

Sponsored by: Puto

RESOLUTION NO. 2014-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH MONROE COUNTY, FLORIDA REGARDING CONTRACTOR LICENSING AND DISCIPLINE; AUTHORIZING THE MAYOR TO EXECUTE THE INTERLOCAL AGREEMENT ON BEHALF OF THE CITY, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City OF Marathon, Florida (the "City") was created by Chapter 99-427, Laws of Florida, which approved the creation of the City effective November 30, 1999; and

WHEREAS, the Marathon City Charter, Sec.9(6)(b) provides that as of November 30, 1999, all municipal powers and duties within the City's boundaries shall be vested in the City Council until such time as the City Council delegates all or a portion thereof to another entity; and

WHEREAS, both the City and Monroe County, Florida (the "County") are interested in insuring continuity in the provision of contractor licensing and disciplinary functions within the City's corporate limits; and

WHEREAS, pursuant to Sec. 6-263, of the Monroe County Code, the County has created a Local Contractor's Examining Board; and

WHEREAS, the City desires to utilize the services of the County's Contractors Examining Board to provide contractor licensing and disciplinary functions as specifically set forth in this Agreement; and

WHEREAS, the City's code enforcement officers shall enforce the provisions contained in Article I of Chapter 6 of the City code which adopts Monroe County Code Chapter 6, Article III by reference, by utilizing the County's Contractors Examining Board; and

WHEREAS, pursuant to this Agreement, Monroe County Code Sec. 6-270 and Marathon Code of Ordinances Sec. 6-1, the Local Contractors Examining Board has the power to oversee the regulation of contractors within the City's corporate limits; and

WHEREAS, the City desires to utilize the services of the County to provide contractor licensing and discipline functions.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, AS FOLLOWS:

Section 1. The above recitals are true and correct and incorporated herein

Section 2. The Interlocal Agreement between the City, and the County regarding contractor licensing and discipline services within the City's boundaries, a copy of which is attached as Exhibit "A," is hereby approved.

Section 3. The Mayor is authorized to execute the Interlocal Agreement on behalf of the City.

Section 4. This Resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA THIS 11th DAY OF FEBRUARY, 2014.

THE CITY OF MARATHON, FLORIDA



Chris Bull, Vice Mayor

AYES: Keating, Senmartin, Snead, Bull
NOES: None
ABSENT: Ramsay
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

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF MARATHON AND
MONROE COUNTY TO COOPERATIVELY SHARE THE CONTRACTORS
EXAMINING BOARD OF MONROE COUNTY**

This Interlocal Agreement (the "Agreement") is entered into by and between the City of Marathon, a municipal corporation of the State of Florida, whose address is 9805 Overseas Highway, Marathon, Florida, (the "City") and Monroe County, Florida, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West, Florida (the "County") on this 19TH day of February, 20 14.

WHEREAS, the City was created by Chapter 99-427, Laws of Florida, which approved the creation of the City of Marathon effective November 30, 1999; and

WHEREAS, the Marathon City Charter, Sec.9(6)(b) provides that as of November 30, 1999, all municipal powers and duties within the City's boundaries shall be vested in the City Council until such time as the City Council delegates all or a portion thereof to another entity; and

WHEREAS, both the City and County are interested in insuring continuity in the provision of contractor licensing and disciplinary functions within the City's corporate limits; and

WHEREAS, pursuant to Sec. 6-263, of the Monroe County Code, the County has created a Local Contractor's Examining Board; and

WHEREAS, the City desires to utilize the services of the County's Contractors Examining Board to provide contractor licensing and disciplinary functions as specifically set forth in this Agreement; and

WHEREAS, the City's code enforcement officers shall enforce the provisions contained in Article I of Chapter 6 of the City code which adopts Monroe County Code

Chapter 6, Article III by reference, by utilizing the County's Contractors Examining Board; and

WHEREAS, pursuant to Florida Statutes Sec. 489.127(5) (l), the City shall be responsible for the administration of such citation program and training of the City's code enforcement officers; and

WHEREAS, pursuant to this Agreement, Monroe County Code Sec. 6-270 and Marathon Code of Ordinances Sec. 6-1, the Local Contractors Examining Board has the power to oversee the regulation of contractors within the City's corporate limits.

NOW THEREFORE, in consideration of the mutual consideration and promises set forth below, the parties agree as follows:

1. **Authority to Enter Into Agreement and Authority to Allow the City to Enforce the Provisions of 489.127 (5)(l), F.S.** This Agreement is entered into pursuant to Florida Interlocal Government Cooperation Act, Section 163.01, Florida Statutes and 489.127(l), Florida Statutes which encourages local governments to cooperate in an economically feasible manner..
2. **Transfers of Powers and Duties Relating to Contractor Licensing.**
 - a. The County shall, through its Contractors Examining Board ("CEB"), have and exercise within the City all of the powers and duties granted to it in Chapter 6, Article I of the City Code. The powers and duties under this Agreement shall be performed by the County CEB as required and pursuant to Chapter 6, Article I of the City Code.
 - b. The County shall, through its CEB, accept, review and process, as appropriate, application for contractor licenses and renewal of licenses for

contractors who wish to engage in business in the City and issue or deny County certificates of competency for contractors including, but not limited to masters, journeymen, maintenance personnel and apprentices, including temporary, reciprocal and honorary certificates.

- c. The County shall authorize examinations and review results thereof, determine equivalency of examinations, and issue or deny, as appropriate, certificates of competency.
- d. All of the foregoing functions shall be performed in accordance with County ordinances, rules, and regulations on behalf of the City. Nothing in this Agreement prohibits the City from requiring occupational licenses of those contractors who have a place of business in the City.
- e. Pursuant to F. S. Sec. 487.127 (5)(l) the City's code enforcement officers shall enforce the provisions contained in Article III of Chapter 6 of the County Code through the County's Contractors Examining Board. The City will issue its own citations, perform investigations and inspections for all violations and provide any other functions as necessary for prosecution before the County's CEB. The City agrees to provide counsel to represent its inspectors before the CEB.
- f. The City will receive one hundred percent (100%) of all fines, costs and fees that are awarded and collected from enforcement of City citations before the CEB. The City shall provide a staff member at each meeting of the CEB authorized by the City to collect fines and give receipts. Those fines not paid at the meeting of the CEB on City citations shall be paid to

the City at Marathon City offices at 9805 Overseas Highway, Marathon, Florida. County will not act as a collection agency for City enforcement citations.

- g. The City and County agree that the County presently collects all contractor licensing fees for applications, examinations, certification and renewal, record keeping and record making. These fees, plus any other applicable fees collected by any other County department during the term of this Agreement for the provision of specified services listed herein, shall be retained by the County.

3. **Transfers of Powers and Duties Relating to Contractor Discipline.** On behalf of the City, the CEB shall conduct all disciplinary actions and hearings and impose such penalties as defined in Monroe County Code, Chapter 6 Article III as adopted by the City pursuant to the Chapter 6 Article I of the City Code of Ordinances. The County has contacted for the services of counsel (Tom Wright, Esquire) to represent the CEB on a per meeting basis. The City shall reimburse the County for twenty-five (25%) percent of the per meeting fee for each meeting that the City utilizes the CEB. The City will ensure at its own cost that the City's Building Official is present for each meeting in which the City utilizes the County's CEB.

4. **Training of Officers/Inspectors.** All officers appearing before the County's CEB will be subject to the training requirements pursuant to 489.127 (5)(l), Florida Statutes. Upon completion of said training by the City's officers/inspectors, the City will keep records of compliance of said training

requirement and turn those records over to the CEB if requested. If the CEB determines it is necessary for a City officer/inspector to undergo additional training, the officers/inspector must comply at the City's expense.

5. **Records.** The County and City agree to comply with all applicable laws regarding record keeping and public records as it applies to their respective files and documents.
6. **Termination.** This Agreement shall have a term of five (5) years from the date the last party executes this Agreement by the signature of its Mayor, unless earlier terminated or extended as provided herein.
 - a. City or County may terminate this Agreement in whole or in part prior to the termination date by giving the other party (30) days written notice of such termination. Upon receipt of such notice, the parties shall promptly meet to negotiate and finalize the terms and conditions for a smooth transfer of the licensing functions, records, and appropriate fees.
 - b. Should the City wish to continue to utilize the County's contractor licensing services, in whole or in part, after the termination date, the city will notify the County in writing of its intention as soon as practical, but no later than thirty (30) days before the termination date. Upon receipt of such notice, the parties shall immediately meet to negotiate and finalize the terms and conditions of such extension.
 - c. Any terms or conditions of this Agreement or any subsequent extension or amendment to this Agreement that require acts beyond the term of the Agreement, shall survive the termination of this Agreement and remain in

full force and effect unless and until the terms or conditions are completed, and shall be fully enforceable by either party.

7. **Notices.** All notices hereunder must be in writing and shall be deemed validly given if hand delivered; sent by certified mail, return receipt requested, or overnight delivery addressed as follows (or any other address that the party notified may have designated to the sender by proper notice):

For the County:

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

Christine Hurley
Growth Management Director
Marathon Government Center
2798 Overseas Hwy., Suite 400
Marathon, FL 33050

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

For the City:

Michael Puto
Interim City Manager
9805 Overseas Highway
Marathon, FL 33050

John R. Herin, Jr., City Attorney
GrayRobinson, P.A.
401 E Las Olas Blvd., Suite 1850
Fort Lauderdale, FL 33301

- a. Unless otherwise required by law, any notice sent hereunder shall (subject to proof or receipt or refusal of same) be deemed to have been delivered on the same day if hand delivered, on the next business day

if sent by overnight courier, or on the day of receipt or refusal, if sent by certified or registered mail.

8. **Amendments.** This Agreement may be modified only by an agreement in writing authorized by the City Council of the City of Marathon and the Board of County Commissioners of Monroe County.
9. **Indemnification.** To the extent allowed by law, each party hereto shall indemnify and save the other harmless from any and all claims, liability, losses and causes of action which may arise out of the other's actions in fulfillment of this Agreement.
10. **Governing Law, Venue, Interpretation, Costs, and Fees.** This Agreement shall be construed in accordance with the laws of the State of Florida. In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of this Agreement, the parties agree that the venue shall lie in the 16th Judicial Circuit, Monroe County, Florida in the appropriate court or before the appropriate administrative body. This Agreement shall not be subject to arbitration. Mediation proceedings initiated and conducted pursuant to this Agreement shall be in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Monroe County.
11. **Adjudication of Disputes and Disagreements.** The City and County agree that all disputes and disagreements shall be attempted to be resolved by meet and confer sessions between representatives of each parties. If no resolution can be agreed upon within 30 days after the first meet and confer session, and the issue

or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this Agreement or by Florida law. This provision does not negate the provisions regarding termination.

12. **No Personal Liability.** No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and non-member, officer, agent, or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

13. **Severability.** Should any provision, paragraph, sentence word, or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the law of the State of Florida, such provisions, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform with such laws, then shall be deemed severable, and in this Agreement, shall remain unmodified and in full force and effect, unless the enforcement of the remaining terms would prevent accomplishment of the original intent of this Agreement.

14. **Remedies.** If any when any default of this Agreement occurs, the non-defaulting party may avail itself of any legal or equitable remedies that may apply, including but not limited to, actual damages and specific performance.

a. Such remedies may be exercised in the sole discretion of the non-defaulting party.

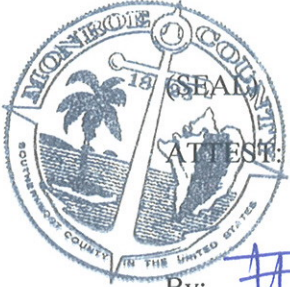
- b. Nothing contained in this Agreement shall limit either party from pursuing any legal or equitable remedies that may apply.

15. **Non-Waiver.** No waiver by the City or the County of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such party.

- a. No delay or omission in the exercise of any right or remedy accruing to the City or County upon breach under this Agreement shall impair such right to remedy or be construed as a waiver of any such breach.
- b. No waiver of any covenant or condition or of the breach of any covenant or condition of this Agreement shall constitute a waiver of any subsequent breach of such covenant or condition, or justify or authorize the nonobservance on any other occasion of the same or of any other covenant or condition of this Agreement.

16. **Effective Date and Termination of Prior Agreement.** Upon execution of this Agreement, the Interlocal Agreement entered into on November 12, 2009 between the parties, will be terminated. This Agreement will become effective upon execution by both parties.

[SIGNATURES ON FOLLOWING PAGE]



ATTEST: AMY HEAVLIN, CLERK

By: [Signature]
Clerk/Deputy Clerk

BOARD OF COUNTY COMMISSIONERS OF
MONROE COUNTY, FLORIDA

By: [Signature]
Sylvia Murphy, Mayor
Date: 3/11/14

(SEAL)

ATTEST:

CITY OF MARATHON, FLORIDA

By: [Signature]
Diane Clavier, City Clerk

By: [Signature]
Dick Ramsay, Mayor
Date: 2/19/14

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

[Signature]
City Attorney

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
[Signature]
LISA GRANGER
ASSISTANT COUNTY ATTORNEY
Date 2/25/14