

**RESOLUTION NO. 01-07-39**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, ESTABLISHING A DEFERRED COMPENSATION PLAN IN ACCORDANCE WITH SECTION 457 OF THE INTERNAL REVENUE CODE TO BE ADMINISTERED BY THE ICMA RETIREMENT CORPORATION; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS ON BEHALF OF THE CITY; AUTHORIZING THE CITY MANAGER TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE PLAN; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Marathon has employees rendering valuable services; and

**WHEREAS**, the establishment of a deferred compensation plan for such employees serves the interests of the City by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction of competent personnel; and

**WHEREAS**, the City desires that its deferred compensation plan be administered by the ICMA Retirement Corporation, and that the funds held under such plans be invested in the ICMA Retirement Trust, a trust established by public employers for the elective investment of funds held under their money purchase retirement plans and deferred compensation plans.

**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 all incorporated herein by reference.

Section 2.     The City hereby establishes a deferred compensation plan in accordance with Section 457 of the Internal Revenue Code to be administered by the ICMA Retirement

Corporation (the "Plan") pursuant to the provisions of the Administrative Services Agreement attached as Exhibit "A".

Section 3. The City Manager or his designee shall be the coordinator for this retirement program and shall receive necessary reports, notices, etc., from the ICMA Retirement Corporation or the ICMA Retirement Trust; and shall cast, on behalf of the City, as directed by the City Council, any required votes under the program.

Section 4. The City Manager is hereby authorized to execute all necessary documents on behalf of the City.

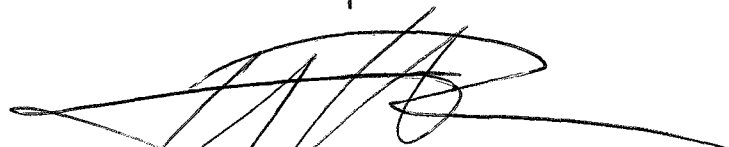
Section 5. The City Manager is authorized to take all action necessary to implement the Plan.

Section 6. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was offered by Councilman Johnson, who moved for its adoption. The motion was seconded by Councilman Mearns, and upon being put to a vote, the vote was as follows:

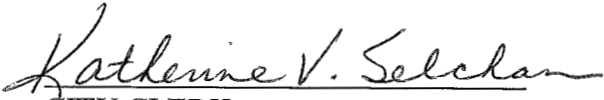
Councilman Frank Greenman	<u>Absent</u>
Councilman Jon Johnson	<u>yes</u>
Councilman Randy Mearns	<u>yes</u>
Vice Mayor John Bartus	<u>yes</u>
Mayor Robert Miller	<u>yes</u>

PASSED AND ADOPTED this 10<sup>th</sup> day of July, 2001.

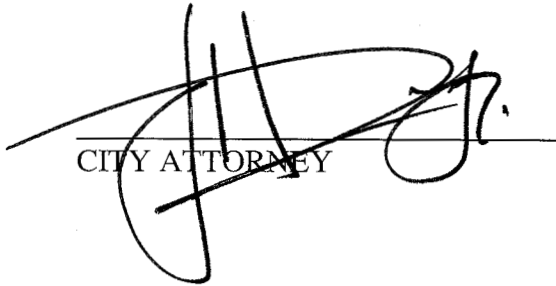


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ROBERT K. MILLER, MAYOR

ATTEST:

  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

  
CITY ATTORNEY

# ADMINISTRATIVE SERVICES AGREEMENT

Type: 457

Account Number: 4739



## ADMINISTRATIVE SERVICES AGREEMENT

This Agreement, made as of the 10<sup>th</sup> day of July, 2001 (herein referred to as the "Inception Date"), between The International City Management Association Retirement Corporation ("RC"), a nonprofit corporation organized and existing under the laws of the State of Delaware; and the City of Marathon ("Employer") a City organized and existing under the laws of the State of Florida with an office at 210 North University Drive, Coral Springs, Florida 33065.

### RECITALS

Employer acts as a public plan sponsor for a retirement plan ("Plan") with responsibility to obtain investment alternatives and services for employees participating in that Plan;

The ICMA Retirement Trust (the "Trust") is a common law trust governed by an elected Board of Trustees for the commingled investment of retirement funds held by state and local governmental units for their employees;

RC acts as investment adviser to the Trust; RC has designed, and the Trust offers, a series of separate funds (the "Funds") for the investment of plan assets as referenced in the Trust's principal disclosure document, "Making Sound Investment Decisions: A Retirement Investment Guide." The Funds are available only to public employers and only through the Trust and RC.

In addition to serving as investment adviser to the Trust, RC provides a complete offering of services to public employers for the operation of employee retirement plans including, but not limited to, communications concerning investment alternatives, account maintenance, account record-keeping, investment and tax reporting, form processing, benefit disbursement and asset management.

### AGREEMENTS

#### 1. Appointment of RC

Employer hereby designates RC as Administrator of the Plan to perform all non-discretionary functions necessary for the administration of the Plan with respect to assets in the Plan deposited with the Trust. The functions to be performed by RC include:

- (a) allocation in accordance with participant direction of individual accounts to investment Funds offered by the Trust;
- (b) maintenance of individual accounts for participants reflecting amounts deferred, income, gain, or loss credited, and amounts disbursed as benefits;

- (c) provision of periodic reports to the Employer and participants of the status of Plan investments and individual accounts;
- (d) communication to participants of information regarding their rights and elections under the Plan; and
- (e) disbursement of benefits as agent for the Employer in accordance with terms of the Plan.

2. Adoption of Trust

Employer has adopted the Declaration of Trust of the ICMA Retirement Trust and agrees to the commingled investment of assets of the Plan within the Trust. Employer agrees that operation of the Plan and investment, management and disbursement of amounts deposited in the Trust shall be subject to the Declaration of Trust, as it may be amended from time to time and shall also be subject to terms and conditions set forth in disclosure documents (such as the Retirement Investment Guide or Employer Bulletins) as those terms and conditions may be adjusted from time to time. It is understood that the term "Employer Trust" as it is used in the Declaration of Trust shall mean this Administrative Services Agreement.

3. Employer Duty to Furnish Information

Employer agrees to furnish to RC on a timely basis such information as is necessary for RC to carry out its responsibilities as Administrator of the Plan, including information needed to allocate individual participant accounts to Funds in the Trust, and information as to the employment status of participants, and participant ages, addresses and other identifying information (including tax identification numbers). RC shall be entitled to rely upon the accuracy of any information that is furnished to it by a responsible official of the Employer or any information relating to an individual participant or beneficiary that is furnished by such participant or beneficiary, and RC shall not be responsible for any error arising from its reliance on such information. RC will provide account information in reports, statements or accountings.

4. Certain Representations, Warranties, and Covenants

RC represents and warrants to Employer that:

- (a) RC is a non-profit corporation with full power and authority to enter into this Agreement and to perform its obligations under this Agreement. The ability of RC to serve as investment adviser to the Trust is dependent upon the continued willingness of the Trust for RC to serve in that capacity.

- (b) RC is an investment adviser registered as such with the Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended. ICMA-RC Services, Inc. (a wholly owned subsidiary of RC) is registered as a broker-dealer with the Securities and Exchange Commission (SEC) and is a member in good standing of the National Association of Securities Dealers, Inc.

RC covenants with employer that:

- (c) RC shall maintain and administer the Plan in compliance with the requirements for eligible deferred compensation plans under Section 457 of the Internal Revenue Code; provided, however, RC shall not be responsible for the eligible status of the Plan in the event that the Employer directs RC to administer the Plan or disburse assets in a manner inconsistent with the requirements of Section 457 or otherwise causes the Plan not to be carried out in accordance with its terms; provided, further, that if the plan document used by the Employer contains terms that differ from the terms of RC's standardized plan document, RC shall not be responsible for the eligible status of the Plan to the extent affected by the differing terms in the Employer's plan document.

Employer represents and warrants to RC that:

- (d) Employer is organized in the form and manner recited in the opening paragraph of this Agreement with full power and authority to enter into and perform its obligations under this Agreement and to act for the Plan and participants in the manner contemplated in this Agreement. Execution, delivery, and performance of this Agreement will not conflict with any law, rule, regulation or contract by which the Employer is bound or to which it is a party.

#### 5. Participation in Certain Proceedings

The Employer hereby authorizes RC to act as agent, to appear on its behalf, and to join the Employer as a necessary party in all legal proceedings involving the garnishment of benefits or the transfer of benefits pursuant to the divorce or separation of participants in the Employer Plan. Unless Employer notifies RC otherwise, Employer consents to the disbursement by RC of benefits that have been garnished or transferred to a former spouse, spouse or child pursuant to a domestic relations order.

#### 6. Compensation and Payment

- (a) Plan Administration Fee. The amount to be paid for plan administration services under this Agreement shall be 0.55% per annum of the amount of Plan assets invested in the Trust. Such fee shall be computed based on average daily net

Plan assets in the Trust.

- (b) Account Maintenance Fee. (i) There shall be an annual account maintenance fee of \$18.00 . The account maintenance fee is payable in full on January 1st of each year on each account in existence on that date. For accounts established AFTER January 1st, the fee is payable on the first day of the calendar quarter following establishment and is prorated by reference to the number of calendar quarters remaining on the day of payment.  
  
(ii) The account maintenance fee will be waived beginning in the year following the year in which total Plan assets exceed \$4 million.
- (c) Compensation for Management Services to the Trust and Advisory and other Services to the Vantagepoint Funds. Employer acknowledges that in addition to amounts payable under this Agreement, RC receives fees from the Trust for investment management services furnished to the Trust. Employer further acknowledges that certain wholly-owned subsidiaries of RC receive compensation for advisory and other services furnished to the Vantagepoint Funds, which serve as the underlying portfolios of a number of Funds offered through the Trust. The fees referred to in this subsection are disclosed in the Retirement Investment Guide. These fees are not assessed against assets invested in the Trust's Mutual Fund Series.
- (d) Mutual Fund Services Fee. There is an annual charge of 0.40% assessed against average daily net Plan assets invested in the Trust's Mutual Fund Series.
- (e) Model Portfolio Fund Fee. There is an annual charge of 0.10% assessed against daily average net Plan assets invested in the Trust's Model Portfolio Funds.
- (f) Payment Procedures. All payments to RC pursuant to this Section 6 shall be paid out of the Plan assets held by the Trust and shall be paid by the Trust. The amount of Plan assets held in the Trust shall be adjusted by the Trust as required to reflect such payments.

## 7. Custody

Employer understands that amounts invested in the Trust are to be remitted directly to the Trust in accordance with instructions provided to Employer by RC and are not to be remitted to RC. In the event that any check or wire transfer is incorrectly labeled or transferred to RC, RC will return it to Employer with proper instructions.



8. Responsibility

RC shall not be responsible for any acts or omissions of any person other than RC in connection with the administration or operation of the Plan.

9. Term

This Agreement may be terminated without penalty by either party on sixty days advance notice in writing to the other.

10. Amendments and Adjustments

(a) This Agreement may not be amended except by written instrument signed by the parties.

(b) The parties agree that compensation for services under this Agreement and administrative and operational arrangements may be adjusted as follows:

RC may propose an adjustment by written notice to the Employer given at least 60 days before the effective date of the adjustment and the notice may appear in disclosure documents such as Employer Bulletins and the Retirement Investment Guide. Such adjustment shall become effective unless, within the 60 day period before the effective date the Employer notifies RC in writing that it does not accept such adjustment, in which event the parties will negotiate with respect to the adjustment.

(c) No failure to exercise and no delay in exercising any right, remedy, power or privilege hereunder shall operate as a waiver of such right, remedy, power or privilege.

11. Notices

All notices required to be delivered under Section 10 of this Agreement shall be delivered personally or by registered or certified mail, postage prepaid, return receipt requested, to (i) Legal Department, ICMA Retirement Corporation, 777 North Capitol Street, N.E., Suite 600, Washington, D.C, 20002-4240; (ii) Employer at the office set forth in the first paragraph hereof, or to any other address designated by the party to receive the same by written notice similarly given.

12. Complete Agreement

This Agreement shall constitute the sole agreement between RC and Employer relating

to the object of this Agreement and correctly sets forth the complete rights, duties and obligations of each party to the other as of its date. Any prior agreements, promises, negotiations or representations, verbal or otherwise, not expressly set forth in this Agreement are of no force and effect.

13. Governing Law

This agreement shall be governed by and construed in accordance with the laws of the State of Florida, applicable to contracts made in that jurisdiction without reference to its conflicts of laws provisions.

In Witness Whereof, the parties hereto have executed this Agreement as of the Inception Date first above written.

CITY OF MARATHON

by: Craig A. Wrathell 7/10/01  
Signature/Date

Craig A. Wrathell, City Manager  
Name and Title (Please Print)

INTERNATIONAL CITY MANAGEMENT  
ASSOCIATION RETIREMENT  
CORPORATION

by: Paul F. Gallagher  
Paul Gallagher  
Corporate Secretary