

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: 11/14/07

Division: Growth Management

Bulk Item: Yes No

Department: Building
Staff Contact Person: Joseph M. Paskalik,
Sr. Director/Building Official

AGENDA ITEM WORDING:

Approval of Second Amendment to Interlocal Agreement to extend through September 30, 2010 the Interlocal Agreement entered into September 18, 2002 between the BOCC and the City of Marathon for the County to provide to the City, contractor licensing and disciplinary services through the Monroe County Contractor Examining Board.

ITEM BACKGROUND:

The BOCC and the City of Marathon entered into an Interlocal Agreement on September 18, 2002 for the County to provide to the City contractor licensing and disciplinary services through the Monroe County Contractors Examining Board, for a two year term and allowed for the Agreement to be extended.

PREVIOUS RELEVANT BOCC ACTION: The Agreement was amended by the parties on May 18, 2005 extending the term for the period beginning October 11, 2004 through September 30, 2007.

CONTRACT/AGREEMENT CHANGES: The Agreement shall be extended for the period beginning October 1, 2007 through September 30, 2010.

STAFF RECOMMENDATIONS: Staff recommends approval of the second amendment to extend the Agreement through September 30, 2010.

TOTAL COST: N/A

BUDGETED: Yes No

COST TO COUNTY: N/A

SOURCE OF FUNDS: _____

REVENUE PRODUCING: Yes No **AMOUNT PER MONTH** N/A **Year** _____

APPROVED BY: County Atty OMB/Purchasing Risk Management

DOCUMENTATION: Included Not Required

DISPOSITION: _____

AGENDA ITEM # _____

SECOND AMENDMENT TO INTERLOCAL AGREEMENT

THIS SECOND AMENDMENT TO INTERLOCAL AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2007, between the Board of County Commissioners of Monroe County, Florida ("County") and the City of Marathon, Florida, ("City").

WHEREAS, the parties entered into an Interlocal Agreement on September 18, 2002, with an effective date of October 11, 2002, for the County to provide to City contractor licensing and disciplinary services through the Monroe County Contractors Examining Board; and

WHEREAS, the Interlocal Agreement had a two year term and allowed for the Agreement to be extended upon such terms as the parties may agree; and

WHEREAS, the Agreement was amended by the parties on May 18, 2005 extending the term for the period beginning October 11, 2004 through September 30, 2007; and

WHEREAS, it is deemed in the public interest to continue the Agreement beyond its natural termination date;

NOW THEREFORE, IN CONSIDERATION of the mutual covenants contained herein, the parties agree to the Second Amendment to the Interlocal Agreement as follows:

1. The Interlocal Agreement shall be extended for the period beginning October 1, 2007 through September 30, 2010.
2. Notices under paragraph 8.1 shall be provided to the current County Administrator, City Manager and attorneys for the parties.
3. The remaining provisions of the specified Interlocal Agreement, not inconsistent herewith, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands and seal on the day and year first above written.

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

By: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By: _____
Mayor Mario DiGennaro

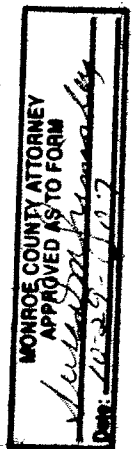
(SEAL)

ATTEST: CLERK, CITY OF MARATHON

By: _____
Deputy Clerk

CITY OF MARATHON, FLORIDA

By: _____
Mayor



**CITY OF MARATHON, FLORIDA
RESOLUTION 2007-143**

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

WHEREAS, the City of Marathon (the "City") and Monroe County (the "County") entered into an Interlocal Agreement on September 18, 2002, with an effective date of October 11, 2002, for the County to provide to the City contractor licensing and disciplinary services through the Monroe County Contractors Examining Board; and

WHEREAS, the Interlocal Agreement had a two year term and allowed for the Agreement to be extended upon such terms as the parties may agree; and

WHEREAS, the Agreement was amended by the parties on May 18, 2005 extending the term for the period beginning October 11, 2004 through September 30, 2007; and

WHEREAS, it is deemed in the public interest to continue the Agreement beyond its natural termination date;

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 by this reference.

Section 2. The Amendment Between the City and County for the provision of contractor licensing and disciplinary services to the City through the Monroe County Contractor Licensing Board, a copy of which is attached 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 approved. The Mayor is authorized to sign the Amended Agreement.

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 9th day of October, 2007

THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor

AYES: Cinque, Tempest, Vasil, Worthington, Bull
NOES: None
ABSENT: None
ABSTAIN: None

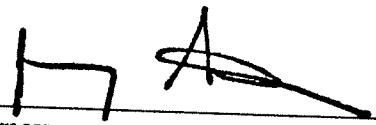
ATTEST:



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

AMENDMENT TO AGREEMENT

THIS ADDENDUM to Interlocal Agreement is made and entered into this 18th day of May 2005, between the Board of County Commissioners, Monroe County, Florida (hereinafter referred to as County) and the City of Marathon (hereinafter referred to as City).

WHEREAS, there was an Interlocal Agreement entered into on September 18, 2002, between the parties, with an effective date of October 11, 2002, for the County to provide to City contractor licensing and disciplinary services through the Monroe County Contractors Examining Board; and

WHEREAS, said agreement had a two year term; and

WHEREAS, the agreement allows for the agreement to be extended upon such terms as the parties may agree; and

WHEREAS, it is deemed in the public interest to continue said agreement from its natural termination date;

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties agree to the amended agreement as follows:

1. The Interlocal Agreement executed by the County on September 18, 2002, and by the City on October 11, 2002, shall be extended for the period from October 11, 2004, through September 30, 2007.
2. The remaining provisions of the specified Interlocal Agreement, not inconsistent herewith, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands and seal on the day and year first above written.

City of Marathon

[Handwritten Signature]
Mayor

(SEAL)
ATTEST: CLERK, CITY OF MARATHON

By: *[Handwritten Signature]*



ATTEST: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA

[Handwritten Signature]
Deputy Clerk

[Handwritten Signature]
Mayor/Chairman

FILED FOR RECORD
05 MAY 19 PM 12:52
DANNY L. KOLHAGE
CLK. CIR. & F. F. C.
MONROE COUNTY, FL.

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

[Handwritten Signature]
SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date 4/20/05

INTERLOCAL AGREEMENT

This Interlocal Agreement (the "Agreement") entered into by and between the City of Marathon, a municipal corporation of the State of Florida, whose address is 10045-55 Overseas Highway, Marathon, Florida, (the "City"); and Monroe County, Florida, a political subdivision of the State of Florida, whose address is Public Service Building, 5100 College Road, Key West, Florida (the "County").

WITNESSETH:

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, Chapter 99-427 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 the County are interested in insuring continuity in the provision of contractor licensing and disciplinary functions within the City's corporate limits; and

WHEREAS, the City desires to utilize the services of the County to provide contractor licensing and disciplinary functions as specifically set forth in this Agreement.

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

1. **Authority to Enter Into Agreement**

1.1 This Agreement is entered into pursuant to Section 163.01, Florida Statutes.

2. **Definitions**

2.1 For the purpose of this Agreement, all definitions are the same as those contained in Article II of Chapter 6 of the City Code.¹ The current Article II of Chapter 6 of the City Code contains the same provisions as did Article III of Chapter 6 of the County Code as of November 30, 1999.

3. **Transfer of Powers Relating to Contractor Licensing**

3.1 The County shall, through its Contractors Examining Board, have and exercise all of the powers and duties granted to it in Chapter 6 of the City Code.² The powers and duties under this agreement shall be performed by the Contractors Examining Board as required and pursuant to Chapter 6 of the City Code.

3.2 The County shall, through its Contractors Examining Board, accept, review and process, as appropriate, applications 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.

¹ / The City amended Chapter 6 of the Code by Ordinance 02-07-11, which renumbered the article on Contractor Licensing and Discipline but did not change its substance.

² / Pursuant to Ordinance No. 01-01-01 of the City of Marathon, Florida, the City adopted the applicable provisions of the Monroe County Code, as it existed on the effective date of the City's incorporation, as the City Code.

- 3.3 The County shall authorize examinations and review results thereof, determine equivalency of examinations, and issue or deny, as appropriate, certificates of competency.
- 3.4 All of the foregoing functions shall be performed in accordance with County ordinances, rules, and regulations. Nothing in this agreement prohibits the City from requiring occupational licenses of those contractors who have a place of business in the City.
- 3.5 The County shall comply with the record making and record keeping requirements of Chapter 6 of the City Code.
- 3.6 The City and County agree that the County will collect all contractor licensing fees for applications, examinations, certification and renewal, record keeping and record making, as established by the City Code or applicable City resolutions. 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 as full compensation for services rendered to the City pursuant to this Agreement.

4. **Transfer of Powers Relating to Contractor Discipline**

- 4.1 The County shall, through the Contractors Examining Board conduct all disciplinary actions and hearings including, but not limited to, administrative suspensions, the imposition of administrative fines, the issuance of letters of reprimand, the ordering of suspensions, the

revocation of licenses, investigations, and the appointment of special investigators, and shall adopt guidelines for the imposition of penalties.

- 4.2 Whenever possible, the County shall recover the costs for the services provided under this section from the contractors who are disciplined, through its power to fine or assess costs against the contractor. If the amount of the fine or costs exceeds the cost to the County, said excess shall be credited to the City. If the cost of enforcement exceeds the fine or fee, or no fee is recovered, the City shall be charged and shall pay the difference. Services rendered by the Contractors Examining Board to the City pursuant to this Agreement shall be governed by this agreement only with respect to contractor conduct within the City.
- 4.3 All of the foregoing functions shall be conducted pursuant to the City Code, and all discipline will be issued in the name of the City.
- 4.4 The County shall comply with the record making and record keeping requirements of Chapter 6 of the City Code.
- 4.5 The County Contractor Examining Board shall have complete authority to interpret Chapter 6 of the City Code as it relates to contractor licensing and discipline. Any administrative appeal of any decision or interpretation of Chapter 6 of the City Code made by the County staff, shall be heard by the Contractor Examining Board in accordance with the applicable provisions of the City Code. All appeals of any decision of the Contractor Examining Board shall be processed and heard in accordance with the procedures set forth in Chapter 6 of the City Code.

4.6 If the County chooses to voluntarily waive a fine or not recover its costs, the City shall not be required to reimburse the County. Services rendered by the Contractors Examining Board to the City pursuant to this Agreement shall be governed by this agreement only with respect to contractor conduct within the City.

5. **Activity Reports**

5.1 The County will provide the City with a bi-monthly activity report of all services provided to the City pursuant to this Agreement. The County will also provide to the City upon demand an activity report of all services rendered to the City pursuant to this agreement.

6. **Invoices**

6.1 The County shall submit invoices for reimbursement on a quarterly basis for review and approval by the City Manager or designee. The County must submit the invoice to the City within three (3) weeks after the end of the quarter. The invoices shall only apply to expenses related to the services provided under this agreement. The invoices shall include sufficient detail for the City Manager or designee to determine whether the invoice is related to the services provided under this agreement. If the City Manager or designee determines that the invoices are not specific enough, the County shall provide additional information to allow the City Manager or designee to make the determination. The City shall pay the County in

accordance with Sections 218.70 through 218.79, Florida Statutes, (the
"Florida Prompt Payment Act").

7. **Termination**

- 7.1 This Agreement shall have a term of two (2) years from the date last party executes this agreement through the signature of its Mayor (the "Termination Date"), unless earlier terminated or extended in accordance with paragraphs 7.2 or 7.3 below.
- 7.2 City or County may terminate this Agreement in whole or part prior to the Termination Date by giving the other party thirty (30) days written notice of such termination. Upon receipt of such notice, the parties shall immediately meet to negotiate and finalize the terms and conditions of the smooth transfer of the licensing functions, records, and appropriate fees.
- 7.3 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.
- 7.4 Any terms or conditions of this Agreement or any subsequent extension or amendment to this Agreement that require acts beyond the date of the term of the Agreement, shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms or conditions are completed, and shall be fully enforceable by either party.

8. Notices

8.1 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 to be notified may have designated to the sender by proper notice):

The County: Mr. James Roberts
County Administrator
Monroe County
Public Service Building, Wing II
5100 College Road, Stock Island
Key West, Florida 33040

A copy to: County Attorney
P.O. Box 1026
Key West, Florida 33041-1026

City: Craig Wrathell
City Manager
City of Marathon
10045-55 Overseas Highway
Marathon, Florida 33050

A copy to: Nina L. Boniske, Esq.
John R. Herin, Jr., Esq.
City Attorney
City of Marathon
Weiss, Serota, Helfman,
Pastoriza & Guedes, P.A.
2665 South Bayshore Drive, Suite 420
Miami, Florida 33133

8.2 Unless otherwise required by law, any notice sent hereunder shall (subject to proof of 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.

9. **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.

10. **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.

11. **Law**

This Agreement shall be construed in accordance with the laws of the State of Florida. The venue for any lawsuit arising out of this Agreement shall be Middle Keys Division, Monroe County, Florida.

12. **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 laws of the State of Florida, such provision, 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.

13. **Remedies**

- 13.1 If and 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.
- 13.2 Such remedies may be exercised in the sole discretion of the non-defaulting party.
- 13.3 Nothing contained in this Agreement shall limit either party from pursuing any legal or equitable remedies that may apply.

14. **Non-Waiver**


- 14.1 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.
- 14.2 No delay or omission in the exercise of any right or remedy accruing to the City or County upon any breach under this Agreement shall impair such right to remedy or be construed as a waiver of any such breach.
- 14.3 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.

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IN WITNESS WHEREOF the parties have caused this Agreement to be executed on their behalf as to the date first above written.

ATTEST: DANNY L. KOLHAGE,
CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA, a
political subdivision of the State of Florida


By: *[Signature]*
Clerk/Deputy Clerk

By: *[Signature]*
Mayor

(SEAL)

DATE: September 18, 2002

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: *[Signature]*
County Attorney

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY.

BY: *[Signature]*
SUZANNE A. HUTTON
DATE: 9/01/02

ATTEST:

CITY OF MARATHON, FLORIDA,
a municipal corporation of the State
of Florida

By: *Katherine V. Sechan*
City Clerk

By: *[Signature]*
John Bartus, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

DATE: October 11, 2002

By: *[Signature]*
City Attorney