

RESOLUTION NO. 00-06-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MARATHON AND THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS, THE FLORIDA DEPARTMENT OF HEALTH, INCLUDING THE MONROE COUNTY HEALTH DEPARTMENT AND THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION PERTAINING TO COORDINATED PERMIT REVIEW PROCESS FOR WASTEWATER DISPOSAL PERMITS AND DEVELOPMENT PERMITS FOR NEW RESIDENTIAL DEVELOPMENT IN THE CITY OF MARATHON, FLORIDA; AND AUTHORIZING THE MAYOR TO EXECUTE SAID MEMORANDUM OF UNDERSTANDING; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. The Memorandum of Understanding between the City of Marathon, the Florida Department of Community Affairs, the Florida Department of Health, including the Monroe County Health Department, and the Florida Department of Environmental Protection pertaining to Coordinated Permit Review Process for Wastewater Disposal Permits and Development Permits for New Residential Development in Unincorporated Monroe County, attached as Exhibit "A" is hereby approved.

Section 2. The Mayor is authorized to execute said Memorandum of Understanding.

Section 3. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 20th day of June, 2000.



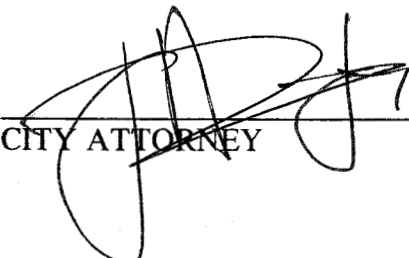
ROBERT K. MILLER, MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY



CITY ATTORNEY

MEMORANDUM OF UNDERSTANDING

Coordinated Permit Review Process for Wastewater Disposal Permits And Development Permits for New Residential Development In The City of Marathon

This Memorandum of Understanding ("MOU") is entered into between the Florida Department of Community Affairs ("DCA"), Florida Department of Health ("DOH"), including the Monroe County Health Department ("MCHD"), Florida Department of Environmental Protection ("DEP"), and the City of Marathon, Florida ("City").

I. Background

The purpose of this MOU is to document the individual and collective responsibilities of the above parties to implement a coordinated permit review process regarding wastewater disposal permits and development permits for new residential development in the City as required under Administration Commission Rule 28-20.100, Comprehensive Plan — Part II (35) Policy 101.2.13 and as directed in Executive Orders 96-108 and 98-309.

Rule 28-20.100 directs that no state agency shall issue a wastewater disposal permit that would allow development in excess of the number of permits that the City may issue under Policy 101.2.13 for new residential development, and that the City shall not issue development permits in excess of wastewater disposal permits that DOH may issue or wastewater treatment plant construction permits that DEP may issue.

Monroe County adopted Ordinance No. 16-1992, as amended, establishing a dwelling unit allocation system, also referred to as the Rate of Growth Ordinance ("ROGO"), to facilitate implementation of the Monroe County Comprehensive Plan and Development regulations and to regulate the rate of growth. Pursuant to Chapter 99-427, Laws of Florida, this Ordinance is applicable to the City until such time as the City adopts its own comprehensive plan and land development regulations.

Monroe County more recently adopted Ordinance No. 31-1999 regarding an inspection and compliance program for on-site sewage treatment and disposal systems ("OSTDS"), requiring the replacement of unknown, unpermitted and inadequate OSTDS within areas identified as "Cold Spots" in the County's master wastewater planning process. Pursuant to Chapter 99-427, Laws of Florida, this Ordinance is applicable to the City until such time as the City adopts its own comprehensive plan and land development regulations. However, the City, including Grassy Key, anticipates the construction and operation of a City-wide central wastewater system. Accordingly, the City is exempt from the inspection and compliance program for OSTDS as set forth in Ordinance No. 31-1999, as there are no cesspool identification and elimination areas within the City.

II. Purpose and Scope

This MOU and the above-cited ordinances, as amended by Administration Commission Rule No. 28-20.100, are intended to serve as the interim Permit Allocation System, the coordinated permit review process, and the tracking system for monitoring nutrient reduction credits required by Administration Commission Rule 28-20.100.

III. Authority

General authority for the parties to enter into this MOU is provided by Administration Commission Rule No. 28-20.100(35), Florida Administrative Code. Additionally, DCA is authorized by Section 380.032, Florida Statutes (F.S.), to enter into an agreement with any landowner, developer or other governmental agency as may be necessary to effectuate the provisions and purposes of Chapter 380, F.S., or any related rule. DEP is authorized to enter into this agreement under Section 403.61 (21), F.S., and the City is authorized under Chapters 166 and 380, F.S.

IV. Nutrient Reduction Credits

Nutrient reduction credit(s) are generated for the replacement of a cesspool or upgrading of a non-compliant OSTDS with a DOH/MCHD approved OSTDS or connection to a DEP approved wastewater treatment system. Nutrient reduction credits ("nutrient credit") are generated in accordance with the Nutrient Reduction Credit Schedule, which is included as Addendum One to this Agreement. These credits may be accumulated and may be applied to ROGO allocation awards in future ROGO years. Except as expressly provided for in this Agreement, nutrient credits may only be applied to a ROGO allocation award within the same ROGO planning area in which they were generated, including all nutrient credits generated by the construction and operation of the "Little Venice Wastewater Pilot Project."

1. DOH Tracking System for Nutrient Credits

DOH/MCHD, hereinafter referred to collectively as "MCHD," agrees to maintain a tracking system that monitors nutrient reduction credits in the City. MCHD agrees to track the number of nutrient credits generated. Each full (1.0) nutrient credit will be assigned a unique identifier number. Each half (0.5) credit will be given a unique identifier with an "A" or "B" suffix, that must be linked to its corresponding half credit to generate a full nutrient credit.

Prior to each City Planning Commission meeting to approve the allocation of ROGO awards, MCHD agrees to notify the City Planning Department of the number of full nutrient credits available in the City area along with their unique identifier numbers.

No OSTDS permit may be issued for a new residential dwelling unit unless a full-unused nutrient credit exists. When the OSTDS permit is issued, a nutrient credit is then considered used and the record for that nutrient credit will include a unique identifier provided by the City for the ROGO allocation award linked to that nutrient credit. The nutrient credit identifier and ROGO allocation award identifier will both be included on the issued OSTDS permit.

The MCHD with assistance from the City will keep a cumulative list of individual used and unused nutrient credits, unique identifiers for each nutrient credit, dates issued, the corresponding OSTDS permits issued, and corresponding ROGO award identifiers. MCHD agrees to provide a semi-annual report showing totals-to-date, annual, and semi-annual figures to all parties to this Agreement and to the Executive Office of the Governor.

2. DEP Assistance in Nutrient Tracking

The Department will assist the City in its nutrient tracking efforts to ensure that construction permits for domestic wastewater facilities do not allow development in excess of the number of building permits that the City may issue. To do this, the DEP will provide the City with a copy of the permit application within 15 days of its receipt by the DEP.

The DEP will notify the City of its intent to draft (or deny) a permit. If the City objects, for any reason, to issuing the permit, it may request an administrative hearing in accordance with Rule 62-620.510, FAC.

V. **ROGO Allocation Tracking System**

The City agrees to maintain a tracking system that monitors ROGO allocation awards within its jurisdiction with separate tracking for market-rate residential and affordable residential awards. The City agrees to track the number of ROGO allocation awards generated and used.

When a building permit application for a new residential dwelling unit is submitted to the City Building Department, the City will assign a unique identifier to that application which shall also serve as its unique ROGO award identification number for tracking purposes. When a ROGO allocation award is made, the City will notify applicants receiving the ROGO award and MCHD.

In determining ROGO allocation awards, the City will use the information provided by MCHD and its own nutrient tracking records regarding the number of nutrient credits available in the City. No building permit for a new residential dwelling unit may be issued unless the applicant has received a ROGO allocation award with a unique identifier; and, an OSTDS permit with a corresponding nutrient credit and unique identifier from MCHD or documentation of connection to a DEP approved wastewater treatment system.

1. Assignment of Nutrient Credits

Nutrient credits will be divided between affordable residential and market-rate residential awards in a minimum of 20:80 proportion, unless the City's Planning Commission approves an increase in the proportion of affordable housing allocations as provided for in the City Land Development Regulations. If such an increase is authorized, this proportion will be adjusted accordingly and the City will notify MCHD. No nutrient credits associated with affordable residential ROGO allocation awards may be switched to market-rate residential allocations.

Any nutrient credits which the City obtains through agreements with private and public entities under the provisions of Chapters 163 and 380, F.S., will be available for assignment by the City. The City will coordinate the assignment of these nutrient credits with MCHD.

A ROGO allocation awardee with an available nutrient credit has sixty (60) days to pick up his OSTDS and building permit after notification by the City. After sixty (60) days, the ROGO allocation award expires and the nutrient credit is available to be assigned to the eligible ROGO awardee highest on the nutrient credit list.

The City will maintain a cumulative list of individual used and unused ROGO allocation awards, corresponding unique award identifiers, dates issued, ROGO area of each award including whether it was categorized as either market-rate residential or affordable residential, and the correspondence nutrient credit identifiers. The City agrees to provide a quarterly summary report showing totals to date, annual, and quarterly figures to all parties to this Agreement and the Executive Office of the Governor.

2. Adjustment of ROGO Awards

Applicants with ROGO scores sufficient to receive an allocation in a ROGO quarter, but unable to be awarded a ROGO allocation in order to receive their OSTDS and building permits because of a shortage of nutrient credits, will retain their ROGO ranking and nutrient credit priority rank for future nutrient credits that may become available, ahead of ROGO applicants who receive a sufficient ranking to receive a ROGO allocation in subsequent ROGO quarters.

At the end of each ROGO year, the number of ROGO allocation awards in the next ROGO year will be reduced by the number of ROGO applications with sufficient scores to receive a ROGO allocation award, but which are still awaiting a nutrient credit.

VI. Coordinated Permit Review Process

The Coordinated Permit Review Process for On-site Wastewater Disposal Permits and Development Permits for the City from the applicant's perspective will be as follows:

1. The applicant for an OSTDS permit for new development applies for and receives a preliminary OSTDS letter of review from MCHD if all conditions are met except the possession of a nutrient credit. The applicant signs a disclaimer acknowledging that the OSTDS permit will not be issued until and unless a nutrient credit is available, and that the City cannot issue a building permit until the applicant receives a ROGO allocation award and verification of nutrient credit availability.

2. The applicant provides the City with a coordinating letter from MCHD and goes through the building permit application and ROGO process and receives a ROGO allocation ranking. The ROGO ranking also determines the priority for a nutrient credit.

3. If the applicant's ranking is sufficiently high to receive a ROGO allocation award and if a nutrient credit is available, the applicant is notified by the City that he is eligible to receive an OSTDS permit and then a building permit. The City notifies the MCHD. The notification includes a unique identifier for the applicant's ROGO award. The notification also states that the awardee has sixty (60) days to pick up the OSTDS permit from the MCHD and the building permit from the City; otherwise the applicant's building permit and ROGO award expire. The City also compiles a ranking of all applicants considered for the quarterly ROGO allocation award. Applicants may consult this list to determine their ranking. In some ROGO quarters, the number of available nutrient credits may be less than the number of available ROGO allocation awards. Those ROGO applicants with sufficient ranking to be eligible for a ROGO award, but are unable to receive an award due to a shortage of nutrient credits, will retain their ROGO ranking and nutrient credit priority rank for future nutrient credits that may become available, ahead of applicants who have sufficient ranking to receive a ROGO award in future quarters.

4. The applicant brings the ROGO award notification with its unique identifier to the MCHD to receive an OSTDS permit. MCHD issues the applicant an OSTDS permit showing both the nutrient credit unique identifier and the ROGO award unique identifier. MCHD notifies the City after the applicant receives the OSTDS permit.

5. The applicant brings the OSTDS permit to the City and picks up his building permit. The building permit shows both the nutrient credit unique identifier and ROGO award unique identifier.

6. At any stage in the permitting process an applicant has the option of earning a nutrient credit in accordance with the schedule in Addendum One by replacing or upgrading a wastewater system in the City. After final inspection and approval by MCHD of the new OSTDS replacing a cesspit or upgrading an OSTDS, MCHD will reserve the resulting nutrient credit and unique identifier in the applicant's name and will issue a preliminary OSTDS letter of review if all other conditions are met. However under no circumstances will the applicant be able to reserve a nutrient credit that is generated without providing the MCHD with a building permit application number.

VII. Effective Date

This MOU shall take effect upon the date the last party signs this MOU and shall remain in effect for the period prescribed within Administration Commission Rule 28-20.100.

IN WITNESS WHEREOF, the parties have executed this Agreement



Robert Miller, Mayor, City of Marathon

4/28/00

Date

Attest:

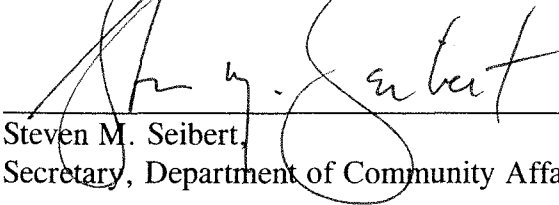


City Clerk

Approved as to form and legal sufficiency



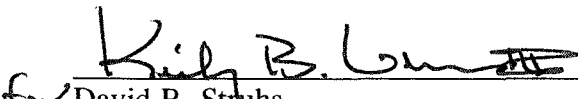
City Attorney



Steven M. Seibert,
Secretary, Department of Community Affairs

10-16-00

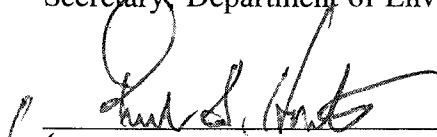
Date



for David B. Struhs
Secretary, Department of Environmental Protection

18 Oct 00

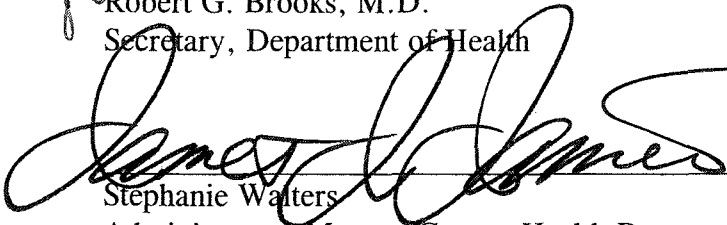
Date



for Robert G. Brooks, M.D.
Secretary, Department of Health

10/11/00

Date



Stephanie Walters
Administrator, Monroe County Health Department

10/9/00

Date

ADDENDUM ONE
NUTRIENT REDUCTION CREDIT SCHEDULE
On-site Sewage Treatment and Disposal System Upgrades

The upgrade or replacement of the following wastewater treatment systems to a DOH/MCHD approved OSTDS:

Cesspit	1.0 Nutrient Credit
Substandard OSTDS	0.5 Nutrient Credit
Approved OSTDS	0.5 Nutrient Credit
Secondary Treatment	Not Applicable

Centralized: Secondary Wastewater Treatment System Upgrades

The upgrade or replacement of the following wastewater treatment systems to a DEP approved centralized system with secondary treatment:

Cesspit	1.0 Nutrient Credit
Substandard OSTOS	0.5 Nutrient Credit
Approved OSTDS	0.0 Nutrient Credit
Secondary Treatment	Not Applicable

Centralized: Best Available Treatment (BAT)

The upgrade or replacement of the following wastewater treatment systems to a DEP approved centralized BAT system:

Cesspit	1.0 Nutrient Credit
Substandard OSTDS	1.0 Nutrient Credit
Approved OSTDS	1.0 Nutrient Credit
Secondary Treatment	1.0 Nutrient Credit

Centralized: Advanced Wastewater Treatment (AWT)

The upgrade or replacement of the following wastewater treatment systems to a DEP approved centralized AWT system:

Cesspit	1.5 Nutrient Credit
Substandard OSTDS	1.5 Nutrient Credit
Approved OSTDS	1.5 Nutrient Credit
Secondary	1.5 Nutrient Credit

Note: 1.0 nutrient credit equals 1.0 equivalent residential unit (ERU).