

Sponsored by: Tempest

**CITY OF MARATHON, FLORIDA
RESOLUTION 2006-080**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, SUPPORTING FIRM'S CONTINUING EFFORTS TO REDUCE THE PROPOSED MONROE COUNTY WINDSTORM INSURANCE RATES; AUTHORIZING AN EXPENDITURE IN THE AMOUNT OF \$10,000.00 TO CONTRIBUTE TO A LEGAL FUND ON BEHALF OF FIRM'S EFFORTS

WHEREAS, on May 1, 2006, through the efforts of FIRM, the Office of Insurance Regulation issued an Order which, in part, would freeze the Monroe County windstorm rates at 2005 levels and would authorize actuarial and other studies to determine the appropriate insurance rates and coverages for Monroe county property owners; and

WHEREAS, FIRM has recommended the hiring of legal counsel – the Jacksonville law firm of Volpe, Bajalia, Wickes, Rogerson, Galloway & Wachs – to assure that the Office of Insurance Regulation Order becomes a final administrative action and yields its intended outcome for Monroe County property owners; and

WHEREAS, the City of Key West has authorized an expenditure in the amount of \$30,000.00 towards this same goal;

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

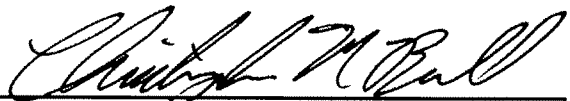
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. Council authorizes the support of FIRM's continuing efforts to reduce the proposed Monroe County windstorm insurance rates; and authorizes an expenditure in the amount of \$10,000 to contribute to a legal fund on behalf of FIRM's efforts.

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 23rd day of May, 2006.

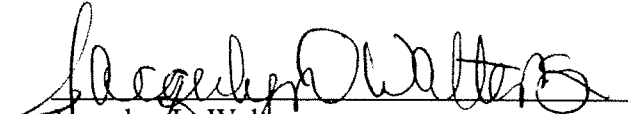
THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor

AYES: Mearns, Pinkus, Tempest, Bull
NOES: None
ABSENT: Worthington
ABSTAIN: None

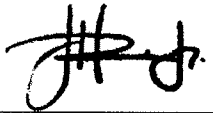
ATTEST:



Jacquelyn L. Walters
Acting City Clerk

(City Seal)

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



City Attorney

RESOLUTION NO. 631-2006

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, ACCEPTING \$30,000.00 FROM THE CITY OF KEY WEST, FLORIDA, AND \$10,000.00 FROM THE CITY OF MARATHON, FLORIDA, TO ASSIST IN PAYMENT OF LEGAL FEES ON BEHALF OF FIRM, AND REQUESTING THE CLERK OF THE COUNTY COURT OF MONROE COUNTY TO INVOICE THE CITIES OF KEY WEST AND MARARTHON FOR PAYMENT.

WHEREAS, on May 16, 2006, the Board of County Commissioners of Monroe County, Florida, authorized the hiring of the law firm of Volpe, Bajalia, Wickes, Rogerson, Galloway, and Wach ("Volpe"), to provide legal advice, counseling and representation with respect to issues relating to wind storm insurance coverage, actuarial computation, pricing and other wind storm insurance matters vital to the citizens of Monroe County; and

WHEREAS, on May 19, 2006, the City Commission of the City of Key West, Florida, passed Resolution No. 06-184, authorizing the expenditure of \$30,000.00 to contribute to a fund to hire FIRM's recommended legal counsel; and


WHEREAS, on May 23, 2006, the City Council of the City of Marathon, Florida, passed Resolution 2006-080, authorizing an expenditure in the amount of \$10,000.00 to contribute to a legal fund on behalf of Fair Insurance Rates in Monroe ("FIRM"); and

WHEREAS, on December 1, 2006, FIRM issued a letter to the cities of Marathon and Key West, requesting that the funds set aside in accordance with the above-referenced resolutions be paid to the Clerk of the County Court of Monroe County, Florida, for use, in part, to pay for the legal fees of Volpe in connection with the matters noted above.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, that:

1. The Clerk of the County Court of Monroe County, Florida, is hereby directed to request that the City of Marathon, Florida, pay to Monroe County the sum of \$10,000.00 as authorized by Resolution 2006-080 of that body and in accordance with the letter dated December 8, 2006 from FIRM to the City of Marathon, Florida, with thanks both to FIRM and to the City of Marathon from the citizens of Monroe County; and
2. The Clerk of the County Court of Monroe County, Florida, is hereby directed to request that the City of Key West, Florida, pay to Monroe County the sum of \$30,000.00 as authorized by Resolution 2006-080 of that body and in accordance with the letter dated December 8, 2006 from FIRM to the City of Marathon, Florida, with thanks both to FIRM and to the City of Key West from the citizens of Monroe County.

DANNY L. KOLHAGE
CLERK OF THE CIRCUIT COURT

DATE: January 25, 2007
TO: Suzanne A. Hutton
County Attorney
ATTN: Kathy Peters
Executive Assistant
FROM: Pamela G. Hancock 
Deputy Clerk

RECEIVED
JAN 25 2007
MONROE COUNTY ATTORNEY

At the December 20, 2006, Board of County Commissioner's meeting the Board adopted Resolution No. 631-2006 accepting \$30,000.00 from the City of Key West, Florida, and \$10,000.00 from the City of Marathon, Florida to assist in payment of legal fees on behalf of FIRM, and requesting the Clerk of the County Court of Monroe County to invoice the Cities of Key West and Marathon for payment.

Enclosed is a certified copy of the subject Resolution for your handling. Should you have any questions please do not hesitate to contact this office.

cc: Finance
File

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said board held on the 20th day of December, 2006.

Mayor Mario Di Gennaro, District 4	<u>Yes</u>
Commissioner Dixie Spehar, District 1	<u>Yes</u>
Commissioner George Neugent, District 2	<u>Yes</u>
Commissioner Charles "Sonny" McCoy, District 3	<u>Yes</u>
Commissioner Sylvia Murphy, District 5	<u>Yes</u>

(Seal)

Attest: **DANNY L. KOLHAGE**, Clerk

By: *Pamela Stanwick*
Deputy Clerk

**BOARD OF COUNTY
COMMISSIONERS OF
MONROE COUNTY, FLORIDA**

BY: *Mario Di Gennaro*
Mayor Mario Di Gennaro

FILED FOR RECORD
2007 JAN 22 PM 1:59
DANNY L. KOLHAGE
CLK. DIST. CT.
MONROE COUNTY, FLA.

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Natleene W. Cassel
NATILEENE W. CASSEL
ASSISTANT COUNTY ATTORNEY
Date 12-15-06

RESOLUTION NO. 06-184

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, SUPPORTING FIRM'S CONTINUING EFFORTS TO REDUCE THE PROPOSED MONROE COUNTY WINDSTORM INSURANCE RATES; AUTHORIZING AN EXPENDITURE IN THE AMOUNT OF \$30,000.00 TO CONTRIBUTE TO A LEGAL FUND ON BEHALF OF FIRM'S EFFORTS; ENCOURAGING ALL OTHER MONROE COUNTY MUNICIPALITIES TO JOIN IN HIRING LEGAL COUNSEL; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on May 1, 2006, through the efforts of FIRM, the Office of Insurance Regulation issued an Order which, in part, would freeze the Monroe County windstorm rates at 2005 levels and would authorize actuarial and other studies to determine the appropriate insurance rates and coverages for Monroe County property owners; and

WHEREAS, FIRM has recommended the hiring of legal counsel - the Jacksonville law firm of Volpe, Bajalia, Wickes, Rogerson, Galloway & Wachs - to assure that the Office of Insurance Regulation Order becomes a final administrative action and yields its intended outcome for Monroe County property owners;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That FIRM's ongoing efforts are hereby supported.

Section 2: That an expenditure of \$30,000.00 is hereby authorized to contribute to a fund to hire FIRM's recommended legal counsel.

Section 3: That all Monroe County municipalities are hereby encouraged to join this legal effort.

Section 4: That the City Clerk is hereby authorized to transmit certified copies of this Resolution to the Mayors of Islamorada, Layton, Key Colony Beach and Marathon.

Section 5: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 16 day of May, 2006.

Authenticated by the presiding officer and Clerk of the Commission on May 19, 2006.

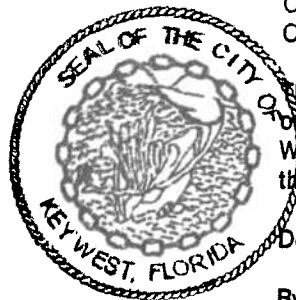
Filed with the Clerk May 19, 2006.


MORGAN McPHERSON, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

STATE OF FLORIDA
COUNTY OF MONROE
CITY OF KEY WEST



This copy is a true copy of the original on file in this office.
Witness my hand and official seal
this 22^d day of May, 2006

Deputy City Clerk

By 



OFFICE OF INSURANCE REGULATION

KEVIN M. McCARTY
COMMISSIONER

IN THE MATTER OF:

CITIZENS PROPERTY INSURANCE CORPORATION

CASE NO.: 85213-06

ORDER

TO: Robert Ricker
Citizens Property Insurance Corporation
101 North Monroe Street, Suite 1000
Tallahassee, Florida 32301

THIS CAUSE came on for consideration upon the filing by Citizens Property Insurance Corporation (hereinafter referred to as "Citizens") of rate filings FCP 05-14322, FCP 05-14323, FCP 05-14538, FCP 05-14539, and FCP 05-14324 (hereinafter referred to as the "Top 20 Rate Filings") with the Office of Insurance Regulation (hereinafter referred to as the "Office"). The Office, having considered said filings and being otherwise fully advised in the premises, hereby finds as follows with regard to the application of the filings to Monroe County:

1. The Office has jurisdiction over the subject matter and of the parties herein.
2. Citizens was created by statute as a mechanism for the equitable apportionment or sharing among insurers of property and casualty insurance covering residential property, for applicants who are in good faith entitled, but are unable to procure insurance through the admitted voluntary market.
3. Section 627.351 (6)(d)1., Florida Statutes provides, in pertinent part:

It is the intent of the Legislature that the rates for coverage provided by the corporation be actuarially sound and not competitive with the approved rates in the admitted voluntary

market so that the corporation functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. Rates shall include an appropriate catastrophe loading factor that reflects the actual catastrophic exposure of the corporation.

4. Pursuant to Section 627.351(6)(d) 2., Florida Statutes, provides:

For each county, the average rates of the corporation for each line of business for personal lines residential policies excluding rates for wind-only policies shall be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 20 insurers with the greatest total direct written premium in the state for that line of business in the preceding year, except that with respect to mobile home coverages, the average rates of the corporation shall be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 5 insurers with the greatest total written premium for mobile home owner's policies in the state in the preceding year.

5. Pursuant to Section 627.351(6)(d) 3., Florida Statutes, provides:

Rates for personal lines residential wind-only policies must be actuarially sound and not competitive with approved rates charged by authorized insurers. Corporation rate manuals shall include a rate surcharge for seasonal occupancy. To ensure that personal lines residential wind-only rates are not competitive with approved rates charged by authorized insurers, the corporation, in conjunction with the office, shall develop a wind-only ratemaking methodology, which methodology shall be contained in each rate filing made by the corporation with the office. If the office determines that the wind-only rates or rating factors filed by the corporation fail to comply with the wind-only ratemaking methodology provided for in this subsection, it shall so notify the corporation and require the corporation to amend its rates or rating factors to come into compliance within 90 days of notice from the office.

6. The Office is charged with the responsibility to ensure that Citizens rates for all lines of business are actuarially sound and not competitive with the approved rates in the admitted voluntary market.

7. Pursuant to Section 627.351(6)(d)2., Florida Statutes, Citizens filed and implemented the Top 20 Rate Filings presently pending before the Office. The rates implemented as a result of the Top 20 Rate Filings included rates for Monroe County.

8. Section 627.351(6)(d)4., Florida Statutes (2005), established a pilot program for Monroe County to evaluate issues relating to the availability and affordability of insurance in areas where historically there has been little competition. The legislation eliminated the applicability of Section 627.351(6)(d)2. and Section 627.351(6)(d)3., Florida Statutes, upon which the Top 20 Rate Filings are based, to Monroe County if the Office determines that a reasonable degree of competition does not exist for personal lines residential policies. On March 1, 2006, the Office issued a report titled Monroe County Reasonable Degree of Competition Pilot Project Report to the Florida Legislature. The report concludes there is not a competitive market for business that is the subject of the High Risk Account (HRA) in Monroe County and in fact Monroe County is considered "highly concentrated." (A copy of the legislation and the report are attached as exhibits I and II respectively). In light of the aforementioned conclusions, Citizens is required to implement only actuarially sound rates for those policies in the High Risk Account (HRA) for personal lines residential policies in Monroe County.

9. The Office hereby finds that the rates implemented by Citizens pursuant to the Top 20 Rate Filings are inapplicable to those policies in the High Risk Account (HRA) that are located in Monroe County and are hereby DISAPPROVED. Citizens is directed to apply those rates approved by the Office in its previous Top 20 Rate Filings (2005) applicable to those personal lines policies in the HRA that are located in Monroe County and to appropriately refund or credit the difference between the rates currently implemented and the rates previously

approved in its 2005 Top 20 Rate Filings as they apply to those personal lines policies in the HRA for Monroe County.

10. Pursuant to Rule 69O-170.0195, F.A.C., Citizens shall, within sixty (60) days of the execution of this Order, make a rate filing for Monroe County only, amending its rates and rating factors to reflect rates that are actuarially sound and not excessive, inadequate, or unfairly discriminatory, for those personal lines policies in the High Risk Account (HRA). The Office shall conduct an evidentiary hearing in Monroe County to receive testimony regarding the filing from Citizens and interested parties, including the Consumer Advocate. New rates shall not be implemented until approved by the Office.

11. Citizens is further directed to immediately conduct an audit of its Monroe County personal lines policies that shall include the following:

a. Citizens shall apply the appropriate policy information to a replacement cost estimator program and compare the estimated replacement cost to the insured value of the home.

b. Citizens shall review the policy premiums to determine that the premium charged is based upon estimated replacement costs and that the premium has been accurately calculated.

c. Citizens shall review the credits given for hurricane mitigation efforts and type of construction including improvements to the roof, windows, shutters and other features of the home to insure that such credits have been fully and accurately applied.

12. The methodology of the audit required by paragraph 11 shall be subject to the approval of the Office.

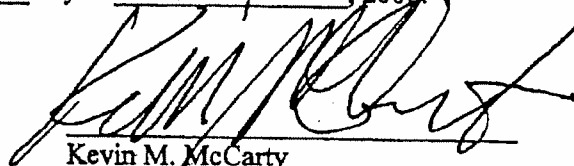
13. Citizens shall produce a detailed report of the results of the audit required by paragraph 11 to the Office of Insurance Regulation, Market Investigations, within 90 days of the execution of this Order.

14. Each party to this action shall bear its own costs and attorney fees.

THEREFORE, Rate Filings FCP 05-14322, FCP 05-14323, FCP 05-14538, FCP 05-14539, and FCP 05-14324 (Top 20 Rate Filings) are DISAPPROVED as they pertain to Monroe County.

FURTHER, all terms and conditions contained herein are hereby ORDERED.

DONE AND ORDERED this 1st day of May, 2006



Kevin M. McCarty
Commissioner
Office of Insurance Regulation

NOTICE OF RIGHTS

Pursuant to Sections 120.569 and 120.57, Florida Statutes and Rule Chapters 28-106 and 28-107, Florida Administrative Code (F.A.C.), you have a right to request a proceeding to contest this action by the Office of Insurance Regulation (hereinafter the "Office"). You may request a proceeding by filing a Petition. Your Petition for a proceeding must be in writing and must be filed with the General Counsel acting as the Agency Clerk, Office of Insurance Regulation. If served by U.S. Mail the Petition should be addressed to the Florida Office of Insurance Regulation at 612 Larson Building, Tallahassee, Florida 32399-4206. If Express Mail or hand-delivery is utilized, the Petition should be delivered to 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0300. The written Petition must be received by, and filed in the Office no later than 5:00 p.m. on the twenty-first (21) day after your receipt of this notice. Unless your Petition challenging this action is received by the Office within twenty-one (21) days from the date of the receipt of this notice, the right to a proceeding shall be deemed waived. Mailing the response on the twenty-first day will not preserve your right to a hearing.

If a proceeding is requested and there is no dispute of material fact the provisions of Section 120.57(2), Florida Statutes would apply. In this regard you may submit oral or written evidence in opposition to the action taken by this agency or a written statement challenging the grounds upon which the agency has relied. While a hearing is normally not required in the absence of a dispute of fact, if you feel that a hearing is necessary one will be conducted in Tallahassee, Florida or by telephonic conference call upon your request.

If you dispute material facts, which are the basis for this agency's action, you may request a formal adversarial proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes. If you request this type of proceeding, the request must comply with all of the requirements of Rule Chapter 28-106.201, F.A.C., must demonstrate that your substantial interests have been affected by this agency's action, and contain:

- a) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- b) A concise statement of the ultimate facts alleged, including the specific facts the Petitioner contends warrant reversal or modification of the agency's proposed action;
- c) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and
- d) A statement of the relief sought by the petitioner, stating precisely the action Petitioner wishes the agency to take with respect to the agency's proposed action.

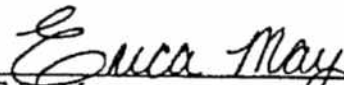
These proceedings are held before a State hearing officer of the Division of Administrative Hearings. Unless the majority of witnesses are located elsewhere, the Office will request that the hearing be conducted in Tallahassee.

In some instances you may have additional statutory rights than the ones described herein.

Failure to follow the procedure outlined with regard to your response to this notice may result in the request being denied. Any request for administrative proceeding received prior to the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this ORDER was sent by Certified Mail to, Robert Ricker, President, Citizens Property Insurance Corporation, 101 North Monroe Street, Suite 1000, Tallahassee, Florida 32301, this 1st day of May, 2006.


Erica May
Assistant General Counsel
Florida Office of Insurance Regulation
200 East Gaines Street
Tallahassee, Florida 32399-4206
(850) 413-4112

COPIES FURNISHED TO:

Robert Ricker, President
Citizens Property Insurance Corporation
Corporate Offices
101 North Monroe Street, Suite 1000
Tallahassee, Florida 32301

Susanne Murphy, Corporate Counsel
Citizens Property Insurance Corporation
Corporate Offices
101 North Monroe Street, Suite 1000
Tallahassee, Florida 32301

Tom Streukens, Deputy Commissioner
Property and Casualty
Office of Insurance Regulation
200 East Gaines Street
Tallahassee, Florida 32399

Lee Roddenberry, Director
Property and Casualty Product Review
Office of Insurance Regulation
200 East Gaines Street
Tallahassee, Florida 32399

Mike Milnes
Office of Insurance Regulation
200 East Gaines Street
Tallahassee, Florida 32399

Erica May, Assistant General Counsel
Office of Insurance Regulation
Legal Services Office
200 East Gaines Street
Tallahassee, Florida 32399-4206
Phone: (850) 413-4112
Fax: (850) 922-2543