

Sponsored by: Puto

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2007-73**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE PROFESSIONAL SERVICES AGREEMENT WITH APPRAISERS OF THE KEYS, INC. FOR PROFESSIONAL RESIDENTIAL AND COMMERCIAL REAL ESTATE APPRAISAL SERVICES, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City Council authorized the City Manager to negotiate a contract with Appraisers of the Keys, Inc. for professional real estate appraiser services by Resolution 2007-59 on April 24, 2007; and

**WHEREAS**, the Contractor and City, through mutual negotiation, have agreed upon a scope of services, and fees for residential and commercial real estate appraiser services; and

**WHEREAS**, the City desires to engage the Contractor to perform professional real estate appraisal services if necessary.

**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 hereby approves the professional services agreement with Appraisers of the Keys, Inc., a copy of which is attached hereto as exhibit A, and further authorizes the City Manager to execute the agreement.

**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 22nd day of May , 2007.

**THE CITY OF MARATHON, FLORIDA**

  
Christopher M. Bull, Mayor

AYES: Cinque, Tempest, Vasil, Worthington, Bull  
NOES: None  
ABSENT: None  
ABSTAIN: None

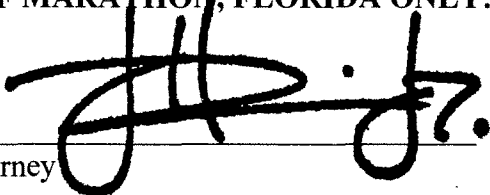
**ATTEST:**



\_\_\_\_\_  
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

**PROFESSIONAL SERVICES AGREEMENT BETWEEN  
THE CITY OF MARATHON  
AND  
APPRAISERS OF THE KEYS, INC.**

**THIS AGREEMENT** is made as of this 22 day of May, 2007, by and between **APPRAISERS OF THE KEYS, INC.**, a Florida corporation, (hereinafter the "Supplier"), and the **CITY OF MARATHON, FLORIDA**, a Florida municipal corporation, (hereinafter the "City").

**WHEREAS**, the Supplier and City, through mutual negotiation, have agreed upon a scope of services, and fees for real estate appraisal services as described below (the "Project"); and

**WHEREAS**, the City desires to engage the Supplier to perform the real estate appraisal services specified below.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the Supplier and the City agree as follows.

1. **Scope of Services/Deliverables.**

1.1 The Supplier shall furnish professional residential and commercial real estate appraisal services to the City from time to time hereunder upon request from the City. The City shall not be prevented in any manner from retaining other firms to complete real estate appraisal services at its sole discretion. No minimum amount of such work or compensation hereunder will be assured to the Supplier.

2. **Term/Commencement Date.**

2.1 This Agreement shall become effective upon execution by both parties and shall remain in effect through September 30, 2009, unless earlier terminated in accordance with Paragraph 8 hereof. The City Manager may extend the term of this Agreement up to an additional 180 days by prior written notice to the Supplier

2.2 Supplier agrees that time is of the essence and Supplier shall complete each deliverable for the Project within the timeframes set forth in any request for real estate appraisal services from the City, unless extended in writing by the City Manager.

2.3 Supplier has the right to decline any requests from the City for real estate appraisal services, provided that written notice thereof is provided to the City within 48 hours of any request for services hereunder.

3. **Compensation and Payment.**

- 3.1 The Supplier shall be compensated in accordance with the rates set forth on Exhibit A attached hereto.
- 3.2 The Supplier shall invoice the City upon the completion of each task or deliverable or on a monthly basis.
- 3.3 The City shall pay Supplier in accordance with the Florida Prompt Payment Act.
- 3.4 If a dispute should occur regarding an invoice submitted, the City Manager may withhold payment of the disputed amount and may pay to the Supplier the undisputed portion of the invoice. Upon written request of the Finance Director, the Supplier shall provide written documentation to justify the invoice. Any compensation disputes shall be decided by the City Manager whose decision shall be final.

4. **Subcontractors.**

- 4.1 The Supplier shall be responsible for all payments to any subcontractors and shall maintain responsibility for all work related to the Project.
- 4.2 Any subcontractors used on the Project must have the prior written approval of the City Manager.

5. **City's Responsibilities**

- 5.1 The City shall furnish to Supplier, at the Supplier's written request, all available maps, plans, existing studies, reports and other data pertinent to the services to be provided by Supplier, in possession of the City.
- 5.2 The City shall arrange for access to and make all provisions for Supplier to enter upon real property as required for Supplier to perform services as may be requested in writing by the Supplier.

6. **Supplier's Responsibilities**

- 6.1 The Supplier shall exercise the same degree of care, skill and diligence in the performance of the Project as is ordinarily provided by a professional real estate appraiser under similar circumstances. If at any time during the term of this Agreement, it is determined that the Supplier's deliverables are incorrect, defective or fail to conform to the Scope of Services of the

Project, upon written notification from the City Manager, the Supplier shall at Supplier's sole expense, immediately correct the work.

7. **Termination.**

- 7.1 The City Manager without cause may terminate this Agreement upon thirty (30) days prior written notice to the Supplier, or immediately with cause.
- 7.2 Upon receipt of the City's written notice of termination, Supplier shall stop work on the Project unless directed otherwise by the City Manager.
- 7.3 In the event of termination by the City, the Supplier shall be paid for all work accepted by the City Manager up to the date of termination, provided that the Supplier has first complied with the provisions of Paragraph 7.4.
- 7.4 The Supplier shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Project to the City, in a hard copy and electronic format within 14 days from the date of the written notice of termination or the date of expiration of this Agreement.

8. **Insurance.**

The Supplier 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:

- 8.1 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.
- 8.2 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.
- 8.3 Commercial General Liability. If applicable, 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.

8.4 Professional Liability: The Supplier shall furnish professional liability errors and omissions insurance coverage in an amount not less than \$1,000,000.

8.5 Certificates of Insurance shall be provided to the City at the time of execution of this Agreement and certified copies provided if requested. 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.

9. **Nondiscrimination.**

During the term of this Agreement, Supplier shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and agrees to abide by all Federal and State laws regarding nondiscrimination

10. **Attorneys Fees and Waiver of Jury Trial.**

10.1 In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover 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.

10.2 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.

11. **Indemnification.**

11.1 Supplier 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 Supplier's performance or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from contracts between the Supplier and third parties made pursuant to this Agreement. Supplier 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 Supplier's performance or non-performance of this Agreement.

11.2 The provisions of this Section 11 shall survive termination of this Agreement.

12. **Notices/Authorized Representatives.**

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: Michael H. Puto, City Manager  
City of Marathon, Florida  
10045-55 Overseas Highway  
Marathon, Florida 33050  
(305) 743-0033

For The Supplier: Kevin Talbott, Owner  
Appraisers of the Keys, Inc.  
3208 Flagler Avenue  
Key West, Florida 33040  
(305) 296-0831

13. **Governing Law.**

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 of the State of Florida or the United States District Court for the Southern District of Florida.

14. **Entire Agreement/Modification/Amendment.**

14.1 This writing contains the entire Agreement of the parties and supercedes 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.

14.2 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.

15. **Ownership and Access to Records and Audits.**

15.1 All records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from the Supplier providing services to the City under this Agreement shall be the property of the City.

15.2 The City Manager or his designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of the Supplier involving transactions related to this Agreement.

15.3 The City may cancel this Agreement for refusal by the Supplier 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.

16. **Nonassignability.**

This Agreement shall not be assignable by Supplier unless such assignment is first approved in writing by the City Manager. The City is relying upon the apparent qualifications and personal expertise of the Supplier, and such firm's familiarity with the City's area, circumstances and desires.

17. **Severability.**

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.**

The Supplier and its employees, volunteers and agents shall be and remain independent contractors 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.**

The Supplier shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Project.

20. **Waiver**

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**

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.**

The Supplier warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Supplier, 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 Supplier, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

23. **Counterparts**

This Agreement may be executed in several counterparts, each of which shall be deemed an original and each such counterpart shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto hereby 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 the Supplier, signing by and through its owner, whose representative has been duly authorized to execute same.

Attest:

CITY OF MARATHON

Diane Clavier  
Diane Clavier, City Clerk

By: Michael H. Puto  
Michael H. Puto, City Manager

Date: 5/23/07

Approved by City Attorney  
for legal sufficiency for City  
use only:

[Signature]  
City Attorney

SUPPLIER

By: [Signature]

Date: 05-30-07

# APPRAISERS OF THE KEYS, INC.

3208 FLAGLER AVENUE, KEY WEST, FL. 33040  
TELEPHONE: (305) 296-0831 • FAX: (305) 296-3717

- RESIDENTIAL
- COMMERCIAL

## APPRAISERS OF THE KEYS FEE SCHEDULE - 2006

(Key West to Key Largo/Ocean Reef - ALL OF MONROE COUNTY)

Single Family Residence (2 original copies with photos)	\$400
Ocean Reef Single Family (min \$600)	
Construction Inspections - Each Draw	\$100
- Final Inspection	\$100
Small Residential Income (2-4 family)	\$600
Employee Relocation (ERC)	\$500
Income Statement form 216	\$100
Rent Schedule	\$100
Lots - single family	\$250
Recertification of value	\$100
Reassign to another Mortgage Co. Or Bank with photos	\$150
Appraisal Review (inspection with photos) FNMA-2000	\$250
Cost Approach (residential) for insurance purposes	\$200
Limited residential one-family Fannie Mae form 2055,2075	\$200
With interior inspection	\$250

(All commercial properties will be given an individual fee quote. All residential appraisals are prepared to FNMA and secondary market requirements. Two original forms with photos are provided.)

**(Fees are subject to change)**