

**RESOLUTION NO. 00-09-56**

**A RESOLUTION AND AGREEMENT OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA TO PROVIDE FIRE RESCUE SERVICES AND EMERGENCY MEDICAL SERVICES TO THE CITY OF KEY COLONY BEACH, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** The City of Marathon and Key Colony Beach desire to enter into an agreement to provide for delivery of fire rescue and emergency medical services within and adjacent to the municipal boundaries of Key Colony Beach; and

**WHEREAS,** the respective elected bodies of Marathon and Key Colony Beach find the method of delivery of the fire rescue and emergency medical services set forth in agreement is in the interest of the public and can be best accomplished through coordination of the provision of such services as set forth in agreement.

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

**Section 1.**     **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

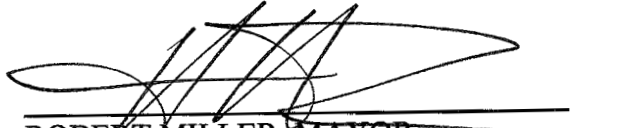
**Section 2.**     The City Manager and the City Attorney must review the agreement.

**Section 2**     **Effective Date.** This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 26<sup>th</sup> day of September, 2000.



Carol N. Chamberlain  
MY COMMISSION # CC682322 EXPIRES  
September 22, 2001  
BONDED THRU TROY FAIN INSURANCE, INC.

  
ROBERT MILLER, MAYOR

ATTEST:

  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

  
CITY ATTORNEY

**INTERLOCAL AGREEMENT BETWEEN  
THE CITY OF MARATHON  
AND  
THE CITY OF KEY COLONY BEACH  
PROVIDING FOR DELIVERY OF  
EMERGENCY MEDICAL & FIRE RESCUE SERVICES**

This Interlocal Agreement (hereinafter called the "AGREEMENT") is made by and between THE CITY OF MARATHON, a municipal corporation of the State of Florida (hereinafter called "MARATHON"), and the CITY OF KEY COLONY BEACH, a municipal corporation of the State of Florida (hereinafter call "KEY COLONY BEACH").

WHEREAS, MARATHON and KEY COLONY BEACH desire to enter into this AGREEMENT to provide for the delivery of fire rescue and emergency medical services within and adjacent to the municipal boundaries of KEY COLONY BEACH; and

WHEREAS, the respective elected bodies of MARATHON and KEY COLONY BEACH find the method of delivery of the fire rescue and emergency medical services set forth in this AGREEMENT is in the interest of the public and can be best accomplished through coordination of the provision of such services as set forth herein; and

NOW THEREFORE, in consideration of the mutual covenants, promises, terms and conditions set forth herein, MARATHON and KEY COLONY BEACH do hereby agree as follows:

**ARTICLE 1  
GENERAL TERMS & CONDITIONS**

- 1.1 The effective date of this AGREEMENT is October 1, 2000 (hereinafter, the EFFECTIVE DATE).

**ARTICLE 2  
FIRE RESCUE & EMERGENCY MEDICAL SERVICES**

- 2.1 MARATHON will provide Fire Rescue, Fire Protection, and Emergency Medical Services to KEY COLONY BEACH. The fee for this service will be figured annually per Article 3.
- 2.2 MARATHON will provide Fire Rescue, Fire Protection, and Emergency Medical Services to KEY COLONY BEACH on a twenty-four (24) hour, seven (7) days a week basis during the term of this AGREEMENT. The level of service provided to KEY COLONY BEACH shall, at minimum, be equal to the average level of services provided by the applicable

departments in other cities in Monroe County that provide their own Fire Rescue, Fire Protection, and Emergency Medical Services and by the applicable departments in the County that serve the unincorporated areas. In no case will the service provided be less than that provided to the City of Marathon. 207

- 2.3 MARATHON will have the right to inspect all fire hydrants located within KEY COLONY BEACH boundaries. KEY COLONY BEACH will be responsible for maintenance of all fire hydrants within its boundaries in accordance with Florida Key Aqueduct Authority guidelines.

**ARTICLE 3**  
**PAYMENTS AND FEES**

- 3.1 KEY COLONY BEACH shall pay MARATHON \$285,580.00 for Fire Rescue, Fire Protection, and Emergency Medical Services during FY2000-2001.
- 3.2 Beginning October 1, 2001, KEY COLONY BEACH shall pay MARATHON for Fire Rescue, Fire Protection, and Emergency Medical Services their percentage of the CITY's annual budget for these services based primarily on the breakdown of the percentage of the respective property values being serviced plus an agreed upon administrative fee.
- 3.3 The MARATHON City Manager and the Mayor (or his designee) of KEY COLONY BEACH are authorized to determine payment plans that are agreeable to both parties.

**ARTICLE 4**  
**TERMINATION**

- 4.1 This AGREEMENT shall be deemed automatically terminated and of no further force and effect if MARATHON has filed or consented to the filing of a petition for reorganization or bankruptcy or is otherwise adjudicated insolvent. In such event, MARATHON consents and acknowledges that Monroe County shall have the right to provide such level of Fire Rescue, Fire Protection, and Emergency Medical Services to KEY COLONY BEACH as Monroe County deems appropriate and shall be entitled to recover the reasonable costs of providing such services.
- 4.2 This AGREEMENT provides in Article 5 "Default" for the judicial remedy of specific performance to cause either party to perform its obligations in accordance with the terms and conditions herein. In the event a court was to determine that either party was in default in the performance of its obligations pursuant to this AGREEMENT and that specific performance was not any adequate remedy to cause the other party to perform its obligations herein, in addition to all other remedies available to the parties, the parties shall be entitled to request a judicial order seeking rescission of this AGREEMENT.

- 4.3 In the event of termination of this AGREEMENT, MARATHON and KEY COLONY BEACH shall cooperate in good faith in order to effectuate a smooth and harmonious transition of service to a new provider as necessary and to maintain during such period of transition the same high quality of Fire Rescue, Fire Protection, and Emergency Medical Services as contemplated by this AGREEMENT.
- 4.4 Either party may terminate this AGREEMENT effective on September 30 of any year with not less than ninety (90) days written notice to the other party.

**ARTICLE 5**  
**DEFAULT**

- 5.1 Notwithstanding a party's right to terminate this AGREEMENT as set forth in Article 4 above, if MARATHON or KEY COLONY BEACH fails to perform or observe any of the material terms and conditions of this AGREEMENT for a period of ten (10) days after receipt of written notice of such default for the other party, the party giving notice of default may be entitled, but is not required, to seek specific performance of this AGREEMENT on an expedited basis, as the performance of the material terms and conditions contained herein relate to health, safety, and welfare of the residents subject to this AGREEMENT. The parties acknowledge that money damages or other legally available remedies may be inadequate for the failure to perform, and that the party giving notice is entitled to obtain an order requiring specific performance by the other party. Failure of any party to exercise its rights in the event of any breach by the other party shall not constitute a waiver of such rights. No party shall be deemed to have waived any failure to perform by the other party unless such waiver is in writing and signed by the waiving party. Such waiver shall be limited to the terms specifically contained herein. This Article shall be without prejudice to the rights of any party to seek a legal remedy for any breach of the other party as may be available to it in law or equity.

**ARTICLE 6**  
**INSURANCE**

- 6.1 MARATHON shall maintain a qualified insurance program in the limits specified in Florida Statute 768.28. Said insurance program shall provide coverages for general and automobile and Workers Compensation and Employers Liability. MARATHON shall provide KEY COLONY BEACH with a Certificate of Insurance evidencing said program. In the event the insurance program is modified, MARATHON party shall notify KEY COLONY BEACH with at least thirty (30) days prior written notice.

John R. Herin, Jr.  
City Attorney  
Weiss, Serota, Helfman  
Pastoriza & Guedes, P.A.  
2665 South Bayshore Drive  
Suite 420  
Miami, Florida 33133

KEY COLONY BEACH:

Mayor of Key Colony Beach  
Key Colony Beach City Hall  
Post Office Box 510141  
Key Colony Beach, Florida 33051

A Copy to:

Thomas D. Wright  
Post Office Box 500309  
Marathon, Florida 33050

- 8.4 Contract Administrator: The Contract Administrators for this AGREEMENT are the City Manager or designee for MARATHON, and the Mayor or designee for KEY COLONY BEACH. In the implementation of the terms and conditions of this AGREEMENT, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the respective Contract Administrator.
- 8.5 Law and Venue: This AGREEMENT shall be governed, construed and controlled according to the laws of the State of Florida. Any claim, objection or dispute arising out of the terms of this AGREEMENT shall be litigated in the Seventeenth Judicial Circuit in and for Monroe County, Florida.
- 8.6 Attorney's Fees: If either MARATHON or KEY COLONY BEACH is required to enforce the terms of this AGREEMENT by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all such costs and expenses, including but not limited to, costs and reasonable attorney's fees.
- 8.7 Waiver of Jury Trial: Both MARATHON and KEY COLONY BEACH knowingly, voluntarily, and irrevocably waive their right to a trial by jury in any civil proceedings that may be initiated by either party with respect to any term or condition of this AGREEMENT.
- 8.8 Severability: In the event a portion of this AGREEMENT is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective.

**ARTICLE 9**  
**NOTICES**

- 9.1 All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested, or overnight delivery addressed as follows:

MARATHON:

Craig Wrathell  
City Manager  
City of Marathon  
c/o Moyer & Associates  
210 North University Drive  
Suite 301  
Coral Springs, Florida 33071

A copy to:

Nina Boniske

**ARTICLE 7**  
**LIABILITY**

- 7.1 MARATHON and KEY COLONY BEACH shall each be individually and separately liable and responsible for the actions of its officers, agents and employees in the performance of their respective obligations under this AGREEMENT.
- 7.2 MARATHON and KEY COLONY BEACH shall each individually defend any action or proceeding brought against their respective agency pursuant to this AGREEMENT and shall be individually responsible for all of their respective costs, attorneys fees, expenses and liabilities incurred as a result of any such claims, demands, suits, actions, damages and causes of action, including the investigation or the defense thereof, and from and against any orders, judgements or decrees which may be entered as a result thereof.
- 7.3 MARATHON and KEY COLONY BEACH agree that no indemnification or hold harmless agreement shall be in effect concerning any claims, demands, damages, and causes of action which may be brought against either party pursuant to this AGREEMENT.
- 7.4 The parties shall individually maintain throughout the term of this AGREEMENT any and all applicable insurance coverage as required by Florida law for government entities.

**ARTICLE 8**  
**MISCELLANEOUS**

- 8.1 Merger/Amendments: This AGREEMENT incorporates and includes all prior negotiations, correspondence, agreements, or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this AGREEMENT that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. It is further agreed that no change, amendment, alteration or modification in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith by all parties to this AGREEMENT.
- 8.2 Assignment: The respective obligations of the parties set forth in this AGREEMENT shall not be assigned, in whole or in part, without the written consent of the other party.
- 8.3 Records: MARATHON and KEY COLONY BEACH shall each maintain their own respective records and documents associated with this AGREEMENT in accordance with the requirements for records retention set forth in Chapter 119, Florida Statutes.




**INTERLOCAL AGREEMENT BETWEEN CITY OF MARATHON  
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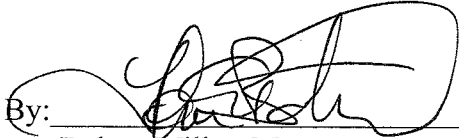
IN WITNESS WHEREOF, the parties have made and executed this AGREEMENT on the respective dates under each signature: The CITY OF MARATHON through its CITY COUNCIL, signing by and through its Mayor, authorized to execute same by Council action on the 10<sup>th</sup> day of OCTOBER, 2000, and the CITY OF KEY COLONY BEACH, signing by and through its Mayor, duly authorized to execute same.

**MARATHON**

CITY OF MARATHON  
a municipal corporation of the  
State of Florida.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

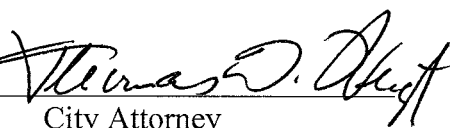
By:   
City Attorney

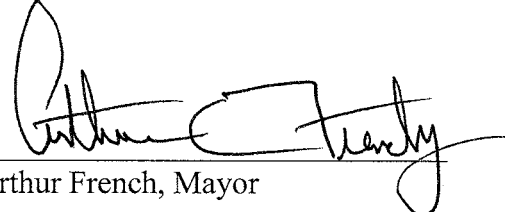
By:   
~~Robert Miller, Mayor~~  
JOHN E. BARTUS, VICE MAYOR

**KEY COLONY BEACH**

KEY COLONY BEACH  
a municipal corporation of the  
State of Florida.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

By:   
City Attorney

By:   
Arthur French, Mayor