City") recognizes the importance of monitoring and participating in the State legislative process in order to protect the interests of the City and its residents; and

WHEREAS, the Consultant and City, through mutual negotiation, have agreed upon a scope of services and fee for legislative consulting services on behalf of the City before the Florida Legislature, the executive branch of the Florida government, and various regional and local governments; and

WHEREAS, the firm of The Southern Group (the "Consultant"), wishes to continue to provide professional legislative consulting and lobbying services before the legislature of the State of Florida on behalf of the City,

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

Section 1. The above recitals are true and correct and incorporated herein by this reference.

Section 2. The professional services agreement between the City and Consultant, a copy of which is attached as Exhibit "A," together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is hereby approved.

Section 3. 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 NOVEMBER, 2024.

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MARATHON
AND
THE SOUTHERN GROUP

THIS AGREEMENT is made and entered into between The Southern Group of Florida, Inc a Florida Profit Corporation, (hereinafter the "Consultant"), and the CITY OF MARATHON, FLORIDA, a Florida municipal corporation, (hereinafter the "City").

WHEREAS, the Consultant and City, through mutual negotiation, have agreed upon a scope of services and fee for legislative consulting services on behalf of the City before the Florida Legislature, the executive branch of the Florida government, and various regional and local governments; and

WHEREAS, the City desires to engage the Consultant to perform the legislative consulting services specified below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Consultant and the City agree as follows.

1. Scope of Services/Deliverables.

1.1 Consultant shall provide legislative consulting services on behalf of the City before the Florida Legislature, the executive branch of the Florida government, and various regional and local governments.

1.2 Specifically, Consultant shall provide the following services:

1.2.1 No less than once a year meet with the City Council and staff to assist the City in developing a legislative program.

1.2.2 Monitor and report on all state agency programs of interest to the City, including any programs that could be helpful in funding, planning and operating the City.

1.2.3 Represent City's interests before the Florida legislature and any executive branch body and any other entity that could be of benefit to the City's interests.

1.2.4 Monitor and track all legislation of interest to the City.

1.2.5 Provide monthly reports during the legislative session and quarterly reports during the non-session months to the City Manager and City Attorney on all legislation being tracked. Such reports will be electronically transmitted to the City Manager and City Attorney.

1.2.6 Host City officials during the legislative session in Tallahassee and arrange all appropriate meetings.

1.2.7 Attend staff meetings, workshops or Council meetings in Marathon at the City Manager's request.

2. Term/Commencement Date.

2.1 This Agreement is effective upon execution by both parties. The term is through December 1, 2027, unless earlier terminated in accordance with Paragraph 8. The term may be extended two additional times each for a period of one (1) year with the approval of the City Manager.

3. Compensation and Payment.

3.1 For all professional services provided by Consultant described in Section 1, the City shall pay Consultant an annual fee of \$60,000.00, payable in four (4) equal quarterly installments of \$15,000.00. Payment for the quarter is due within 30 days of receipt of the invoice. Modification of services or fees may be negotiated during the term of the Agreement based on mutual consent and the approval of both Southern Group and the City Council.

3.2 If a dispute should occur regarding an invoice submitted, the City Manager may withhold payment of the disputed amount and may pay to the Consultant the undisputed portion of the invoice. Upon written request of the Finance Director, the Consultant shall provide written documentation to justify the invoice. Any compensation disputes shall be decided by the City Manager whose decision shall be final.

4. No Subconsultants or Assignment.

4.1 Although this Agreement is with Consultant, the parties understand that the services of Consultant are personal in nature and that the following members of Consultant's firm shall be designated by Consultant to perform services under this Agreement is Kate DeLoach and/or her designee.

4.2 In the event that any member of the firm can no longer perform services under this Agreement, Consultant shall immediately notify the City Manager and the City Manager shall have the right to immediately terminate this Agreement.

4.3 This Agreement shall not be subject to assignment by Consultant without prior written consent of the City.

5. City's Responsibilities

5.1 Furnish to Consultant, at the Consultant's written request, all available maps, plans, existing studies, reports and other data pertinent to the services to be provided by Consultant, in possession of the City.

6. Consultant's Responsibilities

6.1 The Consultant shall exercise the same degree of care, skill and diligence in the performance of the work under this Agreement as is ordinarily provided by a professional under similar circumstances.

7 . Conflict of Interest.

7.1 Consultant shall not be prohibited from representing or providing the like services to other persons and entities other than the City, so long as Consultant shall avoid any representation or relation that would create a conflict of interest, as determined by the City Attorney and City Council.

7.2 Consultant shall not take on any client or matter, which would jeopardize Consultant's ability to devote the time, resources, and effort necessary to fulfill its obligations to the City.

8. Termination.

8.1 Either party may terminate this Agreement without cause upon thirty (30) days written notice to the other.

8.2 The City may terminate this Agreement immediately with cause Upon receipt of the City's written notice of termination, Consultant shall stop all work on behalf of the City unless directed otherwise in writing by the City Manager. In the event of termination, the City shall be obligated to pay the Consultant only for approved fees and costs incurred by the Consultant prior to the date of termination. If the Consultant has already received the quarterly fee payment, the Consultant shall refund a pro-rated percentage of the fee back to the City.

9. Insurance.

The Contractor shall secure and maintain throughout the duration of this Agreement insurance of such type and in such amounts as required by the City Manager. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. If requested by the City Manager, the insurance coverage shall be primary insurance with respect to the City, its officials, employees, agents and volunteers. The insurance coverages shall include a minimum of:

9,1 Worker's Compensation and Employer's Liability Insurance. If applicable, coverage to apply for all employees at minimum statutory limits as required by Florida Law. Consultants with Worker's Compensation exemption shall not hold City liable for employee injury or claims.

9.2 Hired and Non-Owned Auto Liability. Vehicle liability with limits of liability of not less than \$500,000 per Occurrence, for Bodily Injury Liability and Property Damage Liability, for use of any hired and non-owned vehicle licensed for travel on public roads by you or your business. Consultant shall submit certificate of insurance to the City evidencing the required coverage and providing that City of Marathon is named as an additional insured.

9.3 Professional Liability. The Consultant shall furnish professional liability efforts and omissions insurance coverage in an amount not less than \$1,000,000.

9.4 Certificates of Insurance shall be provided to the City at the time of execution of this Agreement and certified copies provided if requested. Certificates of Insurance shall include the City as additional insured or certificate holder. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the City before any policy or coverage is cancelled or restricted.

10. Nondiscrimination.

10.1 During the term of this Agreement, Consultant shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination.

11. Attorney's Fees and Waiver of Jury Trial.

11.1 In the event of any litigation arising out of this Agreement each party shall be responsible for its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

11.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

12. Indemnification.

12.1 Consultant shall defend, indemnify, and hold harmless the City, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or any way connected with Consultant's performance or non-performance of any provision of this Agreement. Consultant shall reimburse the City for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising out of, related to, or in any way connected with Consultant's performance or non-performance of this Agreement.

12.2 The provisions of this section shall survive termination of this Agreement.

13. Notices/Authorized Representatives.

13.1 Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the City: Mr. George Garrett, City Manager

City of Marathon, Florida
9805 Overseas Highway
Marathon, Florida 33050
305-289-4130

With a Copy to Mr. Steve Williams, City Attorney
City of Marathon, Florida
9805 Overseas Highway
Marathon, Florida 33050

For The Consultant: Ms. Kate Deloach
The Southern Group of Florida, Inc.
P. O. Box 10570
Tallahassee, Florida 32302

14. Governing Law.

14.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this Agreement shall be in Monroe County, Florida, Middle Keys Division of the Circuit Court or the Southern District of Florida.

15. Entire Agreement/Modification/Amendment.

15.1 This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

15.2 No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

16. Ownership and Access to Records and Audits.

16.1 ACCESS TO PUBLIC RECORDS- The Contractor shall comply with the applicable provisions of Chapter 19, Florida Statutes. The City shall have the right to immediately terminate this contract for the refusal by the Contractor to comply with Chapter 19, Florida Statutes. If the contractor has questions regarding the application of Chapter 19, Florida Statutes, to the contractor's duty to provide public records relating to this contract, contact the custodian of public records at Cityclerk@ci.marathon.us.fl or (305) 743-0033.

16.2 All records, books, documents, papers and financial information (the "Records") that result from the Consultant providing services to the City under this Agreement shall be the property of the City.

16.3 The City Manager or his designee shall, during the term of this Agreement and for a period of five (5) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of the Consultant involving transactions related to this Agreement.

16.4 The City may cancel this Agreement for refusal by the Consultant to allow access by the City Manager or his designee to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

17. Severability

17.1 If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

18. Independent Contractor.

18.1 The Consultant and its employees, volunteers and agents shall be and remain independent contractor and not agents or employees of the City with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

19. Compliance with Laws.

19.1 The Consultant shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Project.

20. Waiver

20.1 The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

21. Survival of Provisions

21.1 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

22. Prohibition Of Contingency Fees.

22.1 The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm,

other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

23. Counterparts

23.1 This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

IN WITNESS THEREOF, the parties execute this Agreement on the respective dates under each signature: The City, signing by and through its City Manager, attested to by its City Clerk, duly authorized to execute same and by Consultant by and through Ms. Kate Deloach, who has been duly authorized to execute same.

ATTEST:

CITY OF MARATHON

Diane Clavier, City Clerk

George Garrett, City Manager

Date: _____

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

Steve Williams, City Attorney

THE SOUTHERN GROUP

Ms. Kate Deloach

Date: _____



COUNCIL AGENDA STATEMENT

Meeting Date: November 12, 2024

To: Honorable Mayor and Councilmembers

From: Carlos A. Solis, P.E. Director of Public Works

Through: George Garrett, City Manager

Agenda Item: **Resolution 2024-118**, Accepting The Responsible Bid And Approving A Contract Between The City And Advanced Construction Corp.; In An Amount Not To Exceed \$153,480.68 For The Tiki Structure At Oceanfront Park; Authorizing The City Manager To Execute The Contract And Appropriate Funds On Behalf Of The City; And Providing For An Effective Date

BACKGROUND & JUSTIFICATION:

The City is proposing a large Tiki Structure at the southern portion of Oceanfront Park to accommodate larger events held at this facility. We have subsequently applied for and received a grant from the TDC in the amount of \$201,495 for this project, which includes other site improvements performed by staff or other contractors. The City put out an Invitation to Bid for the structure, and one contractor responded to the ITB, and was subsequently rejected by the City as the cost exceeded the budgeted amount. The City re-bid the project, and again only one contractor responded. The new bid price was lower and within our budgeted amount.

After reviewing the submitted bids, staff recommends that the contract be awarded to Advanced Construction Corp., the lowest responsive bidder.

ATTACHMENTS

Proposed Contract

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan – Chapter 8	<u>X</u>	___
2. Other: MCTDC grant requirement	<u>X</u>	___

FISCAL NOTE:

The adopted FY25 Capital Infrastructure budget includes appropriations of \$251,495 for the Ocean Front Park Tiki Project.

RECOMMENDATION: Approval of Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-118**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, ACCEPTING THE RESPONSIBLE BID AND APPROVING A CONTRACT BETWEEN THE CITY AND ADVANCED CONSTRUCTION CORP.; IN AN AMOUNT NOT TO EXCEED \$153,480.68 FOR THE TIKI STRUCTURE AT OCEANFRONT PARK; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AND APPROPRIATE FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Marathon (the “City”) published an Invitation To Bid (ITB) for construction of a Tiki Structure in Oceanfront Park (the “Project”) and one bid was received; and

WHEREAS, Advanced Construction Corp (the “Contractor”) was the lowest responsible bidder and after review, staff recommends the contract be awarded to the Lowest responsive bidder in the amount of \$153,480.68; and

WHEREAS, the City has been awarded a grant from the TDC in the amount of \$201,495.00 for this project.

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 Contract between the City and the Contractor for the construction of the Project in an amount not to exceed \$153,480.68, a copy of which is attached as Exhibit “A,” together with such non-material changes as may be acceptable to the City Manager and approved as to form by the City Attorney, is hereby approved. The City Manager is authorized to execute the Contract and expend funds on behalf of the City.

Section 3. 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 NOVEMBER, 2024

THE CITY OF MARATHON, FLORIDA

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:**

Steve Williams, City Attorney

SECTION 00500
CONSTRUCTION CONTRACT

THIS AGREEMENT is made between the City of Marathon, Florida, a Florida municipal corporation whose address and principal place of business is 9805 Overseas Highway, Marathon, Florida 33050, (hereinafter the “City”) and _____ a Florida corporation whose address and principal place of business is: _____, (hereinafter the “Contractor”), and

WHEREAS, the City desires to engage the Contractor to provide construction services as specified below (the “Work”).

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Contractor and the City agree as follows.

1. Scope of Services/Deliverables.

1.1 Project/Work: CONTRACTOR shall complete all Work as specified or indicated in the plans, Contract Documents and detailed in Scope of work. The Work is generally described as the following:

- (a) The construction of this project consists of labor, materials, equipment and engineered structure plans for submittal to building department necessary to complete the installation of the following: 92’ x 50’ Tiki Hut structure. The City will provide all site plans required for permitting.

2. Term/Commencement Date and Liquidated Damages.

- (a) Unless specified otherwise in Exhibit “A” the Contractor shall not commence work until the City issues Contractor a written Notice to Proceed and the Work shall be substantially completed within Thirty (30) calendar days after the date specified in the Notice to Proceed (“Substantial Completion”), and fully completed and ready for final payment in accordance with the Agreement Documents within Forty (40) calendar days for final completion after the date specified in the Notice to Proceed.
- (b) Contractor agrees that time is of the essence and Contractor shall complete each deliverable for the Work within the timeframes set forth in Exhibit “A”, unless extended by the City Manager. The City shall issue a written notice identifying the date the Work is deemed fully complete which shall be the Final Completion date.
- (c) Should the Substantial Completion and/or Final Completion and acceptance of Work, together with any modification or additions, be delayed beyond the time for performance set above because of lack of performance by the Contractor, it is understood and agreed that aside from any liquidated damages, the Contractor shall be liable to the City for all actual additional costs and/or losses incurred by

the City including, but not limited to, completion contractor expenses, lost/unrealized revenue, financing costs, professional services, attorney fees, and/or additional City staffing that incurred because the Work was not substantially completed on time and/or fully completed on time.

- (d) Monies due to the City for liquidated damages and/or actual damages shall be deducted from any monies due the Contractor, or if no money is due or the amount due is insufficient to cover the amount charged, the Contractor shall be liable for said amount.
- (e) Liquidated Damages. CITY and CONTRACTOR recognize that time is of the essence in this Contract and that the CITY will suffer financial loss if the Work is not completed within the contract times specified in Section 3.1 for the Work above, plus any approved extensions thereof allowed in accordance with the General Conditions. The CONTRACTOR also recognizes that the damages which the City will incur if the Work is not substantially completed on time and/or fully completed on time are not readily ascertainable at the time this Agreement is entered into, and the Contractor recognizes the difficulties involved in proving the actual loss suffered by CITY if the Work is not substantially completed on time and/or fully completed on time. Accordingly, instead of requiring any such proof, CITY and CONTRACTOR agree that as liquidated damages to compensate the City and not as a penalty for delay or as an incentive to complete on time, CONTRACTOR shall pay CITY (\$750.00) for each calendar day that expires after the time specified in Section 3.1 for substantial Completion of the Work. After Substantial Completion, if CONTRACTOR fails to fully complete the Work within the time specified in Section 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY, CONTRACTOR shall pay CITY (\$500.00) for each calendar day that expires after the time specified in Section 3.1 for full completion and readiness for final payment. Contractor agrees that the liquidated damage amounts specified in the Contract Documents bear a reasonable relationship to the actual damages to be suffered due to public inconvenience and damage to the City's reputation if the Contractor fails to substantially complete and/or fully complete the Work on time. The liquidated damages are not in compensation for any other damages, and expressly exclude damages for completion contractor expenses, lost/unrealized revenue, financing costs, professional services, attorney fees, and/or additional City staffing that may be incurred if the work is not substantially completed on time and/or fully completed on time. All liquidated damages amounts will continue to be charged if the Contractor abandons the Work, or is terminated, and the Work is completed by another party.
- (f) Should the Substantial Completion and/or Full/Final Completion and acceptance of Work, together with any modification or additions, be delayed beyond the time for performance set in Section 3.1 above because of lack of performance by the Contractor, it is understood and agreed that aside from any liquidated

damages, the Contractor shall be liable to the City for all actual additional costs and/or losses incurred by the CITY including, but not limited to, completion contractor expenses, lost/unrealized revenue, financing costs, professional services, attorney fees, and/additional City staffing that incurred because the Work was not substantially completed on time and/or fully completed on time.

- (g) Monies due to the CITY under Sections (e) and (f) shall be deducted from any monies due the CONTRACTOR, or if no money is due or the amount due is insufficient to cover the amount charged, the CONTRACTOR shall be liable for said amount.

3. **Compensation and Payment.**

- (a) For the purpose of developing the values to be paid on a monthly basis, Contractor shall submit a Schedule of Values to be reviewed and approved by the City at least thirty (30) days before the first progress payment request. This Schedule of Values shall constitute the values of each unit within each category that will be paid for the Work (see, Application for Payment, Instructions “General Information”).
- (b) The Contractor shall invoice the City on a monthly basis. All invoices shall provide detailed statement of the Work performed by Contractor for the period of time covered by the invoice. Contractor shall use the form attached hereto as Exhibit “B,” or such other form as may be provided by City from time to time, which is to be used by Contractor in requesting progress or final payments and which is to include such supporting documentation as is required by the Agreement Documents. The City will withhold 5% of each Pay Application as retainage which shall be paid upon Final Completion of the Work.
- (c) Each application for partial payment shall include partial lien/bond releases from all subcontractors and suppliers and a sworn statement by Contractor that partial payments received from City for the Work have been applied by Contractor to discharge in full all of Contractor’s obligations, including payments to subcontractors and suppliers, stated in prior applications for payment. If payment has been withheld from subcontractor and/or supplier the sworn statement shall state the reasons for the non payment. All partial payment requests shall be accompanied by consents of surety for each subcontractor and supplier.
- (d) No progress payment shall be made until CONTRACTOR delivers to the CITY **certified copies of the performance bond and payment bond in an amount equal to 50% (fifty percent) of the contract price, establishing that the bonds have been recorded with the county clerk**, complete original partial releases of all liens, bond claims, and claims signed by all Subcontractors, materialmen, suppliers, and vendors, indicating amount of partial payment, on a form approved by the CITY, and an affidavit that so far as the CONTRACTOR has knowledge or information, the releases include and cover all Materials and Work for which a lien, bond claim, or claim could be filed for work completed to

date.

- (e) The final application for payment shall be accompanied by all documentation called for in the Agreement Documents, together with complete and legally effective release and/or waivers (satisfactory to City) of all liens and claims arising out of or in connection with the Work and consent of the surety, if any, to final payment. If any subcontractor or supplier fails to furnish a sub-tier release, Contractor shall provide the City with a sworn written explanation for why the subcontractor or supplier has not been paid. The City may require the Contractor to provide security to ensure all disputed and/or undisputed amounts owed are paid; or withhold the disputed and/or undisputed amounts owed from the final payment until such time as the final releases and consents of surety for each subcontractor and supplier.
- (f) The City shall pay the Contractor in accordance with the Florida Prompt Payment Act. When the Contractor believes the Work is substantially complete, the Contractor shall notify the City and within 15 calendar days the parties shall create and review a single draft punch list of items to be completed in order for the Work to be fully complete. The City shall review the draft punch list and within 5 days of being provided with the draft punch list, the City shall provide the Contractor with the Final Punch list of work to be completed for the Work to be deemed fully complete.
- (g) If a dispute should occur regarding an invoice submitted, the City Manager may withhold payment of the disputed amount and may pay the Contractor the undisputed portion of the invoice. Upon written request of the Finance Director, the Contractor shall provide written documentation to justify the invoice. Any compensation disputes shall be decided by the City Manager whose decision shall be final.
- (h) All payments shall only be from appropriations budgeted on an annual basis.

4. **Subcontractors.**

- (a) The Contractor shall be responsible for all payments to any subcontractors and shall maintain responsibility for all work related to the Work.
- (b) Any subcontractors used on the Work must have prior written approval of the City Manager and be properly licensed and insured in the same amounts as the Contractor.

5. **City's Responsibilities.**

- (a) Upon request, if available, the City shall furnish maps, plans, studies, reports and other information regarding anticipated field conditions readily available and in the City's possession.
- (b) The City shall arrange for access to and make all provisions for Contractor to

enter upon real property as required for Contractor to inspect the site and perform the Work as may be requested in writing by the Contractor.

6. **Contractor's Responsibilities.**

- (a) Contractor shall exercise the same degree of care, skill and diligence in the performance of the Work as is ordinarily provided by a professional under similar circumstances. If at any time during the term of this Agreement or within one year from the completion of the Work, it is determined that the Contractor's deliverables are incorrect, defective or fail to conform to the Scope of Work or perform as intended, upon written notification from the City Manager, the Contractor shall at Contractor's sole expense, immediately correct the Work.
- (b) Contractor and its subcontractors shall comply with all applicable laws and regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall develop and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent public and private property and of underground facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by Contractor, and Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be immediately remedied by Contractor. The contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and the City has made final payment to Contractor.
- (c) On a daily basis during the course of the Work, Contractor shall maintain the site free of debris and dust so as to minimize any inconvenience to surrounding properties. Upon completion of the Work, Contractor shall remove all apparatus, debris, equipment, materials, and tools created or used to construct the Work, and except for the Work or as otherwise directed by the City return the site in the same condition as at the beginning of the Work.
- (d) If the Work will create any obstructions, road closures or traffic impacts, Contractor shall provide the City and surrounding property owners with no less than seventy-two (72) hours prior notice of the anticipated or planned obstructions, road closures or traffic impacts.

7. **Termination.**

- (a) The City Manager without cause may terminate this Agreement upon thirty (30) days written notice to the Contractor, or immediately with cause.
- (b) Unless directed otherwise in writing by the City Manager, upon receipt of the City written notice of intent to terminate or notice of actual termination, the

Contractor shall stop the Work.

- (c) In the event of termination by the City, the Contractor shall be paid for all Work accepted by the City Manager up to the date of termination.
- (d) The Contractor shall transfer all books, records, reports, working drafts, documents, maps, and data properly indexed and labeled pertaining to the Work to the City, in a hard copy and/or electronic format (as specified by the City) within 14 days from the date of the written notice of termination or the date of expiration of this Agreement.
- (e) The Contractor shall transfer all books, records, reports, working drafts, documents, maps, and data properly indexed and labeled pertaining to the Work to the City, in a hard copy and/or electronic format (as specified by the City) within 14 days from the date of the written notice of termination or the date of expiration of this Agreement.

8. **Insurance.**

UPON EXECUTION OF THIS **CONTRACT**, CONTRACTOR SHALL SUBMIT CERTIFICATE(S) OF INSURANCE TO THE CITY EVIDENCING THE REQUIRED COVERAGES AND SPECIFICALLY PROVIDING THAT **CITY IS NAMED AS AN ADDITIONAL INSURED** WITH RESPECT TO THE REQUIRED COVERAGES AND THE OPERATIONS.

CONTRACTOR shall file Certificates of Insurance with the City, reflecting evidence of all Coverages. All certificates of insurance must clearly identify the Contract to which they pertain, including a brief description of the subject matter of the Contract. They shall be filed with the City's Risk Management within fourteen (14) days of the execution of this Contract by both parties. The certificates of insurance shall contain a provision that coverage afforded under these policies will not be canceled until at least thirty (30) days' prior written notice has been given to the City. Policies for Coverage shall be issued by companies authorized to do business under the laws of the State of Florida and any such companies' financial ratings must be no less than A-VII in the latest edition of the "BEST'S KEY RATING GUIDE", published by A.M. Best Guide.

All coverages shall be in force throughout the life of this Contract. In the event insurance certificates provided to City indicate that any insurance shall terminate and lapse during the period of this Contract and any and all amendments or extensions of it, then in that event, CONTRACTOR shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like Coverages for the remaining term of the Contract and any and all extension of it, is in effect.

CONTRACTOR shall procure and maintain at its own expense and keep in effect during the full term of the Contract a policy or policies of insurance which must

include the following coverages and minimum limits of liability:

General Liability insurance with limits of not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage including coverage for contractual liability, personal injury, broad form property damage, products and completed operations. Annual Aggregate shall apply "Per Project/Job". This policy of insurance shall be written in an "occurrence" based format and include a Waiver of Subrogation in favor of the City.

Comprehensive or Business Automobile Liability insurance with/ limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage including coverages for owned, hired, and non-owned vehicles, equipment or both as applicable This policy of insurance shall be written in an "occurrence" based format and include a Waiver of Subrogation in favor of the City.

Workers Compensation- Statutory Limits (per limits outlined by Chapter 440, Florida Statutes)

Employers Liability Limits:

- \$500,000 for bodily injury caused by an accident, each accident
- \$500,000 for bodily injury caused by disease, each employee
- \$500,000 for bodily injury caused by disease, policy limit

Workers Compensation must be provided for all persons fulfilling this contract, whether employed, contracted, temporary or subcontracted.

Contractor(s) must be in compliance with all applicable State and federal workers' compensation laws, including US Longshore and Harbor Workers Compensation Act, Jones Act (maritime), Federal Employers Liability Act (railroad), etc.

Subcontractors' Compliance: It is the responsibility of the contractor to ensure that all subcontractors comply with all insurance requirements.

Cancellation Requirements: Required insurance shall always be maintained during which the contractor is on City premises. The above policies shall provide the City of Marathon with 30 days' written notice of cancellation or material change from the insurer. If the policies do not contain such a provision, it is the responsibility of the Contractor to provide such notice.

Notice Requirements: If an insurable incident occurs while CONTRACTOR is engaged in a City project, notification to the City is required.

Certificates of Insurance/Verification of Coverage: Proof of the required insurance reflecting all required insurance above will be furnished by CONTRACTOR to the City of Marathon by Certificate of Insurance within 5 days of notification of award. All certificates (and any required documents) must be

received and approved by the City before any work commences to permit CONTRACTOR time to remedy any deficiencies.

Valid Certificates verifying coverage is in force as required above must be on file with the City at all times during contract. If the policies renew during the term of the Contract, updated Certificates verifying coverage is in force shall be submitted to the City within 10 days of expiration. Contractor and/or any Subcontractor shall not perform or continue to work pursuant to this contract, unless all coverages remain in full force and effect; work delay is subject to provisions in this contract. If contractor fails to provide proof of insurance within 7 days of City's receipt of notice at any time during this contract, the City shall have the right to consider the contract breached, and therefore terminated.

A copy of Additional Insured Endorsement or other endorsements may be attached to the Certificate.

Description of Operations section of COI: Confirm coverage required is documented in the body of the Certificate of Insurance, and also in the Description of Operations. Additionally, include Job, Event, Contract, or Contract number.

Notices/ Certificate Holder:

City of Marathon
9805 Overseas Highway
Marathon, FL 33050

The City of Marathon, Florida reserves the right to review/revise, reject or accept any required policies of insurance, including limits, coverages or endorsements, herein throughout the term of this Contract.

9. **Nondiscrimination.**

(a) During the term of this Agreement, Contractor shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination.

10. **Agreement Documents.**

The Agreement Documents listed below, which are listed in their order of precedence for the purpose of resolving conflicts, errors and discrepancies, by this reference shall become a part of the Agreement as though physically attached as a part thereof:

Plans Titled “ **Tiki Structure at Oceanfront Park** ”

Change Orders Agreement

Exhibits to the Agreement

Bid Documents (Addendum, Invitation to Bid, Instructions to Bidders/Proposers,
Proposal Form provided by Contractor, Notice of Award and Notice to Proceed)

CONTRACTOR AGREES THAT THERE IS NO IMPLIED OR EXPRESS WARRANTY
OF CONSTRUCTABILITY WITH REGARD TO THE WORK OR DESIGN
ENCOMPASSED BY THE AGREEMENT DOCUMENTS.

11. **Attorneys’ Fees and Waiver of Jury Trial.**

- (a) If either the City or Contractor is required to enforce the terms of the Agreement by court proceedings or otherwise, whether or not formal legal action is required, the parties shall bear their own attorney fees, costs and expenses, at the trial and appellate level.
- (b) In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily, and intentionally waives its right to trial by jury.

12. **Indemnification.**

- (a) General Indemnity. Contractor shall indemnify and hold harmless the City, its officers, and employees, from or on account of all claims, damages, losses, liabilities and expenses, direct, indirect or consequential, including, but not limited to, fees and charges of engineers, architects, attorney’s, consultants and other professionals and trial and appellate court and arbitration costs arising out of or resulting from the performance of the Work, excluding claims arising from the sole negligence of City. Such indemnification shall specifically include but not be limited to claims, damages, losses and expenses arising out of or resulting from (i) any and all bodily injuries, sickness, death, disease; (ii) injury to or destruction of real property or tangible personal property, be it publicly or privately owned, including the loss of use resulting therefrom; (iii) other such damages, liabilities or losses received or sustained by any person or persons during or on account of any operations connected with the construction of the Work including the warranty period; (iv) the use of any improper materials; (v) any construction defect including patent defects; (vi) any act or omission of Contractor or his Subcontractors, agents, servants or employees; (vii) the violation of any federal, state, county or City laws, ordinances or regulations by Contractor, his Subcontractors, agents, servants or employees; (viii) the breach or alleged breach by Contractor of any term of this Agreement, including the breach or alleged breach of any warranty or guarantee.

- (b) Defense. In the event that any claims are brought or actions are filed against the City that are encompassed by the Contractor's duty to indemnify as stated in this Agreement, the Contractor agrees to defend against all claims and actions brought against the City regardless of whether such claims or actions are rightfully or wrongfully brought or filed. City reserves the right to select its own legal counsel to conduct any defense in any such proceedings and all costs and fees associated therewith including any costs or fees of an appeal shall be the responsibility of Contractor.
- (c) Specific Indemnity. Contractor shall indemnify and hold harmless the City for liability for damages to persons or property caused in whole or in part by any act, omission, or default of the City, its officers, directors, agents, or employees arising from the Agreement or its performance. Such indemnification shall not include claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of the City or its officers, directors, agents or employees, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the Contractor or any of the Contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees. The extent of the indemnification shall be limited to \$5,000,000 which the parties agree bears a reasonable commercial relationship to the contract. The monetary limitation on the extent of the indemnification provided to the City shall not be less than \$1 million per occurrence.
- (d) Payment of Losses. Contractor shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever, excluding only those in which the damages arose out of the sole negligence of City, in connection with the foregoing indemnification, including, but not limited to, reasonable attorney's fees and costs to defend all claims or suits in the name of City when applicable.
- (e) Contractor's indemnification shall not be limited to the amount of comprehensive general liability insurance which Contractor is required to obtain under the Agreement. Nothing contained herein is intended nor shall it be construed to waive the City's rights and immunities under the common law or Section 768.28 Florida Statutes, as amended from time to time. This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party described in this Section and its subparts.
- (f) The provisions of this section shall survive termination of this Agreement.

13. **Notices/Authorized Representatives.**

- (a) Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

FOR CITY: City of Marathon
9805 Overseas Highway
Marathon, Florida 33050
ATTN: City Manager

WITH COPY TO:

City Attorney
9805 Overseas Highway
Marathon, Florida 33050
Phone: 305-289-4103
Fax: 305-289-4123

FOR CONTRACTOR:

14. **Governing Law.**

(a) This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this Agreement shall be in Monroe County, Florida, Middle Keys Division of the Circuit Court or the Federal Southern District of Florida.

15. **Entire Agreement/Modification/Amendment.**

(a) This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

(b) No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document. This Agreement may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof via a written Change Order, in such form as may be provided by City from time to time.

16. **Ownership and Access to Records and Audits.**

16.1.1 Access to Public Records. The CONTRACTOR shall comply with the applicable provisions of Chapter 119, Florida Statutes.

All records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from the Consultant providing services to the City under this Agreement shall be the property of the City. The Records are not intended or represented to be suitable for use, partial use, or reuse by the City or others on extensions of this project or on any other project. Any such use, reuse, or modifications made by the City to any of Consultant's Records will be at City's sole risk and without liability to Consultant, and City shall, to the extent allowable by Florida law, and subject to Section 768.28, Florida Statute, and all monetary limits listed therein, indemnify, defend and hold Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom.

The "CONTRACTOR" as defined by Section 119.0701(1)(a), Florida Statutes, and shall comply with the public records provisions of Chapter 119, Florida Statutes, including the following:

1. Keep and maintain public records required by the City to perform the service.
2. Upon request from the City Clerk, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the City.
4. Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the CONTRACTOR or keep and maintain public records required by the City to perform the service. If the CONTRACTOR transfers all public records to the City upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City Clerk, in a format that is compatible with the information technology systems of the City.
5. "Public Records" is defined in Section 119.011(12), Florida Statutes, and includes all documents, papers, letters, photographs, data processing software, or other material, regardless of physical form, made or received in connection with this Agreement.
6. Should the CONTRACTOR assert any exemption to the requirements of Chapter 119 and related law, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the CONTRACTOR.
7. The CONTRACTOR consents to the City's enforcement of the CONTRACTOR's Chapter 119 requirements by all legal means, including, but not limited to, a mandatory injunction, whereupon the CONTRACTOR shall pay all court costs and reasonable attorney's fees incurred by the City.

8. The CONTRACTOR's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by the Contractor shall be grounds for immediate unilateral cancellation of this Agreement by the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, DIANE CLAVIER AT 305-289 5020, CITYCLERK@CI.MARATHON.FL.US, OR 9805 OVERSEAS HIGHWAY, MARATHON FLORIDA 33050.

17. **Nonassignability.**

(a) This Agreement shall not be assignable by Contractor unless such assignment is first approved by the City Manager. The City is relying upon the apparent qualifications and personal expertise of the Contractor, and such firm's familiarity with the City's area, circumstances, and desires.

18. **Severability.**

(a) If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

19. **Independent Contractor.**

(a) The Contractor and its employees, volunteers and agents shall be and remain independent contractor and not agents or employees of the City with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

20. **Compliance with Laws.**

(a) The Contractor shall ensure that it, and all its subcontractors (at all tiers), comply with all federal, state and local applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Work.

(b) **E-Verify.** In accordance with F.S. 448.095, the Contractor shall utilize the U.S.

Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the

employment eligibility of all new employees hired by the subcontractor during the Contract term.

21. **Waiver.**

(a) The failure of the City to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach of wrongful conduct.

22. **Survival of Provisions.**

(a) Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

23. **Prohibition of Contingency Fees.**

(a) The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

24. **Counterparts.**

(a) This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterpart shall constitute one and the same instrument.

25. **Authorization to Sign Agreement.**

(a) The execution and delivery of this Agreement by Contractor is within Contractor's capacity and all requisite action has been taken to make this Agreement valid and binding on Contractor in accordance with its terms.

26. **Non-Exclusive Agreement.**

(a) The services to be provided by the Contractor pursuant to this Agreement shall be non-exclusive and nothing herein shall preclude the City from engaging other firms to perform the same or similar services for the benefit of the City as determined in its sole and absolute discretion.

27. **Continuing the Work.**

(a) Unless directed otherwise in writing by the City Manager, Contractor shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with City.

28. **Changes In The Work.**

- (a) Without invalidating the Agreement and without notice to any surety, City may, at any time or from time-to-time, order additions, deletions, or revisions in the Work by a Written Amendment or Change Order. Said changes shall be in accordance with Article 10 of the General Conditions.

IN WITNESS WHEREOF, the parties hereto have made and executed this Contract on the respective dates under each signature: THE CITY OF MARATHON, FLORIDA, signing by and through its Mayor or Vice Mayor, authorized to execute same by Council action on the ____ day of ____, 20__, and by ____ (Contractor), signing by and through its _____, duly authorized to execute same.

CONTRACTOR

WITNESS

By: _____	By: _____ _____ Name & Title
By _____ (Signature and Title) (Corporate Seal)	

(Type Name/Title signed above)
____ day of _____, 20____.

CITY

ATTEST	CITY OF MARATHON, FLORIDA
_____ City Clerk	_____ City Manager
____ day of _____, 20____.	

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE CITY OF MARATHON ONLY:

By: _____
City Attorney

(*) In the event that the Contractor is a corporation, there shall be attached to each counterpart a certified copy of a resolution of the board of the corporation, authorizing the officer who signs the contract to do so in its behalf.

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the
_____ of _____ and that
_____, who signed the Bid with the City of Marathon, Monroe County, Florida
for _____, is _____ of said Corporation with full
authority to sign said Bid on behalf of the Corporation.

Signed and sealed this ____ day of _____, 20__.

(SEAL) _____
Signature

Typed w/Title

STATE OF FLORIDA
COUNTY OF _____

SWORN TO AND SUBSCRIBED before me this ____ day of _____, 20__.

My Commission Expires:

Notary Public

CERTIFICATE AS TO AUTHORIZED CORPORATE PERSONNEL

I, _____, certify that I am the _____ of _____, who signed the Bid with the City of Marathon, Monroe County, Florida, for the project titled _____, and that the following persons have the authority to sign payment requests on behalf of the Corporation:

(Signature) (Typed Name w/Title)

(Signature) (Typed Name w/Title)

(Signature) (Typed Name w/Title)

Signed and sealed this ____ day of _____, 20__.

(SEAL) _____
Signature

Typed w/Title

STATE OF FLORIDA
COUNTY OF MONROE

SWORN TO AND SUBSCRIBED before me this ____ day of _____, 20__.

My Commission Expires:

Notary Public



COUNCIL AGENDA STATEMENT

Meeting Date: November 12, 2024

To: Honorable Mayor and City Councilmembers

From: James E. Muro, Fire Chief

Through: George Garrett, City Manager

Agenda Item: **Resolution 2024-119**, Authorizing The Purchase If A New CCT Rescue Under Bid #16-VEF12.0 From Emergency Tactical Rescues For An Amount Not To Exceed \$289,154. This Resolution Authorizes The City Manager To Permit Department Head To Engage And Accept The Proposal. Authorizing The City Manager To Expend Budgeted Funds And Appropriating Funds On Behalf Of The City; And Providing For An Effective Date

BACKGROUND & JUSTIFICATION:

The new CCT Rescue will replace the current Rescue 116 which was placed in service in 2020, which has depreciated to within 24 months of workable service life. We will aspire to retain this vehicle with the department as a spare. The mission of CCT service results in high milage and long-haul use and strong wear on the vehicle. This Modular chassis and layout is our new default specification moving away from the “van” model which presented issues with wear and service.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	_____	_____
2. Other _____	_____	_____
3. Not applicable _____		

FISCAL NOTE:

The adopted FY25 Capital Infrastructure budget includes appropriations of \$206,000 for this replacement vehicle, approval will appropriate the additional funds necessary to complete the purchase if delivered prior to 9/30/25.

RECOMMENDATION:

Council Approve Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-119**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, PURSUANT TO THE CITY'S PROCUREMENT POLICIES AND PROCEDURES OF A NEW RESCUE UNDER THE FLORIDA SHERIFF'S CONTRACT BID #16-VEF12.0 FROM EMERGENCY TACTICAL RESCUE VEHICLES. IN AN AMOUNT NOT TO EXCEED \$289,154.00; AUTHORIZING THE CITY MANAGER TO APPROPRIATE AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Ordinance 2014-15, the City adopted purchasing policies and procedures (the "Purchasing Policies and Procedures") after determining that it was fiscally prudent and in the City's best interest to adopt policies and procedures for City employees and officials regarding the acquisition and purchase of contractual services, equipment, goods, and other similar types of services; and

WHEREAS, the automotive fire apparatus ("Rescue") will replace the CCT Transport Rescue which will be used front line CCT vehicle and can serve as 911 transport if one of the Fire-Rescue units are on calls and this purchase will unify the fleet; and

WHEREAS, the purchase of the new CCT rescue will rectify the need for significant maintenance costs that are anticipated forthcoming as the legacy costs of front line CCT vehicle to toll.

WHEREAS, the proposal of **\$289,154.00** also includes the design specifications needed for our unique and progressive community service. There is no prepayment required, it does provide payment within 30 days of delivery of the vehicle.

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 Council authorizes the City Manager to expend budgeted funds with Emergency Tactical Rescue Vehicles for the purchase of an Automotive Fire Rescue "CCT" Apparatus in an amount not to exceed \$289,154.00 based on the competitively bid Florida Sheriff's Association Bid #16-VEF12.0.

Section 3. 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 NOVEMBER 2024.**

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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

COUNCIL AGENDA STATEMENT

Meeting Date: November 12, 2024

To: Honorable Mayor and Council Members

From: Dan Saus, Utility Director

Through: George Garrett, City Manager



Agenda Item: **Resolution 2024-120** Approving The Purchase With M&M Stellar Technologies, LLC To Provide SCADA Computer/Software And On-Going Maintenance, In An Amount Not To Exceed \$35,000.00; Authorizing The City Manager To Enter Into An Agreement, Appropriating And Expending Budgeted Funds; And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

M&M Stellar Technologies LLC was the sole respondent to multiple inquiries for repairs and ongoing maintenance to the City’s SCADA system. This system included multiple internet providers and associated equipment, multiple computers at seven locations, industrial PLC’s at 5 WWTP’s and all the hardware and software related to these systems. Our Current IT contractor was unable to provide the services our systems need.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	_____	_____
2. Other –Sewer Mandate	_____	_____

FISCAL NOTE:

The adopted FY25 Wastewater Utility budget includes appropriations for contractual professional services.

RECOMMENDATION:

Approve Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-120**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE PURCHASE WITH M&M STELLAR TECHNOLOGIES, LLC TO PROVIDE SCADA COMPUTER/SOFTWARE AND ONGOING MAINTENANCE, IN AN AMOUNT NOT TO EXCEED \$35,000.00; AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT, APPROPRIATING AND EXPENDING BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, M&M Stellar Technologies LLC was the sole respondent to multiple inquiries for repairs and ongoing maintenance to the City’s SCADA system. This system includes multiple internet providers and associated equipment, multiple computers at seven locations, industrial PLC’s at 5 WWTP’s and all the hardware and software related to these systems; and

WHEREAS, the City may waive competitive bidding in the event that “only one vendor possesses the unique and singularly available capability to meet the requirements of a particular procurement; and

WHEREAS, the City wishes to approve agreement with M&M Stellar Technologies, LLC for the City’s SCADA computer/software maintenance, in an amount not to exceed \$35,000.00; and

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’s purchasing policies and procedures are hereby waived and the City Council hereby authorizes the City Manager to execute any agreements in connection, and expend funds on behalf of the City.

Section 3. 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 NOVEMBER, 2024.

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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



CITY COUNCIL AGENDA STATEMENT

Meeting Date: November 12, 2024

To: Honorable Mayor and City Council

From: George Garrett, City Manager

Agenda Item: **Resolution 2024-121**, Providing A Recommendation To The Monroe County Board Of County Commissioners Regarding The Number Of Additional Residential Building Permit Allocations Marathon Would Like To Receive In Potential Future Allocations; Providing For Transmittal Of This Resolution To Certain People With The County; Providing For Transmittal Of This Resolution To Florida Commerce; And Providing For An Effective Date.

BACKGROUND:

Staff used the Monroe County Property Appraiser October parcel data and selected only the PC code 0000 for vacant residential parcels. Parcels were then removed with known projects, as well as parcels that are tied to condo association common areas, docks, access easements, and government owned parcels. The total number of vacant parcels using these metrics is 575. Of these, approximately 123 are most likely unbuildable due to habitat, including 6 that are red flag wetlands. It should be noted that not all parcels that can be developed with residential units may be flagged as PC code 0000. Nearly every single zoning district (excluding airport) allows for the development of a residential unit subject to the density requirements of that district. Many that are flagged as vacant commercial (1000) could support residential development, and could apply based upon existing regulations, but have the potential for commercial development if no residential allocations are available. There are an additional 105 vacant parcels flagged as PC code 1000.

One metric that is not accounted for is all parcels that are currently combined for tax purposes with the property appraiser. Without a formal unity of title, these may be split at any time and would alter the number of vacant parcels. Additionally, based upon the platting and subdivision regulation, there exist an uncounted number of parcels that may be split in the future.

Another metric not accounted for is of those 575 parcels, some of these may have active permits, or may have building rights associated with them. Staff will continue to assess parcel by parcel to verify these individually. If any have a BPAS allocation, we will continue to monitor, as the expiration of the permit could void the allocation. Staff are aware of a few parcels where the existing building right has been transferred off of a parcel through the TBR process, to then have the owner of the parcel apply for another allocation through BPAS.

The total number of vacant lots and the number of allocations being sought should not be considered the same number. If allocations are received, they must comply with existing ROGO/BPAS allocation requirements. These discourage development in sensitive areas and encourage development in areas that are appropriate for infill development. Scoring also includes many different criteria that can then lead to the ranking of an application.

Further, as long as density and other regulations permit, an application may be made for another unit on an already developed lot. This application may, and in many cases will, score higher than an application on a low scoring buildable lot. This would result in the allocation being awarded to the more suitable lot, while not reducing the overall takings risk. Additionally, as noted above, commercially zoned vacant parcels could apply for and receive residential allocations, again not reducing the potential for overall takings claims.

Approximate density analysis has been undertaken for these purely residentially zoned parcels. However, it was noted that some do not currently have density based upon their size but are still buildable. This is because “a building permit may be issued for a single-family dwelling or a Florida Building Code compliant mobile home on any legally created lot within a recorded plat for a lot zoned Residential High (RH), Residential Medium (RM), or Residential Mobile Home (R-MH) that is rendered nonconforming for allowed maximum densities by the adoption of these LDRs, provided that such use is permitted otherwise under the Plan and the LDRs and complies with each and every other requirement of the Plan and LDRs.” These will have to be reviewed on a parcel-by-parcel basis.

There are currently 109 BPAS applications split between the Market Rate and Affordable allocations lists. Removing requests for multiple units, this number is reduced to 74 parcels.

There are approximately 113 privately owned Transferable Building Rights (TBRs) that are currently being administratively held at City Hall. There is an ILA where an additional 18 Market rates may potentially be developed within City limits if not transferred to the County. The City does not control the sale or transfer of these allocations. The City just ensures that the allocations are transferred based upon the existing TBR requirements. These allocations could go to vacant parcels but may also be transferred to lots that have existing building rights on them if they have enough density. These TBRs are also bound by similar environmental restrictions as the BPAS allocations.

A separate yet still relevant issue is larger affordable housing projects. These require units as well, and in some cases can be projects that cross jurisdictional lines that are geographically within 25 miles of each other. The affordable housing study noted that this severely constrained the ability to provide affordable housing. Most larger projects seek tax credits and are in the approximate 50–65-unit range. In one instance the units were split with half being built in Marathon, and the remaining half being constructed in Big Pine Key. The Council should determine how many units should be made available for these types of projects and include them in the request. Alternatively, as these projects can span jurisdictions, this can be a separate countywide requested number allowing for more flexibility across jurisdictions.

No matter the number of allocations sought, the City should continue to coordinate with the Monroe County Land Authority to acquire parcels.

RECOMMENDATION:

Approval of the Resolution.

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-121**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, PROVIDING A RECOMMENDATION TO THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING THE NUMBER OF ADDITIONAL RESIDENTIAL BUILDING PERMIT ALLOCATIONS MARATHON WOULD LIKE TO RECEIVE IN POTENTIAL FUTURE ALLOCATIONS; PROVIDING FOR TRANSMITTAL OF THIS RESOLUTION TO CERTAIN PEOPLE WITH THE COUNTY; PROVIDING FOR TRANSMITTAL OF THIS RESOLUTION TO FLORIDA COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon has implemented the Building Permit Allocation System (“BPAS”) as codified in Chapter 107, Article 1, of the City’s Land Development Regulations (the “LDRs”); and

WHEREAS, in the Fall of 2023, the State Department of Commerce issued their Florida Keys Hurricane Evacuation Modeling Report which provided several scenarios for clearance times in the event of a hurricane; and

WHEREAS, all the jurisdictions in Monroe County, including the City of Marathon, decided to let the County lead the effort on future consideration of additional ROGO/BPAS allocations; and

WHEREAS, The City of Marathon desires to recommend to the Monroe County Board of County Commissioners (“BOCC”) that the City of Marathon wishes to receive **XXX** additional BPAS allocations; and

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 Council hereby recommends to the BOCC that the City of Marathon receive **XXX** BPAS allocations, should future allocations be made available by the State of Florida.

Section 3. The City Clerk is directed to furnish copies of this resolution to:

- A. Mayor Holly Merrill Raschein and all members of the BOCC;
- B. County Clerk Kevin Madok;
- C. County Administrator Christine Hurley; and
- D. Florida Commerce.

Section 4. 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 NOVEMBER 2024.

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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:

Steven T. Williams, City Attorney

COUNCIL AGENDA STATEMENT



Meeting Date: November 12, 2024

To: Honorable Mayor & Members of the City Council

From: Dan Saus, Utilities Manager

Through: George Garrett, City Manager

Agenda Item: **Resolution 2024-122**, Awarding Change Order #2 For The Chemical Systems Upgrades To Pedro Falcon Contractors, Inc.; Approving A Change In Contract Amount From \$80,587.18; Authorizing The City Manager To Execute The Contract And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date. This Work Qualifies And Will Be Submitted For Reimbursement Through The Existing CDBG-DR Grant.

BACKGROUND & JUSTIFICATION:

Change Order #2 is attached as Exhibit “A” details the Scope of Work and cost breakdown for the required work changes in the Chemical Systems Upgrades project. The changes include unforeseen electrical conflicts impacting the installation of Sure Volt heater and overhead power lines at the WWTP and conflicts between existing overhead power lines and the new generator installations. City staff, consisting of the Utility Director and the Utility Staff, have reviewed the proposal and the proposal is reasonable for the work and approval is recommended.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	<u>X</u>	_____
2. Other – 2010 Sewer Mandate	<u>X</u>	_____
3. Not applicable	<u>X</u>	_____

FISCAL NOTE:

The adopted FY25 Wastewater Utility Budget includes appropriations of \$4,951,269 for CDBG grant related projects.

RECOMMENDATION:

Approval of Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-122**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING CHANGE ORDER #2 TO THE CONTRACT WITH PEDRO FALCON CONTRACTORS, INC. IN AN AMOUNT NOT TO EXCEED \$80,587.18 FOR THE POWER CONDITIONING PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Change Order #2 is attached as Exhibit “A” details the Scope of Work and cost breakdown for the required work changes in the Chemical Systems Upgrades project; and

WHEREAS, changes include unforeseen electrical conflicts impacting the installation of Sure Volt heater and overhead power lines at the WWTP and conflicts between existing overhead power lines and the new generator installations; and

WHEREAS, the Staff recommends the City Council to approve Change Order #2 for the additional work described to the proposal from Pedro Falcon Contractors Inc., in an amount not to exceed \$80,587.18, as provided on Exhibit “A.”

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 are incorporated herein by this reference.

Section 2. The Change Order #2, between the City and the Pedro Falcon Contractors for the Power Conditioning Project a copy of which is attached as Exhibit “A,” together with such non-material changes as may be acceptable to the City Manager and approved as to form by the City Attorney, is hereby approved. The City Manager is authorized to execute Change Order # on behalf of the City and expend budgeted funds.

Section 3. 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 NOVEMBER 2024.

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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

EXHIBIT "C"
CHANGE ORDER

CHANGE ORDER NO. 2

TO: City of Marathon

PROJECT: Marathon Power Conditioning & Surge Protection Project

CONTRACTOR: Pedro Falcon Contractors, INC.

DATE: October 30th, 2024

This Change Order will authorize the following change to the Agreement:

The Work as set forth in the Agreement is hereby amended to include the items set forth on **Exhibit "1"** attached hereto and by this reference made a part hereof.

This Change Order constitutes full, final, and complete compensation to the Contractor for all costs, expenses, overhead, and profit, and any damages, and/or time adjustments of every kind that the Contractor may incur in connection with the above referenced changes in the Work, and any other effect on any of the Work under the Agreement. The Contractor acknowledges and agrees that (a) the Contract Price of \$4,475,940.38 under the Agreement will be **changed** by this Change Order, and (b) the schedule for performance of Work will be **changed** by this Change Order. Contractor expressly waives any claims for any additional compensation, damages or time extensions in connection with the above-referenced changes. Except as herein or heretofore expressly modified, all terms of the Agreement shall remain in full force and effect and shall cover the performance of, and payment for, any work authorized hereunder. Any defined terms not defined in this Change Order shall have the meanings set forth in the Agreement.

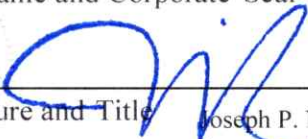
By signing below the parties indicate acceptance of this Change Order as set forth herein.

CONSENT OF SURETY TO CHANGE ORDER

The Surety Agrees that this change order is not a cardinal change and if the Change Order includes an increase in the Contract amount, then the penal amount of the payment and performance bond issued for this Contract is increased by the dollar amount of this Change Order.

Travelers Casualty and Surety Company of America (Seal)

Surety's Name and Corporate Seal

By: 
Signature and Title Joseph P. Nielson
Attorney-in-Fact

Attest: 
Signature and Title Dania Gogerty
Witness

City of Marathon

By: _____
Name: _____
Title: _____

Contractor Pedro Falcon Contractors, Inc.

By: _____
Name: _____
Title: _____

Exhibit "1"

CHANGE ORDER SUMMARY

This Change Order is necessary to cover changes in the Work to be performed under this Agreement. Except as may be modified herein all of the provisions of the Agreement apply to and govern all Work under this Change Order.

THE FOLLOWING CHANGES ARE MADE TO THE AGREEMENT DOCUMENTS:

(1)	Original Contract Price	<u>\$ 4,328,361.00</u>
(2)	Current Contract Price (Adjusted by Previous Change Orders)	<u>\$ 4,475,940.38</u>
(3)	Total Proposed Change in Contract Price	<u>\$ 80,587.18</u>
(4)	New Contract Price (Item 2 + Item 3)	<u>\$ 4,556,527.56</u>
(5)	Original Contract Time (Days)	<u>365 Days</u>
(6)	Current Contract Time (Adjusted by Previous Change Orders)	<u>380 Days</u>
(7)	Total Proposed Change in Contract Time	<u>90 Days</u>
(8)	New Contract Time (Item 6 + Item 7)	<u>470 Days</u>
(9)	Original Contract Substantial Completion Date	<u>January 6th, 2025</u>
(10)	New Contract Substantial Completion Date	<u>April 21st, 2025</u>

CHANGE ORDER HISTORY						
Item No.	Description	Current Contract Amount	Additive Change	Deductive Change	Net Change Contract Price	Net Change Contract Time
I.	CO #1	\$4,328,361.00	\$147,579.38	\$0.00	\$147,579.38	15 days
II.	CO#2	\$4,475,940.38	\$80,587.18	\$0.00	\$80,587.18	90 days
Total					\$228,166.56	105 days

This Change Order addresses unforeseen electrical conflicts impacting the installation of Sure Volt heaters and overhead power lines at multiple WWTP sites. It includes the installation of 1" conduits and wiring for heaters at Areas 3, 4, 5, 6, 7, and the Area 5 Remote Vacuum Station. Additionally, conflicts between existing overhead power lines and new generator installations on the elevated platform at Area 5 require directional drilling to reroute these lines. Caputo Electric Inc. will perform the directional drilling and power line relocation, while the 1" conduit installation for the heaters is handled separately. This Change Order reflects the additional time and costs needed to address these adjustments beyond the original project scope.

The cost breakdown is as follows:

PCO #4 Power Connection for Internal Sure Volt heater & relocated overhead power conflicts	\$80,587.18
TOTAL	\$80,587.18



Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **David R Hoover, Kristy L Collins, Jarrett Merlucci, Shawn A. Burton, CHARLES D NIELSON, CHARLES J NIELSON, JOSEPH P NIELSON, and IAN A NIPPER** of Miami Lakes, Florida, their true and lawful Attorney (s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in the, r business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st** day of **April**, 2021.



State of Connecticut

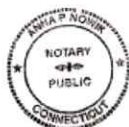
By: 
 Robert L. Raney, Senior Vice President

City of Hartford ss.

On this the **21st** day of **April**, 2021, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, 2026




 Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 4th day of November, 2024




 Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.

COUNCIL AGENDA STATEMENT



Meeting Date: November 12, 2024

To: Honorable Mayor and City Councilmembers

From: George Garrett, City Manager

Agenda Item: **Resolution 2024-123**, Approving A Request To Receive And To Utilize Surplus Tourist Development Council (TDC) Funds For Authorized Affordable Housing Project Types; Requesting That Any Funds Which May Not Be Used In Other DAC Districts Be Made Available To The City Of Marathon, Florida Upon Request By The City And Approval By The TDC And Monroe County Board Of Commissioners; And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

Monroe County has successfully identified \$35M of surplus Tourist Development Council (TDC) funding that can be used to purchase or develop housing units to provide affordable housing for employees of private sector tourism related businesses. The County is pleased to have this unique opportunity and wish to have each municipalities input.

As such, the County is requesting that the City Council pass a resolution outlining any potential projects that could be developed within the City of Marathon that meet the statutory requirements of the funds' Pursuant to F.S. 125.0108, any housing financed with funds from the TDC surplus must remain affordable as defined in F.S. 420.0004 and be for employees of private sector tourism-related businesses in the County. The law that allows these funds to be used for this purpose require a maximum income of 120% of the area median income (AMI).

The TDC has recommended the surplus funds be used and distributed in a similar fashion as they are generated, which is by DAC. The geographic boundaries of the five (5) District Advisory Committees (DACs) are as follows:

- (1) District I shall encompass the city limits of Key West
- (2) District II shall be from the city limits of Key West to the west end of the Seven Mile Bridge;
- (3) District III shall be from the west end of the Seven Mile Bridge to the Long Key Bridge;
- (4) District IV shall be between the Long Key Bridge and Mile Marker 90.939; and
- (5) District V shall be from Mile Marker 90.940 to the Dade/Monroe County line and any mainland portions of Monroe County.

While there is an historic allocation of funds by DAC, it should be noted that the cost of land or potential development of affordable housing may make it impossible to build or fund housing projects in all DACs, so some flexibility should be built into the recommended funding scenarios. For example, the TDC could recommend the County try to achieve a similar distribution as the 5-year average, with an allowance to spend funding from one DAC to an adjacent DAC.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	<u> X </u>	<u> </u>
2. Other _____	<u> X </u>	<u> </u>
3. Not applicable _____		

FISCAL NOTE:

Approved by Finance Department

RECOMMENDATION:

Council approve Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-123**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA APPROVING A REQUEST TO RECEIVE AND TO UTILIZE SURPLUS TOURIST DEVELOPMENT COUNCIL (TDC) FUNDS FOR AUTHORIZED AFFORDABLE HOUSING PROJECT TYPES; REQUESTING THAT ANY FUNDS WHICH MAY NOT BE USED IN OTHER DAC DISTRICTS BE MADE AVAILABLE TO THE CITY OF MARATHON, FLORIDA UPON REQUEST BY THE CITY AND APPROVAL BY THE TDC AND MONROE COUNTY BOARD OF COMMISSIONERS; AND PROVIDING FOR AN EFFECTIVE DATE.

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WHEREAS, Monroe County has successfully identified \$35M of surplus Tourist Development Council (TDC) funding that can be used to purchase or develop housing units to provide affordable housing for employees of private sector tourism related businesses.

WHEREAS, The County is pleased to have this unique opportunity and wish to have each municipalities' input.

WHEREAS, the County is requesting that the City Council pass a resolution outlining any potential projects that could be developed within the City of Marathon that meet the statutory requirements of the funds' Pursuant to F.S. 125.0108, any housing financed with funds from the TDC surplus must remain affordable as defined in F.S. 420.0004 and be for employees of private sector tourism-related businesses in the County; and

WHEREAS, the law that allows these funds to be used for this purpose requires a maximum income of 120% of the area median income (AMI); and

WHEREAS, the TDC has recommended the surplus funds be used and distributed in a similar fashion as they are generated, which is by DAC; and

WHEREAS, the geographic boundaries of the five (5) District Advisory Committees (DACs) are as follows:

- (1) District I shall encompass the city limits of Key West
- (2) District II shall be from the city limits of Key West to the west end of the Seven Mile Bridge;
- (3) District III shall be from the west end of the Seven Mile Bridge to the Long Key Bridge;
- (4) District IV shall be between the Long Key Bridge and Mile Marker 90.939; and
- (5) District V shall be from Mile Marker 90.940 to the Dade/Monroe County line and any mainland

portions of Monroe County.

WHEREAS, while there is an historic allocation of funds by DAC, it should be noted that the cost of land or potential development of affordable housing may make it impossible to build or fund housing projects in all DACs, so some flexibility should be built into the recommended funding scenarios; and

WHEREAS, for example, the TDC could recommend the County try to achieve a similar distribution as the 5-year average, with an allowance to spend funding from one DAC to an adjacent DAC.

WHEREAS, the City recognizes at least three options for utilizing the surplus TDC funds as allowed under law:

1. Purchase existing residences, renovate them as workforce housing, and deed restrict them for the purposes prescribed and allowed under law; and/or
2. Purchase vacant property, develop workforce housing, and deed restrict them for the purposes prescribed and allowed under law; and/or
3. Partner with one of two projects currently approved and required (there may be others) to develop workforce housing responsive to the needs of the hospitality industry for work force housing,

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 of Marathon wishes to receive and to utilize surplus Tourist Development Council (TDC) funds for authorized affordable housing project types; requesting that any funds which may not be used in other DAC districts be made available to the City Of Marathon, Florida upon request by the City and approved by the TDC and the Monroe County Board Of Commissioners.

Section 3. The City would utilize the surplus TDC funds for at least three potential options as allowed under law:

- Purchase existing residences, renovate them as workforce housing, and deed restrict them for the purposes prescribed and allowed under law; and/or
- Purchase vacant property, develop workforce housing, and deed restrict them for the purposes prescribed and allowed under law; and/or
- Partner with one of two projects currently approved and required (there may be others) to develop workforce housing responsive to the needs of the hospitality industry for work force housing,

Section 4. This resolution shall take effect immediately upon approval and adoption by the City Council.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12th DAY OF NOVEMBER 2024.

THE CITY OF MARATHON, FLORIDA

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:**

Steve Williams, City Attorney

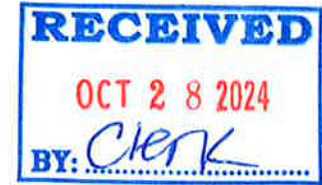
County of Monroe

The Florida Keys



BOARD OF COUNTY COMMISSIONERS

Mayor Holly Merrill Raschein, District 5
Mayor Pro Tem James K. Scholl, District 3
Craig Cates, District 1
Michelle Lincoln, District 2
David Rice, District 4



Mayor Robyn Still
City of Marathon
9805 Overseas Highway
Marathon, FL 33050

October 22, 2024

Mayor Still,

Monroe County has successfully identified \$35M of surplus Tourist Development Council (TDC) funding that can be used to purchase or develop housing units to provide affordable housing for employees of private sector tourism related businesses. We are pleased to have this unique opportunity and wish to have each municipalities' input.

As such, we are requesting the City Council pass a resolution outlining any potential projects that could be developed within the City of Marathon that meet the statutory requirements of the funds. Pursuant to F.S. 125.0108, any housing financed with funds from the TDC surplus must remain affordable as defined in F.S. 420.0004 and be for employees of private sector tourism-related businesses in the County.

The law that allows these funds to be used for this purpose require a maximum income of 120% of the area median income (AMI).

Rental Affordable Housing Units

Monroe County 2024 Qualifying Income Limits

Income Limits for Single Persons					(MC Land Authority use only) 160%
Household Size	Very Low 50%	Low 80%	Median 100%	Moderate 120%	
1 Person	\$41,800	\$66,850	\$83,600	\$100,320	\$133,760
2 Persons	\$47,700	\$76,350	\$95,400	\$114,480	\$152,640
3 Persons	\$53,700	\$85,950	\$107,400	\$128,880	\$171,840
4 Persons	\$59,650	\$95,450	\$119,300	\$143,160	\$190,880
5 Persons	\$64,450	\$103,100	\$128,900	\$154,680	\$206,240
6 Persons	\$69,200	\$110,750	\$138,400	\$166,080	\$221,440
7 Persons	\$74,000	\$118,400	\$148,000	\$177,600	\$236,800
8 Persons	\$78,750	\$126,000	\$157,500	\$189,000	\$252,000

Per MCC §101-1. *Affordable Housing* Definitions

The TDC has recommended the surplus funds be used and distributed in a similar fashion as they are generated, which is by DAC. The geographic boundaries of the five (5) District Advisory Committees (DACs) are as follows:

- (1) District I shall encompass the city limits of Key West;
- (2) District II shall be from the city limits of Key West to the west end of the Seven Mile Bridge;
- (3) District III shall be from the west end of the Seven Mile Bridge to the Long Key Bridge;
- (4) District IV shall be between the Long Key Bridge and Mile Marker 90.939; and
- (5) District V shall be from Mile Marker 90.940 to the Dade/Monroe County line and any mainland portions of Monroe County.


The following table demonstrates the revenue collections by DAC geographic area with a 5-year average:

		FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	5 Year Avg.	5 Year Avg.	35,000,000.00
District I	Key West City Limits	21,608,004	15,531,397	26,297,561	32,874,464	28,560,353	24,974,355.81	48.19%	\$ 16,868,243
District II	Stock Island thru West End 7 Mile Bridge	2,540,800	2,389,279	4,669,268	5,497,642	4,998,998	4,019,197.40	7.76%	\$ 2,714,667
District III	West End 7 Mile Bridge thru Long Key Bridge	6,345,179	5,843,212	10,402,078	12,457,157	11,390,883	9,287,701.80	17.92%	\$ 6,273,123
District IV	Long Key Bridge thru Mile Marker 90.939	3,914,763	3,551,095	6,381,177	7,364,248	6,890,068	5,620,270.49	10.85%	\$ 3,796,057
District V	Mile Marker 90.939 to Dade County Line	5,548,793	4,847,758	8,872,905	10,723,599	9,596,380	7,917,887.06	15.28%	\$ 5,347,920
		39,957,538	32,162,741	56,622,990	68,917,111	61,436,683	51,819,412.56		\$ 35,000,000

While this table demonstrates the historic allocation of funds by DAC, it should be noted that the cost of land or potential development of affordable housing may make it impossible to build or fund housing projects in all DACs, so some flexibility should be built into the recommended funding scenarios. For example, the TDC could recommend the County try to achieve a similar distribution as the 5-year average, with an allowance to spend funding from one DAC to an adjacent DAC.

Monroe County is eager to receive the feedback of the City of Marathon as it relates to the surplus TDC funds. If there are any questions related to the County's request, please contact Cheryl Cioffari, Assistant Director of Planning at 305-407-0924.

Sincerely,



Mayor Holly Merrill Raschein

Cc: George Garrett, Marathon City Manager
Christine Hurley, AICP, Monroe County Administrator