

**CITY OF MARATHON, FLORIDA
RESOLUTION 2012-72**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A CONTRACT BETWEEN THE CITY AND THE MONROE COUNTY SHERIFF'S OFFICE FOR LOCAL POLICE SERVICES IN AN AMOUNT NOT TO EXCEED \$1,463,929 FOR FY 2012-2013; AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO FINALIZE THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Marathon (the "City") has contracted with the Monroe County Sheriff's Office (the "Sheriff"), for the provision of local law enforcement services since incorporation (the "Police Services Contract"); and

WHEREAS, the current Police Services Contract expires as of September 30, 2012; and

WHEREAS, the City and the Sheriff wish to enter into a new Police Services Contract, pursuant to which the City shall receive local law enforcement services from the Sheriff for three years.

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


Section 1. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. The Police Services Contract between the City and Sheriff attached hereto as Exhibit "A", together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney is hereby approved. The City Manager is authorized to sign the Police Services Contract and expend budgeted funds 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 10th DAY OF JULY, 2012.

THE CITY OF MARATHON, FLORIDA



Pete Worthington, Mayor

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

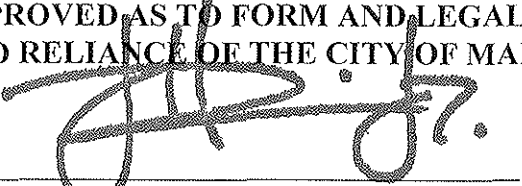
ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney

**Contract for Local Police Services
Monroe County Sheriff's Office and the City of Marathon
FY 2012-2015**

Contract for Local Police Services
Monroe County Sheriff's Office and the City of Marathon
FY 2006-2009

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Contract for Local Police Services
Monroe County Sheriff's Office and the City of Marathon
FY 2012-2015

1-Purpose:

The City of Marathon, a Florida municipality ("Marathon" or the "City"), and the Monroe County Sheriff's Office ("MCSO"), a subdivision of the State of Florida; and Monroe County, a political subdivision of the State of Florida ("County"), have agreed that Marathon will purchase and MCSO will provide local law enforcement services to Marathon in addition to regional police services provided to residents of the unincorporated areas of Monroe County. This Contract states the terms of the agreement between the parties.

2-Parties:

The parties to this Contract are Marathon, MCSO and County. Any communication required to be provided to a party may be directed to:

City of Marathon
Roger Hernstadt
City Manager
9805 Overseas Highway
Marathon, Florida 33036
Telephone: (305) 743-0033
Facsimile: (305) 743-3667

Monroe County
County Administrator
1100 Simonton Street
Key West, Florida 33040
Telephone: (305) 292-4441
Facsimile: (305) 292-4544

MCSO
Sheriff Robert P. Peryam
Attn. Legal Division
5525 College Road
Key West, Florida 33040
Telephone: (305) 292-7020
Facsimile: (305) 292-7070

3-Term:

The term of this Contract begins October 1, 2012 and ends September 30, 2015.

4-Scope of purchased services:

MCSO will provide professional police road patrol service throughout Marathon. Service will be provided a contingent (the "Marathon District") consisting of:

- One Captain
- Four sergeants
- Ten deputies (including one near-shore patrol officer)
- One School Crossing Guard

The parties intend that road patrol services be provided 24-hours per day on every day of the term of this Agreement. The Marathon District Captain (hereinafter "Captain") in close cooperation with the City Manager (hereinafter "Manager") shall plan schedules for the Marathon District. The Captain will provide the Manager with the planned schedules and daily reports containing the names and hours worked by every member of the Marathon District upon request.

The parties acknowledge that the Marathon District Captain and Lieutenant have regional responsibilities in addition to their responsibilities to Marathon.

The staffing plan for this contract has been developed using a 5.21 staffing ratio. This ratio is used to plan the proper number of officers to maintain shift coverage considering planned and unplanned absences due to injury, illness, vacation, training and family and medical leave. The Captain will make all reasonable efforts to coordinate training, sick, annual, and administrative leave to provide optimum service to Marathon. MCSO will maintain appropriate staffing at all times.

The Captain shall attend any meetings that the Manager shall reasonably request, e.g. those of the City Council.

5-Other services:

Apart from this Contract, MCSO shall also provide all services to Marathon on the same terms and at no additional charge or expense as they are provided to the residents of Monroe County.

6-Assignment of personnel and selection of District Captain:

MCSO recognizes the desire of Marathon that the Marathon District be composed of officers who are well acquainted with the community and its residents and with whom the residents can establish a face-to-face rapport and long-term

relationships. Marathon recognizes the obligation of MCSO to treat all of officers fairly concerning requests for transfer and career advancement, and to maintain order and discipline. MCSO shall endeavor to establish and maintain a stable contingent in the Marathon District.

The City Manager will play an integral part in the selection of officers for assignment to and promotion within the Marathon District. The Manager will be given the opportunity to review personnel files, training records, and disciplinary record of these officers and be a member of their selection and promotional boards.

7-Procedure for selection of District Captain and Lieutenant:

If the need arises for the selection of a District Captain or Lieutenant, the Sheriff will consult with the City Manager before making his decision.

8-Complaints regarding officers:

MCSO is committed to maintaining a high standard of professionalism for all of its officers. Complaints regarding officers shall be promptly and thoroughly investigated by MCSO. Elected officials and employees of the City shall not undertake investigations of any officer. Any complaint against an officer in the Marathon District must be directed to the Captain. Upon request, the Captain shall inform the Manager of the complaint, advise the manager of action taken, and provide a written report of the investigation and resolution of the matter. If the complaint concerns the Captain, the manager may take the matter directly to the Undersheriff. The Captain will advise the Manager any time an individual Deputy draws three or more complaints regarding the Deputy's interaction with the public within (6) months or (6) such complaints within (12) months.

9-Responsibility for ultimate control:

Marathon understands, acknowledges and agrees that MCSO must, at all times, have and maintain the sole responsibility for and control of all services hereunder, including without limitation, the establishment of standards of performance and conduct, hiring, promotion, discipline and termination, labor relations, as well as all other matters necessary or incident to the performance of such services.

Consistent with the City charter, no elected official or employee of the City may direct the actions of officers of the Marathon District. Direction from the City will be given through the Manager in accordance with the terms of this Contract.

10-Attention to needs of Marathon:

MCSO will work together with Marathon to direct police services to meet the expressed needs of the residents of Marathon. The Captain shall meet with the

Manager frequently to learn of community concerns and shall work closely with the Manager to devise plans and methods best suited to respond to those concerns. The Captain shall be a member of the Manager's Senior Management Team.

11-Officers not employees or agents of the City:

All deputies and other persons employed by MCSO to perform services under this Contract are and shall remain in the sole employment of MCSO and no such person shall be considered in the employ of Marathon for the purpose of any pension, insurance, civil service, worker's compensation pay or other benefits. MCSO officers are not agents or employees of the City, and will not have the authority to enter into agreements or make policy on behalf of the City.

12-Enforcement of municipal ordinances:

Every member of the Marathon District will be authorized under Florida law to enforce the criminal municipal ordinances of Marathon. Marathon agrees to provide MCSO six copies and every member of its District one copy of such ordinances. Further, Marathon agrees to provide the Captain, the Undersheriff and MCSO General Counsel the text of proposed ordinances in time sufficient for review and discussion with City officials and their advisors. MCSO will provide City officials advice from a practical law enforcement perspective concerning any proposed criminal ordinance.

13-Legal claims, notices of suit, and lawsuits:

The parties shall provide each other with complete and prompt notification of any legal claim, notice of suit, or lawsuit that involves the provision of services hereunder, and shall cooperate in the mutual defense of any such claims.

City, as a state agency or subdivision defined in Section 768.28, Florida Statutes, agrees to be fully responsible to the limits set forth in such statute for its own negligent acts or omissions, or intentional tortious actions, which result in claims or suits against either MCSO or City, and agrees to be liable to the statutory limits for any damages proximately caused by said acts or omissions, or intentional tortious acts.

MCSO, as a political sub-division of the State of Florida, as defined in Section 768.28, Florida Statutes, agrees to be fully responsible to the limits set forth in such statute for its own negligent acts or omissions, or intentional tortious acts, which result in claims or suits against either the City or MCSO, and agrees to be liable to the statutory limits for any damages proximately caused by said acts or omissions, or intentional tortious acts.

Nothing contained in this Section or this agreement shall be construed to be a waiver by either party of any of the protections provided by sovereign immunity or any other immunity, including the protections and statutory caps on liability contained in section 768.28 of the Florida Statutes, as well as any other similar provision of law. Nothing contained herein shall be construed to be a consent by either party to be sued by third parties in any matter arising out of this agreement or any other agreement.

14-Uniforms and marking of patrol vehicles:

MCSO shall ensure that every member of the Marathon District is provided with a marked patrol vehicle and uniforms. City of Marathon patrol cars will clearly marked as such.

15-Contract cost and payment:

a. Marathon agrees to pay for services, equipment, and supplies provided during the first year of this Contract (10/01/2012-09/30-2013) the sum described on Exhibit A, attached and incorporated by reference herein. This sum is referred to as the "Contract Price."

b. Marathon will pay Two/Twelfths (2/12 or 16.67%) of the total contract price to the Monroe County Clerk of Court no later than October 15, 2012. Thereafter, Marathon shall pay One/Twelfth of the total contract price no later than November 1, 2012 and on or before the first day of each succeeding month until the total contract price is paid.

c. MCSO will provide a fully marked and properly equipped police vehicle for each member of the Marathon District. Marathon will pay all monthly vehicle costs in advance to MCSO, and will pay or provide for fuel, maintenance, and other operating costs for all vehicles assigned to the Marathon District.

e. In future Contract years, Marathon will pay the costs of acquiring replacement vehicles for the Marathon District. MCSO will replace the Marathon vehicles according to the terms of the then current vehicle replacement policy of MCSO.

f. All vehicles paid for by City will, at the end of their service life, be property of City.

g. Marathon and MCSO may agree to purchase goods and services not specifically addressed in this contract upon such terms and conditions as are mutually agreed upon by the parties in writing.

16-Cost reports/Contract Price options:

MCSO will provide Marathon monthly financial reports showing all costs incurred by MCSO and Monroe County to provide services under this Contract.

If incurred costs equal the Ninety-five Per Cent (95%) of the total costs recited in this Contract, then:

MCSO may stop providing any of the services in order not to exceed the Contract price;

Or,

Marathon may issue a written commitment to MCSO to pay for additional services as agreed to by Marathon and MCSO.

17-Year-end reconciliation:

At the end of each fiscal year, incurred costs will be reconciled with total payments made by Marathon. MCSO external auditors will determine the final balance. If incurred costs exceed total payments, Marathon will reimburse MCSO for the excess costs within (60) days of the end of that fiscal year. If total payments exceed incurred costs, MCSO will reimburse Marathon for the excess payment amount on or before March 31st of the following fiscal year.

18-Future year pricing:

a. Marathon and MCSO will negotiate payment for the second and third years of this Contract in time sufficient for preparation of budgets and tax rolls. When agreement is reached, the City Manager will prepare a memorandum stating the new terms and acknowledging Marathon's acceptance of them. A resolution of the Monroe County Board of County Commissioners, sponsored by the Sheriff and acknowledging the new terms, shall be sufficient to amend the financial terms of this Contract

b. If the parties are unable to agree on payments for future years on a timely basis, then and in that event this Contract shall terminate on September 30th of the then current Contract period.

19-Traffic fines and forfeitures:

The parties acknowledge Marathon's entitlement to fines and forfeitures pursuant to §318.21, Fla. Stat. (2002), as from time to time amended.

20-Florida Contraband Forfeiture Act proceeds:

The parties shall determine an equitable share for Marathon of proceeds of any forfeiture, from which MCSO successfully forfeits cash or property exceeding \$10,000.00 pursuant to the Florida Contraband Forfeiture Act, in cases involving the participation of officers of the Marathon District. This share will be based upon the ratio that the Marathon District's participation bears to the participation of all law enforcement agencies participating in the criminal case, seizure, and subsequent forfeiture. This share shall be deposited by MCSO in the Sheriff's Law Enforcement Trust Fund for the Sheriff's use in Marathon. Marathon may apply to the Sheriff for the use of such funds consistent with the limitations of the Contraband Forfeiture Act. The Sheriff agrees to submit such request to the Monroe County Commission for appropriation, and upon appropriation, will use the funds for the intended purpose.

The parties agree that the decision to use or dispose of personal or real property seized within Marathon shall be in the sole discretion of MCSO. If MCSO elects to use such seized personal property outside of Marathon or to sell seized Marathon real estate, MCSO shall allocate funds to the Law Enforcement Trust Fund in amount to Marathon's equitable share of the market value of the property less liens, mortgages, encumbrances and MCSO's costs of seizure and forfeiture. In both cases, the allocated share shall be earmarked for use by MCSO within Marathon.

21-Station facilities and office expense:

MCSO will provide station facilities for the Marathon District.

22-Law enforcement education assessments:

Marathon agrees to retain and separately account for all monies currently received by it from the Clerk of Court attributable to assessments of court costs intended for criminal justice training purposes. Marathon will disburse said funds to MCSO upon request. MCSO will use the funds solely for law enforcement education as required by law. Any new assessments enacted by the City for law enforcement training purposes will be shared between MCSO and the City for the purposes intended by law.

23-Mutual aid:

The parties recognize their obligation to provide emergency assistance to other jurisdictions (including without limitation, the Cities of Key West, Marathon, Key Colony Beach, Layton, the Ocean Reef Public Safety District, unincorporated Monroe County and any municipalities incorporated in Monroe County after the effective date of this Contract) pursuant to the Florida Mutual Aid Act and in the event of catastrophe. MCSO may direct Marathon District officers to render aid in either case in a manner consistent with the deployment by MCSO of other MCSO

officers without financial set-off or deduction by Marathon. The Manager will be given all possible notice of such deployment and written reports of the actions of officers so deployed upon request.

24-Paragraph headings not dispositive:

The parties agree that the headings given the paragraphs and other subdivisions of this Contract are for ease of reference only and are not dispositive in the interpretation of Contract language.

25-No presumption against drafter:

The parties agree that this Contract has been freely negotiated by both parties, and that, in any dispute over the meaning, interpretation, validity, or enforceability of this Contract or any of its terms or provisions, there shall be no presumption whatsoever against either party by virtue of their having drafted this Contract or any portion thereof.

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Agreed to on 08/30, 2012.

Monroe County Sheriff's Office

By:

Richard A. Hancock (P.R.)
Sheriff Robert P. Peryam

MONROE COUNTY SHERIFF'S OFFICE
APPROVED AS TO FORM:

[Signature]
PATRICK J. McCULLAH
GENERAL COUNSEL

DATE: 10/9/12

S E A L

City of Marathon

By:


[Signature]
Mayor

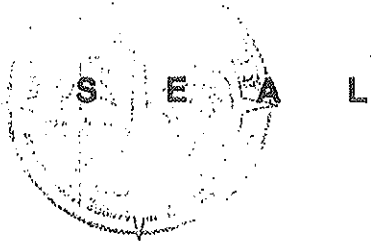
ATTEST:

[Signature]
City Clerk

BOARD OF COUNTY COMMISSIONERS OF
MONROE COUNTY, FLORIDA

By 
Mayor/Chairperson David P. Rice

Attest: DANNY L. KOLHAGE,
CLERK OF COURT
By 
Deputy Clerk 9-21-12




MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

CYNTHIA L. HALL
ASSISTANT COUNTY ATTORNEY
Date 8-30-2012

EXHIBIT A

28-May-12

Updated by: Amy Heavitt & Lisa Knowles - 4/30/12 (v18)
 BUDGET - MARATHON
 2 YEAR COMPARISON FOR FYE 2012 TO FYE 2013

	ADOPTED BUDGET FYE 2012	PROPOSED BUDGET FYE 2013	DIFFERENCE + OR (-)
<u>PERSONNEL SERVICES</u>			
Headcount	15	16	-
Executive Salary	-	-	-
Regular Salaries	783,627	805,874	22,047
Overtime	33,108	33,108	-
Incentive	6,120	6,959	840
Employer Taxes	62,946	64,609	1,751
Retirement Contribution	115,893	125,171	9,309
Unemployment Compensation	-	-	-
Total Personal Services	1,001,694	1,035,810	33,947
<u>OPERATING EXPENSES</u>			
Expenses Other Than Salaries	-	-	-
Professional Services	1,400	1,400	-
Other Contractual Services	980	980	-
Investigations	-	-	-
Travel & Per Diem	1,300	1,300	-
Communications (Telephones)	10,000	10,000	-
Postage	60	60	-
Utility Services	-	-	-
Rentals	-	-	-
Insurance	37,398	37,398	-
Repairs & Maintenance	48,828	48,828	-
Printing	-	-	-
Office Supplies	6,250	6,250	-
Operating Supplies	76,380	76,380	-
Training	4,546	4,846	-
Total Operating Expenses	185,110	185,110	-
<u>CAPITAL OUTLAY</u>			
Other Building Improvements	-	-	-
Automobiles/Machinery/Equip.	76,108	76,108	-
Total Capital Outlay	76,108	76,108	-
<u>CONTINGENCY</u>			
	-	-	-
TOTAL SHERIFF'S BUDGET	1,282,882	1,299,828	33,947
<u>COUNTY COSTS:</u>			
- Health Insurances	132,720	132,720	-
- Worker's Compensation	34,381	34,381	-
- County Allocation	-	-	-
Total County Expenses	167,101	167,101	-
<i>*Estimates</i>			
TOTAL BUDGET	1,429,983	1,463,929	33,947