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**CITY OF MARATHON, FLORIDA
RESOLUTION 2012-30**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING AND RATIFYING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF MARATHON, FLORIDA AND THE PROFESSIONAL FIREFIGHTERS OF MARATHON, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 4396, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Marathon, Florida (the "City"), and the Professional Firefighters of Marathon, International Association of Firefighters Local 4369 (the "Union") negotiated a proposed Collective Bargaining Agreement on February 14, 2012; and

WHEREAS, on February 25th and 26th, 2012, the Union membership voted and ratified the proposed Collective Bargaining Agreement by majority vote of the votes cast of the Union members.

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. The Collective Bargaining Agreement between the City and the Union, a copy of which is attached as Exhibit "A," is hereby approved and ratified. The City Manager is authorized to execute the agreement on behalf of the City.

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 13th DAY OF MARCH, 2012.

THE CITY OF MARATHON, FLORIDA



Pete Worthington, Mayor

AYES: Snead, Keating, Cinque, Ramsay, Worthington
NOES: None
ABSENT: None
ABSTAIN: None

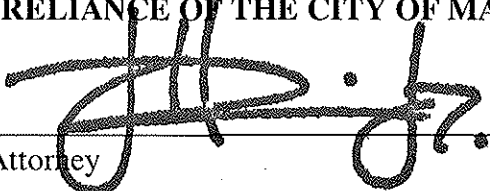
ATTEST:



Hillary Palmer, Acting City Clerk

(City Seal)

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



City Attorney

COLLECTIVE BARGAINING AGREEMENT

Between

CITY OF MARATHON

And

IAFF, LOCAL 4396

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ARTICLE 1

Union Recognition and Agreement Coverage

The City recognizes the Union as the sole and exclusive bargaining representative for all regular full-time and part-time Employees in the City of Marathon Fire Department who are certified Firefighter EMT/Paramedics, Lieutenants and Captains. Those Employees (hereafter (“Employees”)) are covered by this Agreement. Excluded from this recognition and coverage of this Agreement are all other Employees of the Fire Department, and volunteer firefighters and EMT/Paramedics, and all other Employees of the City.

ARTICLE 2

Management Rights

Section 1. City's Rights

The City reserves and retains, solely and exclusively to itself, all of the normal, inherent and common law rights to manage the business, whether exercised or not, as existed prior to the time the Union became the bargaining representative of the Employees, except and only to the extent that such rights are expressly abridged by a specific provision of this Agreement. The City also retains all rights which are not specifically relinquished or limited by specific provisions of this Agreement. The City's past or future failure to exercise any function or right hereby reserved to it, or its past or future exercising of any function or right in any particular way, shall not be deemed a waiver of its future right to exercise such function or right, nor preclude the City from exercising the same in some other way not in conflict with the express provisions of this Agreement.

Section 2. Employee/Union Reservation of Right to Grieve

The exercise by the City of the rights retained in Section 1 shall not preclude Employees or the Union from pursuing grievances, should decisions on such matters have the practical consequence of violating the terms and conditions of this Agreement.

ARTICLE 3

Dues Deduction

Notwithstanding the provisions of Florida Statutes section 447.303, for the term of this Agreement, the Union waives any right to have the City deduct and collect dues and uniform assessments.

ARTICLE 4

Union Business

Up to four (4) members of the Union negotiating team shall be allowed to participate in labor contract negotiation sessions while on duty with no loss of pay as long as it does not interfere with operations of the Department.

At the discretion of the Fire Chief, employees shall be allowed to attend monthly Union meetings while on duty as long as such attendance does not interfere with the Employee's performance of his/her duties. Employees shall also be allowed to participate in Department-sanctioned events (such as boot drives, spaghetti dinners, Thanksgiving dinners) while on duty and so long as such participation does not interfere with the Employee's performance of his/her duties.

ARTICLE 5

Non-Discrimination

The City agrees that no Employee will be harassed, or discriminated or retaliated against on any grounds prohibited by applicable federal, Florida or local law. The dispute resolution procedure for an Agreement Grievance contained in the Grievance article of this Agreement shall be the sole and exclusive means of resolving any such claimed violation of the applicable law.

ARTICLE 6

Staffing

Determination of levels of staffing for the Department shall be in the sole discretion of the City Manager, with advice and counsel of the Fire Chief, and in accordance with policies established by the City Council.

ARTICLE 7

Discipline and Discharge

Section 1. Purpose

Performance or conduct which is outside Departmental policy or which is in conflict with organizational values must be altered in order for the Employee to enjoy a successful career. The goal of discipline, short of termination, is to bring about behavioral change.

Section 2. Alternative Discipline

Alternative discipline describes a range of options that can be imposed to encourage Employee to bring his or her performance and/or conduct to an acceptable level. The term "alternative" is not intended to imply that each option in the disciplinary range must be taken; it means only that a range of alternatives exist to most effectively address the needed behavioral change. Consequently, the disciplinary option to be utilized is to be evaluated and imposed based on the level being necessary to accomplish this in light of the performance and/or conduct issue needing modification and the totality of the attendant facts and circumstances.

The alternative discipline options include: (1) written counseling; (2) suspension or demotion; and (3) termination of employment.

It is not necessary that all disciplinary matters enter the process at the counseling session level, but rather utilizing any option depending on the performance and/or conduct involved and attendant facts and circumstances.

Any written counseling will be expunged from the Employee's record after three years if the Employee has had no disciplinary action in the interim.

Section 3. Challenging Discipline

Alternative discipline options (1) and (2) are not subject to the dispute resolution procedures contained in either the Employment Grievances or Agreement Grievances Articles of this Agreement. And, any challenge to imposition of alternative discipline option (3) shall be processed as an Employment Grievance under the Grievances Article of this Agreement, with the decision of the majority of the panel consisting of the City Manager, Fire Chief and an Employee selected by the Union being final and binding on all parties. But, in all events, the Employee may submit a written rebuttal that will be included in the Employee's personnel file and included with any written record of the applicable disciplinary action.

ARTICLE 8

Health Insurance

The healthcare coverage for Employees and their beneficiaries shall be at the same levels, and under the same terms and conditions as the majority of the other City employees as may be modified from time to time by the City as to a majority of the City's other employees up to October 15, 2012. Any changes to health insurance benefits thereafter will be collectively bargained by the parties. In addition, each Employee will be reimbursed during the last pay period of each fiscal year for up to \$100 annually for co-pays incurred by the Employee.

ARTICLE 9

Pension

The parties agree to maintain the current pension plan subject to the provisions of this Article.

Within thirty (30) days of the effective date of this Agreement and, thereafter, annually before June 1 of each successive year, the pension plan's actuary (in consultation with the City's finance director and City's expert, and the Union's designated representative) will develop a recommendation to present to the Union for lawful changes (in compliance with Florida Statutes Chapter 175) to the existing plan, to be effective October 1, designed to provide reasonable assurance that the City's net (after crediting current Employee contributions and fire insurance premium rebates) required contribution to the plan will not exceed twelve percent (12%) of total Employees' pensionable pay (referred to as "Compensation") for the ensuing twelve (12) month period following the pertinent October 1. The Union agrees to the adoption by the plan of those recommended changes.

If, notwithstanding all the parties best efforts to achieve and maintain the City's net required contribution to the plan at twelve percent (12%) of Compensation or less, the City's required net contribution actually exceeds twelve percent (12%) of Compensation, the Union agrees to automatically increase the Employee contribution one percent (1%) of Compensation for each \$25,000 (or part thereof) by which the City's net required contribution exceeded twelve percent (12%) of Compensation (referred to as the "shortfall") not to exceed a total Employee contribution of fifteen percent (15%) (existing 5% plus new 10%) of Compensation.

In the event the City's required net contribution exceeds fifteen percent (15%) of Compensation or the State of Florida, Division of Retirement determines that any provision of this Article will

negatively impact the City's entitlement to the Florida Statutes chapter 175 insurance premium tax rebate, the parties agree to reopen this Article at the request of the City for negotiations. If, following reopening, the parties are unable to reach agreement on modification of this Article within thirty (30) days (or such further period as agreed to by the parties in writing), the City has the unilateral right to terminate the current plan and convert to a 401(a) plan with a City contribution of ten percent (10%) of Compensation. The Employee contribution to such a 401(a) must be no less than five percent (5%) of Compensation (for a total contribution of fifteen percent (15%) of Compensation) but the Employee may contribute a larger percentage if allowable under applicable IRS regulations. It is understood and agreed that this provision survives the expiration of this Agreement.

In the event the City's required net contribution is less than twelve percent (12%) of Compensation in any given year, the difference will be set aside in a stabilization fund to be applied toward the shortfall in any future year(s) in which the City's required net contribution exceeds twelve percent (12%) of Compensation.

ARTICLE 10

Wages

During the first twelve (12) months of this Agreement, Employees will be compensated in accordance with the following hourly base rate schedule:

<u>Position</u>	<u>Minimum</u>	<u>Maximum</u>
Firefighter/EMT	\$18.63	\$18.63
Firefighter/EMT-Paramedic	\$19.56	\$20.83
Lieutenant	\$20.25	\$22.44
Captain	\$21.22	\$25.56

During that period, Employees will be slotted within the applicable range and their rate adjusted in the sole discretion of the City Manager, with advice and counsel of the Fire Chief, and in accordance with policies established by the City Council.

The parties agree to reopen this provision at the request of either the city or the Union for negotiations after the initial twelve (12)-month period, with any agreed upon or imposed wage adjustment to take effect at such agreed-upon or imposed effective date.

Except as may be modified as a result of the reopener, no current Employee will have his/her base rate and current incentives (as long as Employee meets qualifications for incentive) reduced below his/her current rate unless for disciplinary reasons.

ARTICLE 11

Holiday Pay

Extra compensation of Employees for holidays, whether worked or not, will be provided at the sole discretion of the City.

ARTICLE 12

Bonus and Incentive Pay

The payment of bonuses and other incentives shall be in the sole discretion of the City Manager, with advice and counsel of the Fire Chief, and in accordance with the policies established by the City Council.

ARTICLE 13

Time Off

Section 1. Paid Time Off

Effective October 1, 2012, the City will transition Employees from an itemized time off policy (*i.e.*, vacation, sick leave, bereavement leave, etc.) into an unified paid time off (“PTO”) policy.

Section 2. Paid Time Off Entitlement

Employees are entitled to hours of PTO per year based on years of Department Seniority (prorated for employment beginning after October 1 for employees new to the Department) as follows:

<u>Department Seniority in Years</u>	<u>PTO Shifts Per Year</u>
0 to 2	14
2 to 5	15
5 or more	17

Part-time Employees are entitled to PTO on a pro-rated basis.

Section 3: Paid Time Off Accrual/Entitlement

An Employee accrues hours of PTO each bi-weekly pay period in accordance with the following schedule based on years of Department Seniority:

<u>Department Seniority in Years</u>	<u>Bi-Weekly PTO Hours Accrued</u>
0 to 2	12.9231
2 to 5	13.8462
5 or more	15.6923

Part-time Employees shall accrue leave at the same rate as regular full-time Employees, except that leave accrual shall be in proportion to the number of hours worked by the part-time Employee to the number of normal duty hours in a bi-weekly pay period for a full-time Employee.

At the beginning of each calendar year, the City will advance to each Employee the total number of PTO hours.

If an Employee leaves employment prior to accruing enough PTO to cover the hours that were used, the overpayment of PTO will be deducted from the Employee's final paycheck.

Section 4. Use of and Limitations on Paid Time Off

Accrued PTO should be used annually. Employees will not be paid for any accrued, unused PTO time, except at separation as specified below. If extenuating circumstances prevent the Employee from taking the scheduled PTO during the calendar year earned, with approval of the Fire Chief up to forty-eight (48) hours' PTO may be carried over and taken in the next calendar year. In no case will an Employee be allowed to accumulate more than forty-eight (48) hours additional PTO.

An Employee new to the Department will not be entitled to take PTO time until the first six (6) months of employment has elapsed. During the six (6)-month period, new Employees are allowed three (3) unpaid days (subject to the approval of the Fire Chief or his/her designee) for unforeseen, non-job related illness or injury.

PTO must be scheduled thirty (30) days in advance and requires prior written authorization of the Fire Chief or his/her designee, except in cases of unforeseen illness, injury or emergency, or for bereavement purposes. In the case of need for PTO due to an unforeseen illness, injury or

emergency, or for bereavement purposes, the Employee must notify his/her supervisor as soon as possible in order to facilitate orderly scheduling of replacement staffing or, otherwise, use of PTO may be disallowed.

Employees are responsible for monitoring their PTO balances and utilizing their accrued time off over the course of the year in order to avoid capping out, and to allow for adequate reserves if there is a need to cover vacation, illness, emergency, or other needs that require time off.

An Employee may not take PTO or utilize shift swaps (or combination thereof) amounting to in excess of an equivalent of twenty-one (21) consecutive days, except for illness or injury. Any additional consecutive days can only be taken with advance written approval of the Chief. Otherwise, PTO may be taken in separate full week, single shift or day or hourly increments as long as the time which is taken can be scheduled according to the Department's operational needs. In event of PTO absence due to medical reasons (attendant to the Employee or a family member), the City may require evidence of the medical necessity in the form of appropriate medical certification.

Section 5. Separation from Employment

Accrued, unused PTO is paid at separation to the parting Employee if employed with the City for at least six (6) months and the separation is in "good standing." An Employee leaves in "good standing" if he/she has not been terminated as a result of violation of the City's policies, as determined in the City's sole discretion. If an Employee is resigning, in addition to having to have been employed for at least six (6) months, he/she must have provided at least two (2) weeks' prior written notice of resignation. PTO is calculated at the Employee's base pay rate at the time of separation; the calculation does not include overtime or any special form of

compensation; and will be paid not later than the first pay period after October 1 following the Employee's separation from employment.

Section 6. Preexisting Leave Balances

- a. Leave balances accrued for vacation and sick leave prior to September 30, 2012 ("Preexisting Leave Balances") are frozen as of that date.
- b. Those balances may be used thereafter for vacation or sickness during the Employee's employment in accordance with the schedule set forth in paragraph c and the requirements of the pertinent provisions of the City of Marathon Human Resources Guide as may be amended from time to time.
- c. Preexisting Leave Balances must be used within the period specified below based on the Employees' full years of employment as of December 31, 2012:

<u>Preexisting Leave Bank Use Schedule</u>	
Years of Employment as of 12/31/2012	Preexisting Leave Balance Use Deadline
1-2	12/31/2013
3-4	12/31/2014
5-6	12/31/2015
7 plus	12/31/2016

- d. All Preexisting Leave Balances unused within the period set forth in the schedule set forth in paragraph c are forfeited and no payment for those unused balances will be made. In the event of separation from employment for any reason within the applicable period set forth in the schedule in paragraph c. above, any unused Preexisting Leave Balances remaining will be treated in accordance with the applicable provisions of the City Human Resources Guide in effect as of the effective date of this Agreement.

ARTICLE 14

Training and Educational Leave

Section 1: Paid Training Time

Employees are entitled to paid training time per year for Critical Skills Training (“Training Time”) based on years of Department Seniority (prorated for employment beginning after January 1 for Employees new to the Department) as follows:

<u>Department Seniority in Years</u>	<u>Paid Training Shifts Per Year</u>
0 to 2	2
2 to 5	3
5 or more	4

An Employee accrues hours of Training Time each bi-weekly pay period in accordance with the following schedule based on years of Department Seniority:

<u>Department Seniority in Years</u>	<u>Bi-Weekly Paid Training Hours Accrued</u>
0 to 2	1.846
2 to 5	2.769
5 or more	3.692

Part-time Employees are entitled to Training Time on a prorated basis.

“Critical Skills Training” is exclusive of routine daily shift training and for the purpose of: maintaining professional certification(s) related to the Employee’s Department responsibilities; maintaining currency in fire protection technologies, fire suppression practices, and applicable standards; or increasing capabilities in job-related strategies and tactics, command and control, or Department operations.

Accrued, unused Training Time will not be paid to the Department Employee and cannot be carried over unless approved in writing by the Fire Chief or his/her designee. In no case will an Employee be allowed to accumulate more than two (2) shifts (for shift Employees) or sixteen (16) hours (for other Employees) additional Training Time.

An Employee new to the Department will not be entitled to take any Training Time until the first six (6) months of employment has elapsed.

Training Time must be scheduled thirty (30) days in advance and requires prior written authorization of the Fire Chief or his/her designee in his/her sole discretion but generally taking into account factors such as, but not limited to, Employees' job responsibilities, methods, technologies, and equipment in use by the Department, new methods, technologies or equipment the Department anticipates implementing/acquiring, operational staffing needs, overtime implications, budgetary considerations, and Departmental skill needs.

If an Employee leaves employment prior to accruing enough Training Time to cover the Training Time hours that were used, the overpayment of Training Time will be deducted from the Employee's final paycheck.

Section 2: Unpaid Educational Leave

Employees may be granted unpaid leave for up to two (2) shifts (for shift Employees) or sixteen (16) hours (for other Employees) per calendar year for other educational or training purposes to attend conferences, seminars, briefing sessions, or other functions of a similar educational/training nature that are intended to improve, maintain or upgrade the individual's certifications, skills, and/or professional ability. Such leave and its timing is subject to prior written authorization of the Fire Chief or his/her designee in his/her sole discretion but generally

taking into account factors such as, but not limited to, Employee's job responsibilities, operational staffing needs, overtime implications, budgetary considerations, and Departmental skill needs.

ARTICLE 15

Seniority

Section 1. Seniority Types

For purposes of this Agreement, there shall be two forms of seniority:

- a. "Position Seniority," which is defined as the length of total service with the City in a specific position covered by this Agreement;
- b. "Department Seniority," which is defined as the length of uninterrupted service from the Employee's initial date of employment in the Department.

Where Employees have the same Position Seniority, Department Seniority shall be the determining factor, and where Employees have identical Position and Department Seniority, the Employee whose test score is highest shall prevail for seniority purposes. For those Employees not holding rank and whose date of initial employment is the same, seniority shall be determined by "veteran status," with preference being given first to veteran status, then non-veteran status. In the event all affected Employees have the same veteran or non-veteran status, the tie will be resolved by looking to the birth month and day of the individual, with January 1 having the highest seniority, and December 31 having the lowest seniority. "Veteran status" is defined as "service in the uniformed services" under USERRA, 38 U.S.C. § 4303(13).

Section 2. Breaks in Seniority

Seniority is broken by any of the following events.

- a. Voluntary resignation where the Employee does not return to work in a position covered by this Agreement for six (6) months;

- b. Where an Employee is involuntarily laid off for more than nine (9) months;
- c. Where any Employee is terminated from employment;

Seniority will continue to accrue during all forms of authorized leave.

ARTICLE 16

Reductions in Force and Recall

Section 1. Layoffs

Layoffs shall occur in reverse order of Position Seniority for the position being reduced. An Employee notified of his/her selection for reduction may “bump” the Employee in a lower ranked position with the least Position Seniority in that position. Any Employee so bumped may in turn elect to bump the Employee in a lower ranked position, should there be such a position, with the least Position Seniority in that position. Any Employee exercising his/her right to “bump” another Employee, will be compensated at the rate for the lower ranked position.

Section 2. Recalls

Laid off Employees have recall rights for up to twelve (12) months following date of layoff. To maintain those rights Employee must:

- a. Not have given notice of resignation or retirement; and
- b. Have maintained all required certifications.

Recall shall be in the reverse order of layoff.

No new Employee may be hired by the City to perform work covered by this Agreement so long as an Employee qualified for the applicable position continues to have recall rights and accepts recall to the position to be filled within seven (7) days of the recall offer.

ARTICLE 17

Other Terms and Conditions

Except as specifically and explicitly modified by this Agreement, all other terms and conditions of employment of Employees shall be as specified in the City Human Resources Guide and Department Standing Operating Procedures. In event of any conflict between the Human Resources Guide and the Department's Standing Operating Procedures, the Human Resources Guide shall govern. In the event of changes to the Human Resources Guide or the Department's Standard Operating Procedures, the Union will be given at least fourteen (14) calendar days' advance notice of the planned changes prior to implementation and, if applicable, the opportunity, upon written request from the Union president, to bargain over only those changes that alter wages, hours of work, or conditions of employment of Employees.

ARTICLE 18

Grievances

Section 1. Definitions

- a. A “Grievance” is defined as either an Agreement Grievance or an Employment Grievance. The definition of grievance shall be strictly construed and no other matter shall be subject to resolution under this Article without the written agreement of the City and the Union. If a provision of this Agreement references or incorporates the City Human Resources Guide or a Department Standard Operating Procedure, a claimed violation, misapplication or misinterpretation of the Human Resources Guide or the Department Standing Operating Procedures, shall not be subject to this Article, but may be grieved under chapter 13 of the Human Resources Guide.
- b. An “Agreement Grievance” is defined as a difference between the City and any Employee or the Union involving alleged violation or misapplication of a specific provision of this Agreement, including complaints of discrimination on the basis of age, color, disability, religion, ethnicity, national origin, political affiliation, race, gender, sexual orientation or other legally protected characteristic, or retaliation in violation of applicable law.
- c. An “Employment Grievance” is defined as a complaint or dispute by an Employee relating to employment, including the following:
 1. Disciplinary actions involving dismissal, demotion, or suspension, provided that dismissals are grievable whenever resulting from formal discipline or unsatisfactory job performance.

2. The application of personal policies, procedures, rules and regulations.
3. Acts of retaliation resulting from the use of the Grievance procedure, participation in the Grievance of another member, compliance with any federal or state law, reporting any violation of such law to governmental authority, or seeking any change in law before Congress or the state legislature.

Section 2. Grievance Procedure

Except as provided otherwise elsewhere in this Agreement, whenever a Grievance arises between the City and an Employee or the Union, the matter will be handled in accordance with the following procedure:

Step 1: Within seven (7) calendar days after the act or occurrence which gives rise to the Agreement grievance, the Employee shall meet to discuss the Grievance with the Employee's immediate supervisor in an attempt to resolve the issue.

Step 2: If the Grievance is not settled in Step 1 above, the Grievance must be reduced to writing and signed by the Employee or an authorized Union representative, and presented to the Fire Chief (or his/her designee) within fourteen (14) calendar days of the act or occurrence which gives rise to the Grievance, regardless of whether the meeting contemplated by Step 1 was held. A written Grievance must include: a summary of the facts on which the Grievance is based sufficient to apprise the Fire Chief of the factual support on which the Grievance is based; the Article(s) which the Employee or Union claims has been violated; and statement of the remedy requested.

Within fourteen (14) calendar days of presentation of the written, signed Grievance, to the Fire Chief (or his/her designee) and the Employee and/or Union president (or his/her designee) shall

meet and discuss the Grievance. The Fire Chief (or his/her designee) shall respond in writing within fourteen (14) calendar days of the meeting.

Step 3: If the Grievance is not settled at Step 2 above, within fourteen (14) calendar days of the Fire Chief's response in Step 2, the Union shall notify the City Manager in writing of its appeal of the Grievance to Step 3. Within fourteen (14) calendar days of receipt of the written notice of the appeal in Step 3, the City Manager (or his/her designee) shall meet and discuss the Grievance with the Employee and/or Union president (or his/her designee). The City Manager shall respond in writing within fourteen (14) calendar days after the meeting. The City Manager can extend the time limits for meeting and decision in this Step, but must do so in writing. If the Employment Grievance is not resolved by the City Manager, the Employment Grievance can be submitted by the Union to a panel consisting of the City Manager, Fire Chief and an Employee selected by the Union. The determination of the majority that panel as to Employment Grievances is final and binding on all parties.

Step 4. If an Agreement Grievance is not settled at Step 3, within fourteen (14) calendar days of the City Manager's response in Step 3, that Agreement Grievance may be submitted by either party to arbitration by providing notice to the other party.

- a. An impartial arbitrator shall be selected from a panel of seven (7) names supplied by the Federal Mediation and Conciliation Service ("FMCS") upon the request of either party. The parties shall, within ten (10) working days of receipt of the panel, attempt in good faith to agree on an arbitrator selection. In the event the parties cannot agree, an arbitrator shall be selected by alternatively striking names from the FMCS-provided panel with the party submitting the Agreement Grievance for arbitration striking first.

- b. Once the hearing is completed, the selected arbitrator shall render a decision within thirty (30) working days unless otherwise agreed by the parties.
- c. The decision of the arbitrator shall be final and binding upon all parties; provided, however, the arbitrator shall not have the power to add to, subtract from, modify, or alter the terms of this Agreement.
- d. Any FMCS fee and the arbitrator's expenses and compensation shall be borne equally by the parties.

Section 3. Union's Obligation

It is not intended that anything contained herein shall obligate the Union to represent any Employee or to represent an Employee who has alleged unlawful discrimination or retaliation and is, thus, required to utilize the grievance and arbitration provisions of this Agreement. Such individuals have the right to advance their disputes, at their own expense; provided, however, the Union shall be given notice of any such Grievance meetings and arbitrations, and shall have the right to attend and present its views. Only the Union has the right to advance Agreement Grievances to Step 4 except that an Employee who has alleged unlawful discrimination or retaliation has the right to advance such a grievance to Step 4.

Section 4. Prohibition on Retaliation

An Employee will not be unlawfully disciplined or retaliated against for filing an Employment Grievance.

ARTICLE 19

Severability Clause

If any provision of this Agreement, or the application of such provision, should be rendered or declared invalid by any court action or by reason of any existing or subsequently enacted legislation or ordinance, the remaining parts or portions of this Agreement shall remain in full force and effect. The parties will meet immediately to negotiate replacement language in accordance with chapter 447 of the Florida Statutes.

ARTICLE 20

Entire Agreement

The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by both parties, after the exercise of that right and opportunity, are set forth in this Agreement. The parties further acknowledge that this Agreement constitutes the entire Agreement and understanding between the parties and shall not be modified, altered, changed or amended in any respect except on mutual agreement set forth in writing and signed by the authorized representatives of both parties, and supersedes any and all previous agreements and understandings between the parties, either written or oral, and any and all past practices.

ARTICLE 21

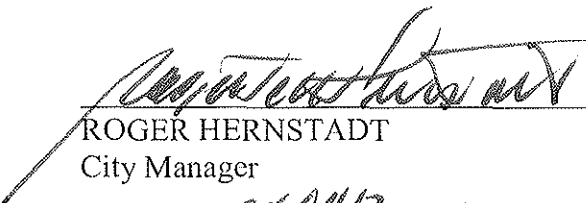
Duration

Except as specifically provided otherwise in this Agreement, this Agreement shall take effect upon the ratification by both parties or as resolved by the City Council pursuant to Chapter 447 of Florida Statutes, and shall continue in full force and effect through midnight, December 31, 2014. This Agreement shall be automatically renewed on an annual basis thereafter, unless either party provides the other written notice of its intent to terminate or modify this Agreement not less than ninety (90) days prior to expiration date set forth above. After receipt of said written notice, negotiations shall commence no later than thirty (30) days before the expiration of this Agreement. Nothing shall preclude the parties from mutually agreeing to negotiate a successor agreement prior to the ninety (90) days before the expiration of this Agreement.

Effective the 13th day of March, 2012.

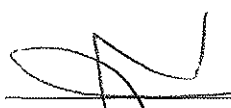
THE CITY OF MARATHON, FLORIDA

**INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS, Local 4396**



ROGER HERNSTADT
City Manager

Date: 3/13/12




JAMES MALMQUIST
President

Date: 4/2/12

SHANA ROGERS
Executive Secretary

Date: 8/1/12 4/2/12

ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney