

Sponsored by: Puto  
Introduction Date: June 16, 2014  
Public Hearing Dates: June 24, 2014  
July 8, 2014  
Enactment Date: July 8, 2014

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2014-10**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 102, ARTICLE 10, “PLATTING” AND ARTICLE 12, “SUBDIVISION REGULATIONS” AND CHAPTER 103, ARTICLE 3, “USE AND INTENSITY TABLES” CONCERNING THE INCLUSION OF ADDITIONAL STANDARDS FOR THE MINIMUM WIDTH OF STREET FRONT PROPERTY LINES AND THE RELATIONSHIP OF THE SIZE AND DIMENSION OF PROPOSED LOTS TO THOSE OF SURROUNDING PROPERTIES; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE DEPARTMENT OF ECONOMIC OPPORTUNITY IN ACCORDANCE WITH STATE LAW.**

**WHEREAS**, the City Council (the “Council”) enacted its Comprehensive Plan on July 5, 2005 and its Land Development Regulations (LDRs) on November 7, 2007; and

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

**WHEREAS**, it is the desire of the City of Marathon City Council to amend its current landscape regulations; and

**WHEREAS**, pursuant to Section 163.3174 and 166.041, *Florida Statutes*, and Section 102, Article 7 of the Marathon Code, the City’s Planning Commission sitting as the Local Planning Agency on June 16, 2014 publicly considered the amendments to Land Development Regulations set forth in this Ordinance (the “Amendment”) at a properly noticed public hearing and recommended to the City Council the adoption of the Amendment; and

**WHEREAS**, the City Council publicly considered the amendments to Land Development Regulations set forth in this Ordinance (the “Amendment”) at a properly noticed public hearing and finds the adoption of the Amendment, in substantially the form attached hereto, is in the best interest of the City and

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complies with applicable State laws and rules

**WHEREAS**, the proposed changes to the current landscape regulations are consistent with the goals, objectives, and policies set forth in the Comprehensive Plan,

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

**Section 1. Recitals.** The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

**Section 2. Code Amendment.** The Land Development Regulations (LDRs) of the City of Marathon, Florida are hereby amended as follows:

**Section 102.46. Plat Review by Technical Review Committee.**

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C. *Minor Plat Review:* Only a minor plat approval is required if the subdivision is limited to the establishment of two (2) lots for the purpose of allowing review and administrative approval by the TRC. **The minimum lot area to allow subdivision, the minimum resulting lot area and street-front lot width for the Residential Medium (RM) and Residential High (RH) Land Use Districts are as follows:**

<u>Land Use District</u>		<u>RM</u>	<u>RH</u>
<b><u>Minimum to allow Subdivision</u></b>			
	<u>Area</u>	<u>17,424</u>	<u>10,890</u>
<b><u>Minimum after Subdivision</u></b>			
	<u>Area</u>	<u>8,712</u>	<u>5,445</u>
	<u>Street-front lot width</u>	<u>75</u>	<u>50</u>

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**Section 3. Code Amendment.** The Land Development Regulations (LDRs) of the City of Marathon, Florida are hereby amended as follows:

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**Section 102.67. Purpose.**

It is the purpose of this Chapter to provide criteria for the subdivision of land for residential purposes and to implement policies of the City of Marathon Comprehensive Plan.

**Section 102.68. General Provisions.**

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D. *Minor Plat Review:* A legal lot of record may be divided into two (2) separate lots, parcels, tracts or other subdivision of land, without complying with the subdivision requirements of this article, through the minor plat review process, provided all of the conditions below are met:

1. The legal lot of record has frontage on and has direct access to an existing publicly maintained street. The access may be provided by a legally established joint driveway access to the public street in lieu of public street frontage for both lots upon approval by the City and City Attorney. **The minimum lot area to allow subdivision, the minimum resulting lot area and street-front lot width for the Residential Medium (RM) and Residential High (RH) Land Use Districts are as follows:**

<u>Land Use District</u>		<u>RM</u>	<u>RH</u>
<b><u>Minimum to allow Subdivision</u></b>			
	<b><u>Area</u></b>	<b><u>17,424</u></b>	<b><u>10,890</u></b>
<b><u>Minimum after Subdivision</u></b>			
	<b><u>Area</u></b>	<b><u>8,712</u></b>	<b><u>5,445</u></b>
	<b><u>Street-front lot width</u></b>	<b><u>75</u></b>	<b><u>50</u></b>

2. The resultant lots shall meet the requirements of the Plan and the LDRs.
3. Approved lot division must be memorialized in a document recorded in the public record, which shall include the following disclosure statement:

"The parcel of land described in this instrument is located in the City of Marathon. The use of the parcel of land is subject to and restricted by the goals, policies and objectives of the Plan and land development regulations adopted as a part of, and in conjunction with and as a means of implementing the Plan. The Land Development Regulations provide that no building permit shall be issued for any development of any kind unless the proposed development complies with each and every requirement of the regulations, including minimum area requirements for residential development. You are hereby notified that under the City Land Development Regulations, the division of land into parcels of land which are not approved as platted lots under these regulations confer no right to develop a parcel of land for any purpose."

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4. Any further division of a legal lot of record shall be deemed a subdivision and shall comply with these regulations.
5. Reconfigured lots must be unified through a Unity of Title or a declaration of restrictions and covenants in a form approved by the City Attorney.

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**Section 102.69. Subdivision Design Process and Subdivision Plan Requirements.**

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D. *Preliminary Review and Approval:*

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3. The preliminary subdivision plan shall be submitted on black or blue line prints drawn at an acceptable scale such as 50 feet to the inch on sheets no larger than 24 by 36 inches. The plan drawing shall include the following: The subdivision plan shall be submitted on black or blue line prints drawn at an acceptable scale and shall include the following information taken from existing, readily available data:

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- (k) The **general** location of all **existing** lots **must be shown**. **Proposed** ~~lot~~ lines **and areas must** ~~do not need to be shown as well~~ **and meet the following minimum standards:**

<u>Land Use District</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Minimum</u>
	<u>Existing Lot Area</u>	<u>Subdivided Lot Area</u>	<u>Street-front Lot Width</u>
<u>A</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>C-NA</u>	<u>12 Acres</u>	<u>8 Acres</u>	<u>NA</u>
<u>C-OI</u>	<u>30 Acres</u>	<u>20 Acres</u>	<u>NA</u>
<u>I-G</u>	<u>26,136 Sq Ft</u>	<u>17,424 Sq Ft</u>	<u>NA</u>
<u>I-M</u>	<u>26,136 Sq Ft</u>	<u>17,424 Sq Ft</u>	<u>NA</u>
<u>MU</u>	<u>21,780 Sq Ft</u>	<u>14,520 Sq Ft</u>	<u>NA</u>
<u>MU-M</u>	<u>21,780 Sq Ft</u>	<u>14,520 Sq Ft</u>	<u>NA</u>
<u>P</u>	<u>13,068 Sq Ft</u>	<u>8,712 Sq Ft</u>	<u>NA</u>
<u>PR</u>	<u>12 Acres</u>	<u>8 Acres</u>	<u>NA</u>
<u>RH</u>	<u>16,335 Sq Ft</u>	<u>10,890 Sq Ft</u>	<u>75 Ft</u>
<u>R-MH</u>	<u>16,335 Sq Ft</u>	<u>10,890 Sq Ft</u>	<u>NA</u>
<u>RM</u>	<u>26,136 Sq Ft</u>	<u>17,424 Sq Ft</u>	<u>100 Ft</u>
<u>RM-1</u>	<u>32,670 Sq Ft</u>	<u>21,780 Sq Ft</u>	<u>100 Ft</u>
<u>RM-2</u>	<u>26,136 Sq St</u>	<u>17,424 Sq Ft</u>	<u>100 Ft</u>
<u>RL</u>	<u>6 Acres</u>	<u>4 Acres</u>	<u>NA</u>
<u>RL-C</u>	<u>12 Acres</u>	<u>8 Acres</u>	<u>NA</u>

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i. An applicant who wishes to subdivide property may obtain a reduction in the minimum street-front lot width based on a strict mathematical averaging of the actual street-front lot width of all properties within 500 feet of the property being subdivided on the same street and with 250 feet on parallel streets. The distances noted (e.g. 500 ft and 250 feet) are flexible based on the actual location on the street of the property subject to subdivision and the meander of that street. The reduction allowed will be the cumulative average of street-front lot widths rounded up to the nearest ten foot increment (e.g. average = 76.5 feet; allowed street front lot width = 80 feet).

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**Section 4. Code Amendment.** The Land Development Regulations (LDRs) of the City of Marathon, Florida are hereby amended as follows:

**Section 103.15. Standards.**

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B. *Zoning Districts:* The density, intensity, setbacks, and dimensional standards relative to each parcel are subject to the limitations of the zoning district as reflected in Tables 103.15.1 and 103.15.2.

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**Table 103.15.2**  
**DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS**

	A	C-NA	C-OI	I-G	I-M	MU	MU-M	P	PR	RH	R-MH	RM	RM-1	RM-2	RL	RL-C
<b>Minimum Street Frontage-front Lot Width (Limited to Coco Plum Dr)</b>										<u>75'</u>		<u>100'</u>	100'	100'		

Footnotes for Table 103.15.2

\* Determined by the Director, based upon Habitat Analysis

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

\*\*\* Affordable dwelling units not subject to this limitation

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

- Salt marsh/buttonwood association wetlands that are either undisturbed or of high functional capacity as defined in Article 4, of Chapter 106 shall be assigned a density of 0.25 units per acre for the sole purpose of transferring the density out of these habitats.
- Submerged lands, salt ponds and mangrove wetlands shall not be assigned density for any purpose (i.e., allocated density = 0).

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

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

<sup>3</sup> Subject to the additional height restrictions of Article 5, Chapter 107.

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

**Section 4. Severability.** 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. Inclusion in the Code of Ordinances.** 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.

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

**Section 7. Effective Date.** This Ordinance shall be effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8<sup>th</sup> DAY OF JULY, 2014.**

THE CITY OF MARATHON, FLORIDA

  
\_\_\_\_\_  
Dick Ramsay, Mayor

AYES: Bartus, Bull, Keating, Senmartin, Ramsay  
NOES: None  
ABSENT: None  
ABSTAIN: None

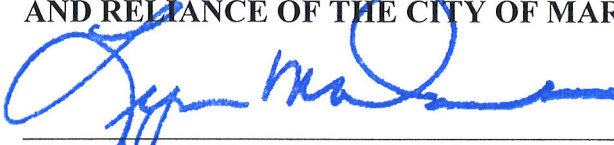
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**ATTEST:**

  
\_\_\_\_\_  
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

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**STATE OF FLORIDA  
DEPARTMENT OF ECONOMIC OPPORTUNITY**

In re: A LAND DEVELOPMENT REGULATION  
ADOPTED BY CITY OF MARATHON  
ORDINANCE NO. 2014-10

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**FINAL ORDER  
APPROVING CITY OF MARATHON ORDINANCE NO. 2014-10**

The Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), Florida Statutes, approving land development regulations adopted by the City of Marathon, Florida, Ordinance No. 2014-10 (the “Ordinance”).

**FINDINGS OF FACT**

1. The Florida Keys Area is designated by § 380.0552, Florida Statutes, as an area of critical state concern. The City of Marathon, is a local government within the Florida Keys Area.
2. The Ordinance was adopted by the City of Marathon on July 8, 2014, and rendered to the Department on July 17, 2014.
3. The Ordinance amends the City of Marathon Code of Ordinances Appendix, Chapter 102, Article 10, “Platting,” and Article 12, “Subdivision Regulations,” and Appendix, Chapter 103, Article 3, “Use and Intensity Tables.” These amendments concern inclusion of additional standards for the minimum width of street front property lines and the relationship of the size and dimensions of proposed lots to those surrounding properties.

**CONCLUSIONS OF LAW**

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. §§ 380.05(6) and (11), Florida Statutes.

5. The City of Marathon is a local government within the Florida Keys Area of Critical State Concern. §380.0552, Florida Statutes and Florida Administrative Code Chapter 28-26.

6. “Land development regulations” include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Florida Statutes. The regulations adopted by the Ordinance are land development regulations.

7. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. §§ 380.05(6) and 380.0552(9), Florida Statutes. The Principles for Guiding Development for the Florida Keys Area of Critical State Concern are set forth in § 380.0552(7), Florida Statutes.

8. The Ordinance is consistent with the City of Marathon Comprehensive Plan generally, and specifically Chapter 1, Objective 1-3.4 (Future Land Use Categories), Policy 1-3.1.4, and Table 1-1.

9. The Ordinance is consistent with the Principles for Guiding Development in section 380.0552(7), Florida Statutes, as a whole, and is specifically consistent with the following Principles:

(a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.

(e) Limiting the adverse impacts of development on the quality

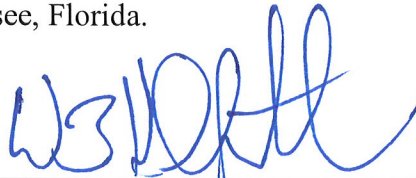
of water throughout the Florida Keys.

(n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

WHEREFORE, IT IS ORDERED that the Department finds that the City of Marathon Ordinance No. 2014-10 is consistent with the Principles for Guiding Development for the Florida Keys Area of Critical State Concern and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Register unless a petition is timely filed as described in the Notice of Administrative Rights below.

DONE AND ORDERED in Tallahassee, Florida.



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William B. Killingsworth, Director  
Division of Community Development  
Department of Economic Opportunity

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2) FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT

WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF RECEIPT OF THIS NOTICE. A PETITION IS FILED WHEN IT IS **RECEIVED** BY:

AGENCY CLERK  
DEPARTMENT OF ECONOMIC OPPORTUNITY  
OFFICE OF THE GENERAL COUNSEL  
107 EAST MADISON STREET, MSC 110  
TALLAHASSEE, FLORIDA 32399-4128  
TELEPHONE: (850) 245-7160  
FAX (850) 921-3230  
Email: James.Bellflower@deo.myflorida.com

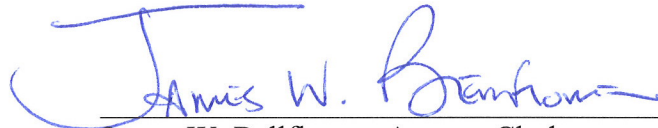
THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

**CERTIFICATE OF FILING AND SERVICE**

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the following persons by the methods indicated this 21 day of AUGUST, 2014.



James W. Bellflower, Agency Clerk  
Department of Economic Opportunity  
107 East Madison Street, MSC 110  
Tallahassee, FL 32399-4128

By U.S. Mail:

The Honorable Dick Ramsay, Mayor  
City of Marathon, City Council  
9805 Overseas Highway  
Marathon, FL 33050

Diane Clavier, Clerk  
City of Marathon  
9805 Overseas Highway  
Marathon, FL 33050

George Garrett, Director  
City of Marathon, Planning Department

9805 Overseas Highway  
Marathon, FL 33050