

Sponsored by: Burnett

**CITY OF MARATHON, FLORIDA
RESOLUTION 2009-105**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MARATHON, FLORIDA, APPROVING AN INTERLOCAL
AGREEMENT WITH MONROE COUNTY FOR RECEIPT OF
SUPPLEMENTAL LOCAL OPTION GAS TAX REVENUES; AND
PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, pursuant to Florida Statutes Section 336.025, the county and municipalities may enter into an interlocal agreement setting forth a distribution formula for dividing the entire proceeds of the tax among county government and all eligible municipalities within the county; and

WHEREAS, the Board of County Commissioners of Monroe County (the "County") had decided at a meeting on March 18, 2009, to terminate, effective September 30, 2009, an interlocal agreement which shared a portion of constitutional gas tax with KEY COLONY BEACH, ISLAMORADA, LAYTON, and MARATHON; and

WHEREAS, this agreement supplements the county-wide interlocal agreement approved by the County on May 20, 2009, and is intended to make whole the City of Marathon (the "City") for the difference between the distribution expected from the May 20, 2009 ILA and the amounts which have been previously received pursuant to DOR distributions and the constitutional gas tax sharing; and

WHEREAS, having decided at a meeting of May 20, 2009, to impose an additional three cents local option gas tax, the Board of County Commissioners of Monroe County also decided to share a portion of its distribution from the Department of Revenue to compensate the municipalities for their losses of constitutional gas tax; and

WHEREAS, pursuant to Sec. 163.01, Florida Statutes, subject to and upon the terms and conditions set forth herein, this Agreement shall be effective beginning October 1, 2009, and continue in force for five years. If this agreement is not earlier terminated or a new agreement has not been adopted by September 30, 2014, the terms of this agreement shall continue to be effective until such time as a new interlocal agreement is in place.

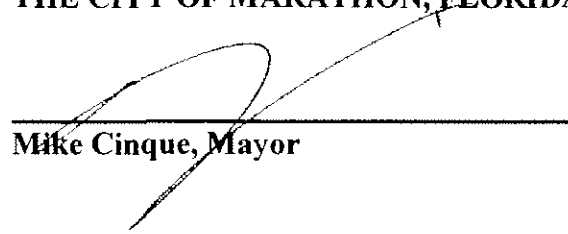
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The Interlocal Agreement between Monroe County and the City of Marathon (the "Interlocal Agreement), in the form attached as Exhibit "A," is hereby approved. The Mayor is authorized to execute the Agreement.

Section 2. This Resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Marathon, Florida, this 11th day of August, 2009

THE CITY OF MARATHON, FLORIDA



Mike Cinque, Mayor

AYES: Snead, Worthington, Ramsay, Vasil, Cinque
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

SUPPLEMENTAL GAS TAX
INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is made and entered into on the 15th day of July, 2009 between **Monroe County (MONROE COUNTY)**, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West, Florida 33040, and **the City of Marathon (MARATHON)**, a municipal corporation of the State of Florida and whose address is 9805 Overseas Highway, Marathon, Florida 33050; and

WHEREAS, pursuant to Florida Statutes Section 336.025, the county and municipalities may enter into an interlocal agreement setting forth a distribution formula for dividing the entire proceeds of the tax among county government and all eligible municipalities within the county; and

WHEREAS, on May 20, 2009, **MONROE COUNTY** entered into an Interlocal Agreement for the distribution of local option gas tax revenues with the cities of **KEY WEST, KEY COLONY BEACH, ISLAMORADA, LAYTON, and MARATHON**;

WHEREAS, the City of Key West, the most populous municipality in Monroe County, has executed the Interlocal Agreement approved by the County on May 20, 2009, rendering the agreement sufficient for purposes of the Department of Revenue (DOR) making the distributions contained therein; and

WHEREAS, the Board of County Commissioners of Monroe County had decided at a meeting on March 18, 2009, to terminate, effective September 30, 2009, an interlocal agreement which shared a portion of constitutional gas tax with **KEY COLONY BEACH, ISLAMORADA, LAYTON, and MARATHON**; and

WHEREAS, having decided at a meeting of May 20, 2009, to impose an additional three cents local option gas tax, the Board of County Commissioners of Monroe County also decided to share a portion of its distribution from the Department of Revenue to compensate the municipalities for their losses of constitutional gas tax and based on the estimates set forth in a COUNTY OMB chart attached hereto as Exhibit A ; now therefore,

IN CONSIDERATION OF the mutual promises and conditions contained herein, the **PARTIES** agree as follows:

SECTION 1. TERM.

Pursuant to Sec. 163.01, Florida Statutes, subject to and upon the terms and conditions set forth herein, this Agreement shall be effective beginning October 1, 2009, and continue in force for five years. If this agreement is not earlier terminated or a new agreement has not been adopted by September 30, 2014, the terms of this agreement shall continue to be effective until such time as a new interlocal agreement is in place.

SECTION 2. AGREEMENT SUPPLEMENTAL TO MAY 20, 2009 ILA.

This agreement supplements the county-wide interlocal agreement approved by the County on May 20, 2009, and is intended to make whole the municipality for the difference the distribution expected

from the May 20, 2009 ILA and the amounts which have been previously received pursuant to DOR distributions and the constitutional gas tax sharing.

SECTION 3. ANNUAL AMOUNT.

The parties agree that MONROE COUNTY shall pay annually to MARATHON from the gas tax proceeds that the COUNTY receives from the Department of Revenue pursuant to the 5/20/09 ILA the sum of NINETY-FOUR THOUSAND NINE HUNDRED EIGHTY-SEVEN DOLLARS (\$94,987).

SECTION 4. ADJUSTMENT

No adjustment to the distributions specified in Section 3 above shall be made except in a written document executed by all parties affected by the adjustment.

SECTION 5. PAYMENT.

A. MONROE COUNTY shall make distributions to MARATHON of one-fourth of the agreed amount in 4 quarterly payments per year, commencing with the quarter commencing October 1, 2009.

B. The municipality shall maintain adequate fiscal control and fund accounting procedures that comply with generally accepted government accounting principles in order to assure that the funds are spent for the purposes permitted by state statute. The municipality shall submit to a copy of the municipality's annual audit report within sixty (60) days after the audit report is issued. Any funds transferred by the COUNTY to the municipality under this agreement and which are determined by the County Clerk, an auditor employed by the COUNTY or employed by the State to have been spent for a purpose not permissible under state law must be paid back to the COUNTY with interest calculated pursuant to S. 55.03(1), FS, from the date of any report that the funds were spent for an impermissible purpose.

SECTION 6. TERMINATION. This Agreement may be terminated prior to the September 30, 2015, date upon agreement in writing by both parties; or, in the event that the municipality fails to provide adequate documentation of assurances as required in Section 5.B. of this Agreement, the COUNTY may terminate upon providing at least thirty days written notice to the municipality and an opportunity to cure.

SECTION 7. ASSIGNMENT. No Party may assign this Agreement or assign or subcontract any of its obligations under this Agreement without the approval of the governing boards of the other Parties. All the obligations of this Agreement will extend to and bind the legal representatives, successors and assigns of the all Parties.

SECTION 8. SUBORDINATION. This Agreement is subordinate to the laws and regulations of the United States, and the State of Florida, whether in effect on commencement of this agreement or adopted after that date.

SECTION 9. GOVERNING LAWS/VENUE. This Agreement is governed by the laws of the State of Florida and the United States. Venue for any dispute arising under this Agreement must be in Monroe County, Florida. In the event of any litigation, the prevailing party is entitled to a reasonable attorney's fee and costs.

SECTION 10. NOTICES. Notices in this Agreement, unless otherwise specified, must be sent by certified mail to the following:

COUNTY:

County Administrator Roman Gastesi
1100 Simonton Street
Key West, FL 33040

&

County Attorney Suzanne Hutton
P. O. Box 1026
Key West, FL 33041

MARATHON:

Mayor Mike Cinque
81990 Overseas Highway, 2nd Floor
Marathon, FL 33050

&

City Attorney Jimmy Morales
150 W. Flagler Street, Suite 2200
Miami, FL 33130

SECTION 11. FULL UNDERSTANDING. This Agreement is the parties' final mutual understanding regarding the subject matter hereof. It replaces any earlier agreements or understandings, whether written or oral. This Agreement cannot be modified or replaced except by another written and signed agreement.

SECTION 12. EXECUTION IN COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

SECTION 13. EFFECTIVE DATE

This Interlocal Agreement will take effect on October 1, 2009.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized representative.



(SEAL)
ATTEST: **DANNY L. KOLHAGE, CLERK**

By: *[Signature]*
Deputy Clerk

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

By: *[Signature]*
Mayor/Chairman

(SEAL)
ATTEST:
By: *[Signature]*
Clerk

MARATHON
By: *[Signature]*
Mayor

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
[Signature]
SUZANNE A. HUTTON
COUNTY ATTORNEY
6/19/09

EXHIBIT A

Total Current plus 3 Pennies Proposed
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Municipality	Total Current	Proposed Constitutional	Proposed 3 pennies	Proposed Total	\$ +/-
Unin. County	3,450,778	491,466	659,438	4,601,682	1,150,904
Marathon	560,832	(287,099)	192,112	465,845	(94,987)
Islamorada	448,845	(154,345)	132,109	426,609	(22,236)
Key Colony Beach	105,214	(38,149)	15,837	82,902	(22,312)
Layton	45,406	(11,873)	3,825	37,358	(8,048)
Key West	1,223,944	0	455,129	1,679,073	455,129
Total	5,835,019	0	1,458,450	7,293,469	1,458,450