

**CITY OF MARATHON, FLORIDA
RESOLUTION 2012-54**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING CERTAIN PURCHASES IN EXCESS OF \$10,000 AND LESS THAN \$25,000; WAIVING THE CITY'S PURCHASING POLICIES AND PROCEDURES FOR CERTAIN PURCHASES; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO ENTER INTO AGREEMENTS IN CONNECTION THEREWITH AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Marathon, Florida (the "City"), adopted Purchasing Policies and Procedures after determining that it was fiscally prudent and in the best interests of the City's residents for the City to adopt policies and procedures for City employees and officials regarding the purchasing and acquisition of contractual services, equipment, goods, professional services and other similar types of services; and

WHEREAS, pursuant to Resolution 2007-156, the City Council amended the Purchasing Policies and Procedures to provide that any purchases over \$10,000 and less than \$25,000 must be placed on a City Council agenda as a consent item for approval prior to execution of the contract or consummation of the purchase; and

WHEREAS, the City Manager recommends the City Council waive the City's purchasing policies and procedures due to the sole source status of the two vendors listed in Exhibit "A;" and

WHEREAS, the City Manager has authorized staff to prepare purchase orders for those items set forth on Exhibit "A," attached hereto and now wishes to bring them before City Council as a consent item.

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. Based upon the recommendation of the City Manager the City Council finds that Ten 8 Fire Equipment Inc. and Fireworks Displays Unlimited, LLC are sole source vendors for two of the purchases approved herein.

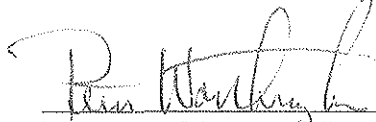
Section 3. The City's purchasing policies and procedures are hereby waived with respect to the first two items and the City Council hereby approves the purchases set forth in Exhibit "A" attached hereto and incorporated herein.

Section 4. The City Manager or designee is authorized to execute any agreements in connection with this purchase and expend budgeted funds on behalf of the City.

Section 5. 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 2012.

THE CITY OF MARATHON, FLORIDA



Pete Worthington, Mayor

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

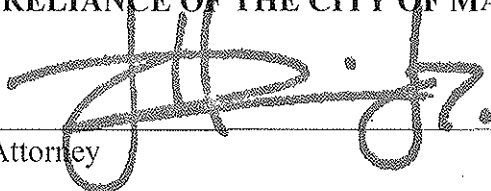
ATTEST:



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

Exhibit "A"

Item 1	Fireworks Display Unlimited LLC	\$18,500
Item 2	Ten-8 Fire Equipment Thermal Imaging Camera	\$14,649.25
Item 3	Cannon iRC5185 refurbished copier/scanner/printer	36 month maintenance and lease agreement at \$385 per month for a total contract price of \$13,860

FIREWORKS DISPLAYS UNLIMITED, LLC

SPECTACULAR CUSTOM FIREWORKS DISPLAYS AND SPECIAL FX
FOR ANY OCCASION
STRICTLY ELECTRONICALLY FIRED DISPLAYS

PROPOSAL FOR FIREWORKS DISPLAY

Sponsors : City of Marathon
Contact : Randy Mearns
Date of Display : July 4th, 2012
Location : Sombrero Beach
Time : 9:00 pm
Duration : Approximately 40 minutes
Show Price : \$18,500.00
Remarks : Includes labor, transport, insurance, pyrotechnician with crew, and equipment rental.

We the undersigned, being interested in a fireworks display for City of Marathon, agree to pay a price of **\$18,500.00** for the display agreed upon, which will be furnished by Fireworks Displays Unlimited, LLC.

The undersigned, intending to be legally bound, agree as follows:

1. Sponsor to make payment in full of the contract price at time of display or no later than 10 days post event.
2. SPONSOR'S AGENT: Randy Mearns shall be designated as sponsor's agent to whom all questions and inquiries shall relay all questions and inquiries. Sponsor's agent shall be the only agent of sponsor authorized to request rescheduling of the delivery and exhibition of the fireworks on the part of sponsor.
3. If event is on land, sponsor to furnish police and/or crowd security personnel, provide proper parking supervision and insure adequate patrol of the safety zone as marked and secured by the sponsor until Fireworks Displays Unlimited, LLC. advises that it is no longer necessary. Fireworks Displays Unlimited, LLC is not responsible for clean-up of land based shows other than company equipment, supplies and packing materials. A land based fireworks show produces debris. Sponsor shall be responsible for the clean-up of any such debris.
4. If event is over water, Fireworks Displays Unlimited will be responsible for marine permit and control of safety zone.

5. Fireworks Displays Unlimited, LLC reserves the right to terminate the display in the event persons, vehicles, or animals enter the secured safety zone and security is unable or unwilling to remove them and enforce the safety regulations.
6. Fireworks Displays Unlimited, LLC. will furnish all applicable licenses, permits and \$1,000,000 liability insurance and pyrotechnicians for your electronically fired display.
7. Hold harmless Fireworks Displays Unlimited, LLC from any claims that do not directly or indirectly relate to damages produced by its staff, equipment or pyrotechnic material subject to the statutory limits pursuant to section 768.28, Florida Statutes.
8. CREDITS: As a material inducement to Fireworks Displays agreeing to enter into this agreement, Sponsor shall give Fireworks Displays program credit as sole fireworks supplier and producer in all press releases, advertising and any other program announcements, printed or otherwise.
9. If show is cancelled, sponsor is responsible for any permit, fire watch or barge/tug fees, if applicable. Additionally, sponsor will be responsible for load in/ load out expenses not to exceed 50% of budget.
10. If wind exceeds 20 miles per hour, fireworks display will be postponed to an agreed date between sponsor and Fireworks Displays Unlimited, LLC.
11. Rain date policy is as follows: Postponement time is 11:30am day of display.
12. If the delivery and/or exhibition of the fireworks is postponed by reason of inclement weather, it shall be re-scheduled to the Inclement Weather Date set forth above.
13. **IMPORTANT NOTE:** Items listed in this proposal assume a firing area that conforms to NFPA Code 1123-1995, which states that there must be at least 70 feet per inch of shell diameter between firing site and any spectators, cars or buildings. This program requires a safety zone that has a radius of 420 feet because of the inclusion of 6-inch shells. Adjustments will be made to the content of this program if necessary to conform to NFPA 1123-1995.

Firepower Displays Unlimited, Inc., upon acceptance of this contract in writing, agrees to fulfill the contract in a workmanlike and professional manner.

Accepted this day of July 23, 2012

On behalf of City of Marathon, [Signature]

On behalf of Fireworks Displays Unlimited, LLC. [Signature]
 Gary Avins, President

5. Fireworks Displays Unlimited, LLC reserves the right to terminate the display in the event persons, vehicles, or animals enter the secured safety zone and security is unable or unwilling to remove them and enforce the safety regulations.
6. Fireworks Displays Unlimited, LLC. will furnish all applicable licenses, permits and \$1,000,000 liability insurance and pyrotechnicians for your electronically fired display.
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Firepower Displays Unlimited, Inc., upon acceptance of this contract in writing, agrees to fulfill the contract in a workmanlike and professional manner.

Accepted this day of May 23, 2012

On behalf of City of Marathon, [Signature]

On behalf of Fireworks Displays Unlimited, LLC. _____,
Gary Avins, President

OPENING BARRAGE

60 - THREE INCH SHELLS - **TITANIUM SALUTES** – these shells explode into a burst of brilliant white lights and booming reports, **ASSORTED COLOR, PEONIES & CHRYSANTHEMUMS** – bursts resembling a round and weeping flower pattern.

18 - FOUR-INCH SHELLS - **ASSORTED COLOR, PEONIES & CHRYSANTHEMUMS** – bursts resembling a round and weeping flower pattern, **WHISTLES** – a break of color followed by whistles.

8 - FIVE-INCH SHELLS - **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **ASSORTED TWO, THREE & FOUR COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two, three or four distinct color changes that resemble a round and weeping flower pattern.

9 - SIX-INCH SHELLS - **FANCY STAR SHELLS** - Assorted brilliant colors in various patterns, **ASSORTED TWO, THREE & FOUR COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two, three or four distinct color changes that resemble a round and weeping flower pattern.

BODY OF SHOW

270 - THREE INCH SHELLS - ASSORTED COLOR, PEONIES & CHRYSANTHEMUMS – bursts resembling a round and weeping flower pattern, ASSORTED COLOR & CRACKLING EFFECTS – assorted color peonies and chrysanthemums with crackling effects, FANCY STAR SHELLS – Assorted brilliant colors in various patterns, SPIDERWEBS – long hanging fine webs of gold, silver or assorted colors, GOLDEN, SILVER, GLITTERING OR CRACKLING PALM TREES – a palm tree image with different forms with trunk-like rising effect, ASSORTED TWO COLOR CHANGING CHRYSANTHEMUMS & PEONIES – two distinct color changes that resemble a round and weeping flower pattern, ASSORTED COLOR BROCADES – a dense golden, silver or assorted color effect ending at the tips with an umbrella-like canopy cascading and falling low, ASSORTED COMETS, bright luminous thick tail with comet-like appearance with various colors, ASSORTED TIGERTAILS, similar to comets, ASSORTED MINES, projects various types of effect and colored stars that are launched and ignited at a low altitude.

180 - FOUR INCH SHELLS - ASSORTED COLOR, PEONIES & CHRYSANTHEMUMS – bursts resembling a round and weeping flower pattern, WHISTLES – a break of color, followed by whistles, SCREAMING DRAGONS – a break of bright magnesium colors followed by loud screaming whistle, GOLD FLITTER, SILVER OR GLITTER CROSSETTES - exploding comets crackling into criss-crossing effects, FANCY STAR SHELLS – Assorted brilliant colors in various patterns, SPIDERWEBS – long hanging fine webs of gold or silver, TOURBILLIONS – titanium silver spinning effects, WILLOWS – golden, silver or assorted colors of very fine lines with an umbrella like effect cascading slowly, RINGSHELLS – assorted ring patterns of different colors of one, two, three or five different colors, GOLDEN, SILVER, GLITTERING OR CRACKLING PALM TREES – a palm tree image with trunk-like different forms, ASSORTED TWO and THREE COLOR CHANGING CHRYSANTHEMUMS & PEONIES – two or three distinct color changes that resemble a round and weeping flower pattern, STROBES – a variety of bright twinkling shells, ASSORTED COLOR BROCADES – a dense golden, silver or assorted color effect ending at the tips with an umbrella-like canopy cascading and falling low, MULTI-BREAK SALUTE SHELLS – a variety of salute effects that incorporate multiple powerful reports into the display, ASSORTED COMETS, bright luminous thick tail with comet-like appearance with various colors, ASSORTED TIGERTAILS, similar to comets, ASSORTED MINES, projects various types of effect and colored stars that are launched and ignited at a low altitude.

88 - FIVE INCH SHELLS - **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **SPIDERWEBS** – long hanging fine webs of gold or silver, **TOURBILLIONS** – titanium silver spinning effects, **GOLD FLITTER, SILVER OR GLITTER CROSSETTES** – exploding comets crackling into criss-crossing effects, **WILLOWS** - golden, silver or assorted colors of very fine lines with an umbrella like effect cascading, **RINGSHELLS** – assorted ring patterns of different colors of one, two, three or five different colors, **GOLDEN, SILVER, GLITTERING OR CRACKLING PALM TREES** – a palm tree image with different forms with trunk-like rising effect, **GOLD OR SILVER RAIN** – slow cascading gold or silver effect, **ASSORTED TWO, THREE & FOUR COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two, three or four distinct color changes that resemble a round and weeping flower pattern, **STROBES** – a variety of bright twinkling shells, **ASSORTED COLOR BROCADES** – a dense golden, silver or assorted color effect ending with an umbrella-like canopy cascading and falling low, **MULTI-BREAK SALUTE SHELLS** – a variety of salute effects that incorporate multiple powerful reports into the display, **STAR FISH** – group of large glittering tail comet stars, **CRISS-CROSS OR BEES**, assorted color bees or criss-cross.

117 - SIX INCH SHELLS - **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **SPIDERWEBS** – long hanging fine webs of gold or silver, **TOURBILLIONS** – titanium silver spinning effects, **GOLD FLITTER, SILVER OR GLITTER CROSSETTES** – exploding comets crackling into criss-crossing effects, **WILLOWS** - golden, silver or assorted colors of very fine lines with an umbrella like effect cascading slowly, **RINGSHELLS** – assorted ring patterns of different colors of one, two, three or five different colors, **GOLDEN, SILVER, GLITTERING PT CRACKLING PALM TREES** – a palm tree image of different forms with trunk-like rising effect, **GOLD OR SILVER RAIN** – slow cascading gold or silver effect, **ASSORTED TWO, THREE & FOUR COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two, three or four distinct color changes that resemble a round and weeping flower pattern, **STROBES** – a variety of bright twinkling shells, **ASSORTED COLOR BROCADES** – a dense golden effect with an umbrella-like canopy cascading and falling low, **ASSORTED COLOR PARACHUTE** – assorted cascading effect from parachute, **SHELL OF SHELLS OR THOUSAND FLOWER** – multi-color star shell with additional smaller shells dispersed outside resembling blooming flowers, **MULTI-BREAK SALUTE SHELLS** – a variety of salute effects that incorporate multiple powerful titanium reports into the display, **ASSORTED COLOR & CRACKLING EFFECTS** – assorted color peonies and chrysanthemums with crackling effects, **WILLOWS** - very fine lines with an umbrella like effect cascading slowly, **FANCY PATTERNS** – five pointed star shapes, hearts, smiling face, etc..., **STAR FISH** – group of large glittering tail comet stars. effect with an umbrella-like canopy cascading and falling low, **SHELL OF SHELLS** – multi-color star shell with additional smaller shells dispersed outside.

GRAND FINALE

420 - THREE INCH SHELLS - **TITANIUM SALUTES** – these shells explode into a burst of brilliant white lights and booming reports, **ASSORTED COLOR, PEONIES & CHRYSANTHEMUMS** – bursts resembling a round and weeping flower pattern, **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **SPIDERWEBS** – long hanging fine webs of gold or silver, **ASSORTED COLOR & CRACKLING EFFECTS** – assorted color peonies and chrysanthemums with crackling effects, **WILLOWS** - very fine lines with an umbrella like effect cascading slowly, **ASSORTED COLOR BROCADES** – a dense golden, silver or assorted color effect ending at the tips with an umbrella-like canopy cascading and falling low, **WILLOWS** - very fine lines with an umbrella like effect cascading slowly,

72 - FOUR INCH SHELLS - **ASSORTED COLOR, PEONIES & CHRYSANTHEMUMS** – bursts resembling a round and weeping flower pattern, **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **SPIDERWEBS** – long hanging fine webs of gold or silver, **ASSORTED COLOR & CRACKLING EFFECTS** – assorted color peonies and chrysanthemums with crackling effects, **WILLOWS** - very fine lines with an umbrella like effect cascading slowly, **ASSORTED COLOR BROCADES** – a dense golden, silver or assorted color effect ending at the tips with an umbrella-like canopy cascading and falling low.

24 - FIVE INCH SHELLS - **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **ASSORTED TWO and THREE COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two or three distinct color changes that resemble a round and weeping flower pattern.

18 - SIX INCH SHELLS - **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **ASSORTED TWO and THREE COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two or three distinct color changes that resemble a round and weeping flower pattern.

OVER 1,200 SHOTS – Assorted Finale Barrage, Titanium Reports, Whistles, Assorted Color, Tourbillions.

TOTAL SHELLS

	OPENING	BODY	FINALE	TOTAL SHELLS
3" SHELLS	60	270	420	750
4" SHELLS	18	180	72	270
5" SHELLS	8	88	24	120
6" SHELLS	9	117	18	144
CAKES	2	6	4	12



CERTIFICATE OF LIABILITY INSURANCE

OP ID: MR

DATE (MM/DD/YYYY)

05/10/12

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Combined Underwriters of Miami 8240 N.W. 52 Terr, Suite 408 Miami, FL 33166 SUSAN SANCHEZ-ARMENGOL	305-477-0444	CONTACT NAME:	
	305-599-2343	PHONE (A/C, No, Ext):	FAX (A/C, No):
		E-MAIL ADDRESS:	
		PRODUCER CUSTOMER ID #:	FIREP-1
		INSURER(S) AFFORDING COVERAGE	
		NAIC #	
INSURED FIREPOWER DISPLAYS UNLIMITED INC FIREWORKS DISPLAYS UNLIMITED LLC P.O. BOX 4085	INSURER A :		
	INSURER B : JAMES RIVER INSURANCE CO.		
	INSURER C :		
	INSURER D :		
	INSURER E :		
	INSURER F :		

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR	WVVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	GENERAL LIABILITY			00036503-2	02/28/12	02/28/13	EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
	<input checked="" type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						MED EXP (Any one person)	\$
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 3,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	\$ 1,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC							\$
B	AUTOMOBILE LIABILITY			CA00000320914	02/28/12	02/28/13	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident)	\$
B	<input checked="" type="checkbox"/> HIRED AUTOS			CA00000320914	02/28/12	02/28/13		\$
B	<input checked="" type="checkbox"/> NON-OWNED AUTOS			CA00000320914	02/28/12	02/28/13		\$
	UMBRELLA LIAB						EACH OCCURRENCE	\$
	EXCESS LIAB						AGGREGATE	\$
	DEDUCTIBLE							\$
	RETENTION \$							\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS	OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)		Y/N	N/A			E.L. EACH ACCIDENT	\$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 DISPLAY DATE: 7/4/2015 RAIN DATE: NEXT AVAILABLE
 DISPLAY SITE: SOMBRERO BEACH, MARATHON, FL
 ADDITIONAL INSURED: CITY OF MARATHON; MARATHON CITY COUNCIL; RANDALL MEARNS;
 MARATHON ELECTRIC SIGN & LIGHT INC

CERTIFICATE HOLDER**CANCELLATION**

CITY OF CITY OF MARATHON 9805 OVERSEAS HWY MARATHON, FL 33050	CITY OF	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
		AUTHORIZED REPRESENTATIVE

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PURCHASE ORDER REQUISITION

VENDOR NO. _____

DATE May 23, 2012 DATE NEEDED ASAP

VENDOR Canon Financial Services, Inc SHIP TO: City of Marathon

ADDRESS 1 14904 Collections Center Dr. 9805 Overseas Hwy.

ADDRESS 2 Chicago, IL 60693 Marathon, FL 33050

West Side of Building

AMOUNT OF PURCHASE \$13,860.00

ACCOUNT CODE: 1 ACCOUNT NUMBER 2520-519-396

DESCRIPTION OF REQUISITION:

Canon IRC5185 refurbished multifunction device, Municipal \$1 out lease with a term of 36 months, monthly payment amount of 385.00.

JUSTIFICATION OF PURCHASE:

Previous copier/scanner lease is ending (P.O. 5435). Approved By Resolution 2012-54

APPROVAL SIGNATURES

DEPARTMENT HEAD: *Diane Clavick*

CITY MANAGER: *[Signature]* 052317

FINANCIAL APPROVAL

Purchase order # _____ Date Processed: _____

10. **INDEMNITY:** Customer agrees to reimburse CFS for and to defend CFS against any claim for losses or injury caused by the Equipment. This Section shall survive termination of this Agreement.

11. **MAINTENANCE; ALTERATIONS:** Customer will keep and maintain the Equipment in good working order and shall, at Customer's expense, supply and install all replacement parts and accessories when required to maintain the Equipment in good working condition. Customer shall not, without the prior written consent of CFS, make any changes or substitutions to the Equipment. Any and all replacement parts, accessories, authorized changes and/or substitutions for the Equipment shall become part of the Equipment and subject to the terms of this Agreement.

12. **TAXES; OTHER FEES AND CHARGES:** CUSTOMER SHALL PAY AND DISCHARGE WHEN DUE ALL LICENSE AND REGISTRATION FEES, ASSESSMENTS, SALES, USE, PROPERTY AND OTHER TAXES, AND OTHER EXPENSES AND CHARGES, together with any applicable penalties, interest, now or at any time imposed upon any item of the Equipment, the Payments payable under this Agreement, or Customer's performance or non-performance of its obligations hereunder, whether payable by or assessed to CFS or Customer. If Customer fails to pay any fees, assessments, taxes, expenses, or charges as required by the Agreement, CFS shall have the right but not the obligation to pay those fees, assessments, taxes, expenses, or charges. If such payments are made by CFS, Customer shall promptly reimburse CFS, upon demand, for all such payments made plus administration fees and costs, if any. Customer acknowledges that where required by law, CFS will file any notices and pay personal property taxes levied on the Equipment. Customer shall reimburse CFS for the expense of personal property taxes as invoiced by CFS and pay CFS a processing fee not to exceed \$50 per year per item of Equipment which is subject to such tax. Customer agrees that CFS has not, and will not, render tax advice to Customer and that the payment of such taxes is an administrative act. ON THE DATE OF THE FIRST SCHEDULED PAYMENT AND THE DATE OF THE FIRST SCHEDULED PAYMENT AFTER THE ADDITION OF ANY EQUIPMENT, CUSTOMER SHALL PAY TO CFS AN ADMINISTRATIVE FEE, IN THE AMOUNT OF \$65, TO REIMBURSE CFS FOR ITS ADMINISTRATIVE AND RECORDING COSTS.

13. **INSURANCE:** Customer, at its sole cost and expense, shall obtain, maintain and pay for (a) insurance against the loss, theft, or damage to the Equipment for the full replacement value thereof, and (b) comprehensive public liability and property damage insurance. All such insurance shall provide for a deductible not exceeding \$5,000 and be in form and amount, and with companies satisfactory to CFS. Each insurer providing such insurance shall name CFS as additional insured and loss payee and provide CFS thirty (30) days written notice before the policy in question shall be materially altered or canceled. Customer shall pay the premiums for such insurance, shall be responsible for all deductible portions thereof, and shall deliver certificates or other evidence of insurance to CFS. The proceeds of such insurance, at the option of CFS, shall be applied to (a) replace or repair the Equipment, or (b) pay CFS the "Remaining Lease Balance." For purposes of this Agreement, the "Remaining Lease Balance" shall be the sum of: (i) all amounts then owed by Customer to CFS under this Agreement; (ii) the present value of all remaining Payments for the full term of this Agreement, plus (iii) any applicable taxes, expenses, charges and fees. For purposes of determining present value under this Agreement, Payments shall be discounted at 6% per year. Customer hereby appoints CFS as Customer's attorney-in-fact to make claim for, receive payment of, and execute and endorse all documents, checks, or drafts for any loss or damage under any such insurance policy. If within ten (10) days after CFS's request, Customer fails to deliver satisfactory evidence of such insurance to CFS, then CFS shall have the right, but not the duty, to obtain insurance with respect to the Equipment satisfactory to CFS, at the expense of the Customer. Customer hereby agrees that CFS shall be entitled to retain any fees earned by it in connection with any insurance obtained under this Agreement.

14. **LOSS DAMAGE:** Customer assumes and shall bear the entire risk of loss, theft of, or damage to the Equipment from any cause whatsoever, effective upon delivery to Customer. No such loss, theft or damage shall relieve Customer of any obligation under this Agreement. In the event of damage to any item of Equipment, Customer shall immediately repair such damage at Customer's expense. If any item of Equipment is lost, stolen, or damaged beyond repair, Customer, at the option of CFS, will (a) replace the same with like equipment in a condition acceptable to CFS and convey clear title to such equipment to CFS (such equipment will become "Equipment" subject to the terms of this Agreement), or (b) pay CFS the Remaining Lease Balance. Upon CFS's receipt of the Remaining Lease Balance, Customer shall be entitled to whatever interest CFS may have in such item of Equipment, in its then condition and location, without warranties of any kind.

15. **DEFAULT:** Any of the following events or conditions shall constitute an Event of Default under this Agreement: (a) if Customer defaults in the payment when due of any indebtedness of Customer to CFS, whether or not arising from this Agreement, without notice or demand by CFS; (b) if Customer or any Guarantor ceases doing business as a going concern; (c) if Customer or any Guarantor becomes insolvent or makes an assignment for the benefit of creditors; (d) if a petition or proceeding is filed by or against Customer or any Guarantor under any bankruptcy or insolvency law; (e) if a receiver, trustee, conservator, or liquidator is appointed for Customer, any Guarantor, or any of Customer's property; (f) if any statement, representation or warranty made by Customer or any Guarantor to CFS is incorrect in any material respect; or (g) if Customer or any Guarantor defaults under any loan or credit agreement, or (h) if Customer or any Guarantor who is a natural person dies.

16. **REMEDIES:** Upon the happening of any one or more Events of Default, CFS shall have the right to exercise any one or all of the following remedies (which shall be cumulative), simultaneously, or serially, and in any order: (a) to declare all unpaid Payments and other amounts due and payable under this Agreement with CFS retaining title to the Equipment; (b) to terminate any and all agreements with Customer; (c) with or without notice, demand or legal process, to retake possession of any or all of the Equipment (and Customer authorizes and empowers CFS to enter upon the premises wherever the Equipment may be found) and (i) retain such Equipment and all Payments and other sums paid under this Agreement, (ii) re-lease the Equipment and recover from Customer the amount by which the Remaining Lease Balance exceeds the value attributed to the Equipment by CFS for purposes of calculating the payments under the new agreement, or (iii) sell the Equipment and recover from Customer the amount by which the Remaining Lease Balance exceeds the net amount received by CFS from such sale; or (d) to pursue any other remedy permitted at law or in equity. CFS (i) may dispose of the Equipment in its then present condition or following such preparation and processing as CFS deems commercially reasonable; (ii) shall have no duty to prepare or process the Equipment prior to sale; (iii) may disclaim warranties of title, possession, quiet enjoyment and the like; and (iv) may comply with any applicable state or federal law requirements in connection with a disposition of the Equipment and none of the foregoing actions shall be deemed to adversely affect the commercial reasonableness of the disposition of the Equipment. In the event the Equipment is not available for sale, the Customer shall be liable for the Remaining Lease Balance and any other amounts due under this Agreement. If the proceeds of the sale or re-leasing of the Equipment are not sufficient to pay the balance of any Payments owed by Customer during its then-current appropriation period, CFS may take any other remedy available at law or in equity to require Customer to pay such Payments and perform any of its other obligations under this Agreement.

17. **LATE CHARGES; EXPENSES OF ENFORCEMENT.** If Customer fails to pay any sum to be paid by Customer to CFS under this Agreement on or before the applicable due date, Customer shall pay CFS, upon demand, an amount equal to ten percent (10%) of each such delayed Payment or ten dollars (\$10.00) whichever is greater for each billing period or portion of a billing period such Payment is delayed to the extent permitted by law. The amounts specified above shall be paid as liquidated damages and as compensation for CFS's internal operating expenses incurred in connection with such late payment. In addition, Customer shall reimburse CFS for all of its out-of-pocket costs and expenses incurred in exercising any of its rights or remedies under this Agreement or in enforcing any of the terms or provisions of this Agreement, including, without limitation, reasonable attorney's fees and expenses and fees and expenses of collection agencies, whether or not suit is brought. If CFS should bring court action, Customer and CFS agree that attorney's fees equal to twenty-five percent (25%) of the amount sought by CFS shall be deemed reasonable for purposes of this Agreement.

18. **ASSIGNMENT:** CUSTOMER SHALL NOT ASSIGN OR PLEDGE THIS AGREEMENT IN WHOLE OR IN PART, NOR SHALL CUSTOMER SUBLET OR LEND ANY ITEM OF EQUIPMENT WITHOUT THE PRIOR WRITTEN CONSENT OF CFS. CFS may pledge or transfer this Agreement. If CFS transfers this Agreement, CFS shall act as Customer's agent for purposes of keeping a written record of such transfer in accordance with Section 149(a) of the Internal Revenue Code of 1986, as amended, and upon Customer request CFS shall deliver the new owner's name to Customer. Customer agrees that if CFS transfers this Agreement, the new owner will have the same rights and benefits that CFS has now and will not have to perform any of CFS's obligations. Customer agrees that the rights of the new owner will not be subject to any claims, defenses, or set-offs that Customer may have against CFS, including, without limitation, claims, defenses, or set-offs arising out of service obligations, if any, under this Agreement. If Customer is given notice of any such transfer, Customer agrees, if so directed therein, to pay directly to the new owner all or any part of the amounts payable hereunder.

19. **RETURN:** If Customer terminates the lease of any item of Equipment as described in the Fiscal Funding provision hereof, Customer shall return such Equipment at its sole cost and expense in good operating condition, ordinary wear and tear resulting from proper use excepted, to a location specified by CFS. If for any reason Customer shall fail to return the Equipment to CFS as provided in this Agreement, Customer shall pay to CFS upon demand one billing period's Payment for each billing period or portion thereof that such delivery is delayed.

20. **OWNERSHIP OF EQUIPMENT:** For any item of Equipment, upon payment in full of all Payments and other amounts due under this Agreement at the end of the scheduled term, CFS' security interest shall be deemed released and Customer shall be entitled to whatever interest CFS may have in such item of Equipment, including title to such Equipment, in its then condition and location, without warranties of any kind.

21. **WARRANTY OF BUSINESS PURPOSE:** Customer represents and warrants that the Equipment will not be used for personal, family, or household purposes.

22. **PERSONAL PROPERTY:** The Equipment shall remain personal property regardless of whether it becomes affixed to real property or permanently rests upon any real property or any improvement to real property.

23. **MAXIMUM INTEREST; RECHARACTERIZED AGREEMENT:** No Payment is intended to exceed the maximum amount of time price differential or interest, as applicable, permitted to be charged or collected by applicable laws, and any such excess Payment will be applied to payments due under this Agreement, in inverse order of maturity, and thereafter shall be refunded. If this Agreement is recharacterized as a conditional sale or loan, Customer hereby grants to CFS, its successors and assigns, a security interest in the Equipment to secure payment and performance of Customer's obligations under this Agreement.

24. **UCC - ARTICLE 2A: CUSTOMER ACKNOWLEDGES AND AGREES THAT THIS AGREEMENT IS INTENDED AS A "FINANCE LEASE" AS THAT TERM IS DEFINED IN ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE AND THAT CFS IS ENTITLED TO ALL BENEFITS, PRIVILEGES, AND PROTECTIONS OF A LESSOR UNDER A FINANCE LEASE.**

25. **WAIVER OF OFFSET:** This Agreement is a net lease. If the Equipment is not properly installed, does not operate as represented or warranted, or is unsatisfactory for any reason, Customer shall make such claim solely against the supplier, dealer, or manufacturer. Customer waives any and all existing and future claims and offsets against any Payments or other charges due under this Agreement, and unconditionally agrees to pay such Payments and other charges, regardless of any offset or claim which may be asserted by Customer or on its behalf.

26. **NOTICES:** All notices required or permitted under this Agreement shall be sufficient if delivered personally, sent via facsimile or other electronic transmission, or mailed to such party at the address set forth in this Agreement, or at such other address as such party may designate in writing from time to time. Any notice from CFS to Customer shall be effective three days after it has been deposited in the mail, duly addressed. All notices to CFS from Customer shall be effective after it has been received via U.S. Mail, express delivery, facsimile or other electronic transmission.

27. **AUTHORITY AND AUTHORIZATION:** Customer represents and agrees that (a) Customer is a state or a political subdivision or agency of a state; (b) that entering into and performance of the Agreement is authorized under Customer's state laws and Constitution and does not violate or contradict any judgment, law, order, or regulation, or cause any default under any agreement to which Customer is party; and (c) Customer has complied with any bidding requirements and, where necessary, has properly presented this Agreement for approval and adoption as a valid obligation on Customer's part. Upon request, Customer agrees to provide CFS with an opinion of counsel as to clauses (a) through (c) above, an incumbency certificate, and other documents that CFS may request, with all such documents being in a form satisfactory to CFS.

28. **ELECTRONIC ACCEPTANCE:** Customer agrees that CFS may accept a facsimile or other electronic transmission of this Agreement or any Acceptance Certificate as an original, and that facsimile or electronically transmitted copies of Customer's signature will be treated as an original for all purposes.

29. **NON-WAIVER:** No waiver of any of Customer's obligations, conditions or covenants shall be effective unless contained in a writing signed by CFS. Failure to exercise any remedy which CFS may have shall not constitute a waiver of any obligation with respect to which Customer is in default.

30. **MISCELLANEOUS:** If there should be more than one party executing this Agreement as Customer, all obligations to be performed by Customer shall be the joint and several liability of all such parties. Customer's representations, warranties, and covenants under this Agreement shall survive the delivery and return of the Equipment. Any provision of this Agreement which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement. No such prohibition or unenforceability in any jurisdiction shall invalidate or render unenforceable such provision in any other jurisdiction. Customer agrees that CFS may insert missing information or correct other information on this Agreement including the Equipment's description, serial number, and location, otherwise, this Agreement contains the entire arrangement between Customer and CFS and no modifications of this Agreement shall be effective unless in writing and signed by the parties.

31. **GOVERNMENT USE:** Customer agrees that (a) Customer will comply with all information reporting requirements of the Internal Revenue Code of 1986, as amended, including but not limited to the execution and delivery to CFS of information reporting statements requested by CFS, (b) Customer will not do, cause to be done, or fail to do any act if such act will cause the interest portion of the Payments to be or to become subject to Federal income taxation, and (c) the use of the Equipment is essential for Customer's proper, efficient and economic operation, Customer will be the only entity to use the Equipment during the term of this Agreement and Customer will use the Equipment only for Customer's governmental purposes. Upon request, Customer agrees to provide CFS with an essential use letter in a form satisfactory to CFS as to clause (c) above.

32. **GOVERNING LAW; VENUE; WAIVER OF JURY TRIAL:** THIS AGREEMENT HAS BEEN EXECUTED BY CFS IN, AND SHALL FOR ALL PURPOSES BE DEEMED A CONTRACT ENTERED INTO IN, THE STATE OF NEW JERSEY. THE RIGHTS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW JERSEY WITHOUT REFERENCE TO CONFLICT OF LAW PRINCIPLES. ANY ACTION BETWEEN CUSTOMER AND CFS SHALL BE BROUGHT IN ANY STATE OR FEDERAL COURT LOCATED IN THE COUNTY OF CAMDEN OR BURLINGTON, NEW JERSEY, OR AT CFS' SOLE OPTION, IN THE STATE WHERE THE CUSTOMER OR THE EQUIPMENT IS LOCATED. CUSTOMER, BY ITS EXECUTION AND DELIVERY HEREOF, IRREVOCABLY WAIVES OBJECTIONS TO THE JURISDICTION OF SUCH COURTS AND OBJECTIONS TO VENUE AND CONVENIENCE OF FORUM. CUSTOMER, BY ITS EXECUTION AND DELIVERY HEREOF, AND CFS BY ITS ACCEPTANCE HEREOF, HEREBY WAIVES ANY RIGHT TO A JURY TRIAL IN ANY SUCH PROCEEDINGS.



Canon Financial Services, Inc.

**Addendum to Agreement
for application 754315**

WHEREAS, Canon Financial Services, Inc. ("CFS") and City of Marathon ("Customer") have determined that it is for their mutual benefit to enter into this Addendum ("Addendum") to the Lease Agreement (whether designated a Lease, Rental Agreement, Master Lease, or otherwise) ("Agreement") for the lease or rental of certain equipment ("Equipment").

NOW, THEREFORE, for good and valuable consideration, intending to be legally bound, the parties hereto hereby agree as follows:

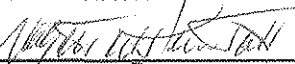
It is expressly agreed by the parties that this Addendum is supplemental to the Agreement and that the provisions thereof, unless specifically modified herein, shall remain in full force and effect and shall apply to this Addendum as though they were expressly set forth herein.

In the event of any conflict or inconsistency between the provisions of this Addendum and any provisions of the Agreement, the provisions of this Addendum shall in all respect govern and control.

The terms and conditions paragraph(s) in the Agreement (CFS-1045 02/08) are changed as follows;

32. GOVERNING LAW; VENUE; WAIVER OF JURY TRIAL: Paragraph 32 is amended by (i) deleting the first sentence in its entirety; (ii) deleting each instance of the words "New Jersey" and replacing with the word "Florida"; and (iii) deleting the words "Camden or Burlington" and replacing with the word "Monroe".

Customer agrees that CFS may accept a facsimile copy of this Addendum as an original, and that such facsimile copy will be treated as an original for all purposes. THIS ADDENDUM SHALL BE EFFECTIVE WHEN IT HAS BEEN SIGNED BY CUSTOMER AND ACCEPTED BY CFS.

<p>CANON FINANCIAL SERVICES, INC.</p> <p>By: _____ Title: _____ Date: _____</p>	<p>CITY OF MARATHON</p> <p>By:  Printed Name: <u>Roger T. Hemstadt</u> Title: <u>City Manager</u></p> <p>By: _____ Printed Name: _____ Title: _____</p>
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