

RESOLUTION NO. 02-09-109

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH MONROE COUNTY, FLORIDA REGARDING CONTRACTOR LICENSING AND DISCIPLINE, AUTHORIZING THE MAYOR TO EXECUTE THE INTERLOCAL AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City was created by Chapter 99-427, Laws of Florida, which approved the creation of the City of Marathon effective November 30, 1999; and

WHEREAS, Chapter 99-427 provides that as of November 30, 1999, all contractor licensing and discipline powers and duties within the City's boundaries shall be vested in the City Council until such time as the City Council delegates all or a portion thereof to another entity; and

WHEREAS, the City and the County are interested in insuring continuity in the provision of contractor licensing and discipline functions within the City's corporate limits and a smooth transition in the eventual transfer of these functions to the City; and

WHEREAS, the City desires to utilize the services of the County to provide contractor licensing and discipline functions.

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

Section 1. **Approval of Agreement.** The Interlocal Agreement between the City, and the County (the "Agreement"), granting the County the necessary authority to provide

contractor licensing and discipline services within the City's boundaries, attached as Exhibit "A" is approved.

Section 2. **Execution of Agreement.** The Mayor is authorized to execute the Agreement on behalf of the City.

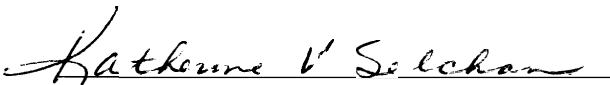
Section 3. **Effective Date.** This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 3rd day of September, 2002.



JOHN BARTUS, MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:



CITY ATTORNEY

INTERLOCAL AGREEMENT

This Interlocal Agreement (the "Agreement") entered into by and between the City of Marathon, a municipal corporation of the State of Florida, whose address is 10045-55 Overseas Highway, Marathon, Florida, (the "City"); and Monroe County, Florida, a political subdivision of the State of Florida, whose address is Public Service Building, 5100 College Road, Key West, Florida (the "County").

WITNESSETH:

WHEREAS, the City was created by Chapter 99-427, Laws of Florida, which approved the creation of the City of Marathon effective November 30, 1999; and

WHEREAS, Chapter 99-427 provides that as of November 30, 1999, all municipal powers and duties within the City's boundaries shall be vested in the City Council until such time as the City Council delegates all or a portion thereof to another entity; and

WHEREAS, both the City and the County are interested in insuring continuity in the provision of contractor licensing and disciplinary functions within the City's corporate limits; and

WHEREAS, the City desires to utilize the services of the County to provide contractor licensing and disciplinary functions as specifically set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual consideration and promises set forth below, the parties agree as follows:

1. **Authority to Enter Into Agreement**

1.1 This Agreement is entered into pursuant to Section 163.01, Florida Statutes.

2. **Definitions**

2.1 For the purpose of this Agreement, all definitions are the same as those contained in Article II of Chapter 6 of the City Code.¹ The current Article II of Chapter 6 of the City Code contains the same provisions as did Article III of Chapter 6 of the County Code as of November 30,1999.

3. **Transfer of Powers Relating to Contractor Licensing**

3.1 The County shall, through its Contractors Examining Board, have and exercise all of the powers and duties granted to it in Chapter 6 of the City Code.² The powers and duties under this agreement shall be performed by the Contractors Examining Board as required and pursuant to Chapter 6 of the City Code.

3.2 The County shall, through its Contractors Examining Board, accept, review and process, as appropriate, applications for contractor licenses and renewal of licenses for contractors who wish to engage in business in the City and issue or deny County certificates of competency for contractors including, but not limited to masters, journeymen, maintenance personnel and apprentices, including temporary, reciprocal and honorary certificates.

¹/ The City amended Chapter 6 of the Code by **Ordinance 02-07-11**, which renumbered the article on Contractor Licensing and Discipline but did not change its substance.

²/ Pursuant to Ordinance No. 01-01-01 of the City of Marathon, Florida, the City adopted the applicable provisions of the Monroe County Code, as it existed on the effective date of the City's incorporation, as the City Code.

- 3.3 The County shall authorize examinations and review results thereof, determine equivalency of examinations, and issue or deny, as appropriate, certificates of competency.
- 3.4 All of the foregoing functions shall be performed in accordance with County ordinances, rules, and regulations. Nothing in this agreement prohibits the City from requiring occupational licenses of those contractors who have a place of business in the City.
- 3.5 The County shall comply with the record making and record keeping requirements of Chapter 6 of the City Code.
- 3.6 The City and County agree that the County will collect all contractor licensing fees for applications, examinations, certification and renewal, record keeping and record making, as established by the City Code or applicable City resolutions. These fees, plus any other applicable fees collected by any other County department during the term of this Agreement for the provision of specified services listed herein, shall be retained by the County as full compensation for services rendered to the City pursuant to this Agreement.

4. **Transfer of Powers Relating to Contractor Discipline**

- 4.1 The County shall, through the Contractors Examining Board conduct all disciplinary actions and hearings including, but not limited to, administrative suspensions, the imposition of administrative fines, the issuance of letters of reprimand, the ordering of suspensions, the

revocation of licenses, investigations, and the appointment of special investigators, and shall adopt guidelines for the imposition of penalties.

- 4.2 Whenever possible, the County shall recover the costs for the services provided under this section from the contractors who are disciplined, through its power to fine or assess costs against the contractor. If the amount of the fine or costs exceeds the cost to the County, said excess shall be credited to the City. If the cost of enforcement exceeds the fine or fee, or no fee is recovered, the City shall be charged and shall pay the difference. Services rendered by the Contractors Examining Board to the City pursuant to this Agreement shall be governed by this agreement only with respect to contractor conduct within the City.
- 4.3 All of the foregoing functions shall be conducted pursuant to the City Code, and all discipline will be issued in the name of the City.
- 4.4 The County shall comply with the record making and record keeping requirements of Chapter 6 of the City Code.
- 4.5 The County Contractor Examining Board shall have complete authority to interpret Chapter 6 of the City Code as it relates to contractor licensing and discipline. Any administrative appeal of any decision or interpretation of Chapter 6 of the City Code made by the County staff, shall be heard by the Contractor Examining Board in accordance with the applicable provisions of the City Code. All appeals of any decision of the Contractor Examining Board shall be processed and heard in accordance with the procedures set forth in Chapter 6 of the City Code.

4.6 If the County chooses to voluntarily waive a fine or not recover its costs, the City shall not be required to reimburse the County. Services rendered by the Contractors Examining Board to the City pursuant to this Agreement shall be governed by this agreement only with respect to contractor conduct within the City.

5. **Activity Reports**

5.1 The County will provide the City with a bi-monthly activity report of all services provided to the City pursuant to this Agreement. The County will also provide to the City upon demand an activity report of all services rendered to the City pursuant to this agreement.

6. **Invoices**

6.1 The County shall submit invoices for reimbursement on a quarterly basis for review and approval by the City Manager or designee. The County must submit the invoice to the City within three (3) weeks after the end of the quarter. The invoices shall only apply to expenses related to the services provided under this agreement. The invoices shall include sufficient detail for the City Manager or designee to determine whether the invoice is related to the services provided under this agreement. If the City Manager or designee determines that the invoices are not specific enough, the County shall provide additional information to allow the City Manager or designee to make the determination. The City shall pay the County in

accordance with Sections 218.70 through 218.79, Florida Statutes, (the "Florida Prompt Payment Act").

Termination

- 7.1 This Agreement shall have a term of two (2) years **from** the date last party executes this agreement through the signature of its Mayor (the "Termination Date"), unless earlier terminated or extended in **accordance** with paragraphs 7.2 or 7.3 below.
- 7.2 City or County may terminate this Agreement in whole or **part** prior to the Termination Date by giving the other party thirty (30) days written notice of such **termination**. Upon receipt of such notice, the parties shall immediately meet to negotiate **and** finalize the terms and conditions of the smooth transfer of the licensing functions, records, and appropriate fees.
- 7.3 Should the City wish to continue to utilize the County's contractor licensing services, in whole or in part, after the Termination Date, the City will **notify** the County in writing of its intention as soon as practical, but no later than thirty (30) days before the Termination Date. Upon receipt of such notice, the parties shall immediately meet to negotiate and finalize the terms and conditions of such extension.
- 7.4 Any terms or conditions of this Agreement or any subsequent extension or **amendment** to this Agreement that require acts beyond the date of the term of the Agreement, shall survive the termination of this 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.

8. **Notices**

8.1 All notices hereunder must be in writing and shall be deemed validly given if hand delivered; sent by certified mail, return receipt requested, or overnight delivery addressed as follows (or any other address that the party to be notified may have designated to the sender by proper notice):

The County: Mr. James Roberts
County Administrator
Monroe County
Public Service Building, Wing II
5100 College Road, Stock Island
Key West, Florida 33040

A copy to: County Attorney
P.O. Box 1026
Key West, Florida 33041-1026

City: Craig Wrathell
City Manager
City of Marathon
10045-55 Overseas Highway
Marathon, Florida 33050

A copy to: Nina L. Boniske, Esq.
John R. Herin, Jr., Esq.
City Attorney
City of Marathon
Weiss, Serota, Helfman,
Pastoriza & Guedes, P.A.
2665 South Bayshore Drive, Suite 420
Miami, Florida 33133

8.2 Unless otherwise required by law, any notice sent hereunder shall (subject to proof of receipt or refusal of same) be deemed to have been delivered on the same day if hand-delivered, on the next business day if sent by overnight courier, or on the day of receipt or refusal, if sent by certified or registered mail.

9. **Amendments**

This Agreement may be modified only by an agreement in writing authorized by the City Council of ~~the~~ City of Marathon and the Board of County Commissioners of Monroe County.

10. **Indemnification**

To the extent allowed by law, each party hereto shall indemnify and save the other harmless from any and all claims, liability, losses, and causes of action which may arise out of the other's actions in fulfillment of this Agreement.

11. **Law**

This Agreement shall be construed in accordance with the laws of ~~the~~ State of Florida. The venue for any lawsuit arising out of this Agreement shall be Middle Keys Division, Monroe County, Florida.

12. **Severability**

Should any provision, paragraph, sentence, word, or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform with such laws, then shall be deemed severable, and in this Agreement, shall remain unmodified and in full force and effect.

13. **Remedies**

- 13.1 If and when any default of this Agreement occurs, the non-defaulting party may avail itself of any legal or equitable remedies that may apply, including, but not limited to, actual damages and specific performance.
- 13.2 Such remedies may be exercised in the sole discretion of the non-defaulting party.
- 13.3 Nothing contained in this Agreement shall limit either party from pursuing any legal or equitable remedies that may apply.

14. **Non-Waiver**


- 14.1 No waiver by the City or the County of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such party.
- 14.2 No delay or omission in the exercise of any right or remedy accruing to the City or County upon any breach under this Agreement shall impair such right to remedy or be construed as a waiver of any such breach.
- 14.3 No waiver of any covenant or condition or of the breach of any covenant or condition of this Agreement shall constitute a waiver of any subsequent breach of such covenant or condition, or justify or authorize the nonobservance on any other occasion of the same or of any other covenant or condition of this Agreement.

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IN WITNESS WHEREOF the parties have caused this Agreement to be executed on their behalf as to the date first above written.

ATTEST: DANNY L. KOLHAGE,
CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA, a
political subdivision of the State of Florida


By: *Jamie Hancock*
Clerk/Deputy Clerk

By: *[Signature]*
Mayor

(SEAL)

DATE: *September 18, 2002*

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: *[Signature]*
County Attorney

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY.

BY *[Signature]*
SUZANNE A. HUTTON
DATE *9/04/02*

ATTEST:

CITY OF MARATHON, FLORIDA,
a municipal corporation of the State
of Florida

By: *Katherine V. Selcha*
City Clerk

By: *[Signature]*
John Bartus, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

DATE: *October 11, 2002*

By: *[Signature]*
City Attorney