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**CITY OF MARATHON, FLORIDA
RESOLUTION 2021-119**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MARATHON, FLORIDA AND MONROE COUNTY, FLORIDA, FOR COOPERATION IN ORDER TO FACILITATE THE PURCHASE OF REAL PROPERTY BY THE CITY OF MARATHON TO BE USED FOR VARIOUS PUBLIC PURPOSES WHICH BENEFIT BOTH THE CITY AND THE COUNTY.

THIS AGREEMENT, made and entered into this ___ day of _____, 2021, by and between the City of Marathon, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter, the “City”), and Monroe County, a political subdivision of the State of Florida (hereinafter, the “County”).

WITNESSETH:

WHEREAS, the City and the County are authorized to enter into this Agreement pursuant to Section 163.01, Florida Statutes, as amended, which permits local government units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and to provide services and facilities in a manner and pursuant to forms of governmental organization that accords best with geographic, economic, and other factors influencing the needs and development of local communities; and

WHEREAS, the City of Marathon has been given an opportunity to purchase a parcel of land on the north side of Marathon, near the old 7 Mile Bridge which has enormous potential value to the citizens of Marathon if it utilized for additional dockage, marina slips, and the promotion of cultural and ecological awareness; and

WHEREAS, the parcel of land in question is in close proximity to property owned and managed by Monroe County, otherwise known as Pigeon Key, such that improvements made to the parcel of land will yield additional and lasting benefits to Pigeon Key; and

WHEREAS, in the spirit of municipal cooperation, Monroe County and the City of Marathon both recognize the mutual benefits that ownership of this particular parcel of land will confer on both parties and wish to work together to purchase the property; and

WHEREAS, Monroe County has agreed to lend the City an amount of \$1.5 million, to be paid in three (3) installments over the course of three (3) years, which the City will then repay over the course of the following ten (10) years; and

WHEREAS, the City has agreed to pursue grants from other sources to help reduce the amount needed to purchase the property and has agreed to reduce the amount it requests as a loan from the County by any grant funds received; and

WHEREAS, this Marathon City Council has determined that it would be in the best interest of the owners of properties within the incorporated area of Marathon, Florida to enter into this Interlocal Agreement with Monroe County; and

WHEREAS, it is necessary for the Parties to enter into this Agreement in order to spell out the rights and responsibilities of the Parties.

NOW THEREFORE, in consideration of the mutual covenants set forth herein and other valuable consideration, the sufficient and receipt of which is acknowledged by both of the Parties, and pursuant to Section 163.01, et. Seq., Florida Statutes, the Florida Interlocal Cooperation Act of 1969, the Parties hereto agree as follows:

SECTION 1. RECITALS. The foregoing recitals are true and correct and are hereby incorporated in this Agreement by reference.

SECTION 2. TERM AND TERMINATION.

- 2.1 The term of this Agreement shall be effective and run from the date on which the Agreement is executed by both the Parties (“Effective Date”) and shall continue until the final payment has been rendered according to the Fee Schedule attached hereto as Exhibit “A”.
- 2.2 If such Notice of Termination as specified in Section 4 is given, this Agreement shall terminate within five (5) days thereof.

SECTION 3. PAYMENT

The County agrees to loan to the City the amount of \$1.5 million dollars, to be paid in three (3) equal installments of \$500,000.00 to be paid once per year for three (3) years after the effective date of this agreement according to a fee schedule attached hereto as Exhibit “A”. All monies paid to the City shall be used exclusively for the purchase **and rehabilitation** of real property located at 1090 and 1098 Overseas Highway, Marathon, FL 33050, having Real Estate numbers: 00101780-000100 & 00101780-000200, respectively.

- 3.1 The City agrees to reimburse the County the full amount loaned by the County over the course of ten (10) years following the final disbursement. The City shall pay to the County, according to the fee schedule attached hereto as Exhibit “A,” an amount of \$150,000.00 each year until the full amount of \$1.5 million dollars has been repaid. This shall be a zero interest loan. Each payment shall be made by the City to the Monroe County Clerk.
- 3.2 The terms set forth in paragraphs 3.1 and 3.2 notwithstanding, the City agrees to reduce the amount of the loan requested from the County by any grant funds that the City obtains to support this purchase. The City’s obligations to repay the loan as set forth in Exhibit A shall be proportionally offset for any grant funds received.

SECTION 4. TERMINATION AND DEFAULT

- 4.1 In the event of any failure of compliance by either party hereto with any of its material obligations to the other party as provided for herein, such action shall constitute a default under this Agreement.

- 4.2 Upon any such default, the non-defaulting party shall provide to the defaulting party a written Notice of such default, which Notice shall state in reasonable detail the actions the defaulting party must take to cure the same.
- 4.3 The defaulting party shall cure any such default, within 30 days following the date of the Default Notice.
- 4.4 Notwithstanding the provisions of this Section, if any such default by the defaulting party remains uncured at the conclusion of any specified 30 day cure period, and if the nature of the defaulting party's obligations are such that more than 30 days is required to effect cure, then the defaulting party shall not be in default hereunder and the non-defaulting party shall not have the right to exercise its termination rights granted herein as a result of any such default, if the defaulting party commences cure within the applicable cure period and thereafter diligently pursues cure to completion of performance.
- 4.5
- 4.6 In the event the defaulting party fails to affect any required cure as provided for herein, the defaulting party shall be deemed to be in uncured default hereunder, and the non-defaulting party shall have the right, but shall not be obligated, upon written Notice to the defaulting party, to terminate this Agreement.
- 4.7 If such Notice is given, this Agreement shall terminate on the date set forth in the Notice and the parties shall be relieved of all rights and obligations hereunder, except for any right and obligations that expressly survive termination.

SECTION 4. PUBLIC ACCESS TO RECORDS:

The Parties shall allow and permit members of the public reasonable access to, and inspection of, all documents, papers, letters, or other materials subject to the provisions of Chapter 119, Florida Statutes, and made or received by the parties in conjunction with this Agreement.

SECTION 5. AMENDMENT.

This Agreement may be amended only upon mutual consent of the parties. All amendments must be in writing and must be approved by both Parties.

SECTION 6. GOVERNING LAW, VENUE.

The laws of the State of Florida shall govern this Agreement. Any lawsuit to enforce the terms and conditions of this Agreement must be brought in Monroe County, Florida.

SECTION 7. SEVERABILITY.

If any provision or part of a provision of this Agreement is found by a court or other authority of competent jurisdiction to be void or unenforceable, that provision or part of a provision is to be deemed deleted from this Agreement and the remaining provisions to continue in full force and effect. The Parties shall, in this event, seek to agree upon a valid and enforceable provision or part of a provision to replace the provision or part of a provision found to be void and unenforceable.

SECTION 8. AUTHORITY TO EXECUTE, EXECUTION IN COUNTERPARTS.

The persons signing below represent and warrant that each possess the requisite authority to execute this Agreement and to bind his respective entity through his signature. This Agreement may be signed in counterparts.

SECTION 9. NOTICE.

Whenever any party desires to give notice to the other, it must be given by written notice, either by registered first class U.S. mail, return receipt requested, or by certified mail, and sent to:

For the County

Roman Gastesi, Jr.
County Administrator
1100 Simonton Street, Ste 205
Key West, FL 33040
(305) 292-4441
gastesi-roman@MonroeCounty-FL.Gov

For the City

George Garrett
City Manager
9805 Overseas Highway
Marathon, FL 33050
(302) 289-4111
garrettg@ci.marathon.fl.us

SECTION 10. ASSIGNMENT.

Neither party may assign or transfer any interest in this Agreement without the prior written consent of both parties, except where assignment is dictated by law. Should assignment occur, and where not prohibited by law, this Agreement shall inure to the benefit of and be binding upon the parties and their respective heirs, representatives, successors, and assigns.

SECTION 11. FURTHER ASSURANCES.

The Parties to this Agreement have negotiated in good faith. It is the intent and agreement of the Parties that they shall cooperate with each other in good faith to effectuate the purposes and intent of, and to satisfy their obligations under, this Agreement in order to secure to themselves the mutual benefits created under this Agreement; and, in that regard, the Parties shall execute such further documents as may be reasonably necessary to effectuate the provisions of this Agreement; provided that the foregoing shall in no way be deemed to inhibit, restrict or require the exercise of the City's police power or actions of the City when acting in a quasi-judicial capacity.

SECTION 12. ENTIRETY OF AGREEMENT.

This Agreement constitutes the entire agreement between the County and the City, and supersedes all proposals, prior agreements, and all other communication between the Parties in relation to the subject matter covered by this Agreement. Except as otherwise provided herein, no revision, amendment or modification of this Agreement shall be effective unless reduced to writing and executed by both Parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed by their Authorized Officers and have affixed their corporate seals hereon.

(SEAL)

Attest:

**BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA**

By: _____

By: _____

David Rice, Mayor

Date: / / .

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____

Robert B. Shillinger, County Attorney

(SEAL)

Attest: DIANE CLAVIER, CITY CLERK

**CITY OF MARATHON
MARATHON, FLORIDA**

By: _____

By: _____

John Bartus, Mayor

Date: / / .

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____

Steven T. Williams, City Attorney

EXHIBIT "A"
FEE SCHEDULE

<u>Description</u>	<u>Date</u>	<u>Payment Amount</u>
County to pay City	2/1/2022	\$500,000.00
County to pay City	2/1/2023	\$500,000.00
County to pay City	2/1/2024	\$500,000.00
City to pay County	2/1/2025	\$150,000.00
City to pay County	2/1/2026	\$150,000.00
City to pay County	2/1/2027	\$150,000.00
City to pay County	2/1/2028	\$150,000.00
City to pay County	2/1/2029	\$150,000.00
City to pay County	2/1/2030	\$150,000.00
City to pay County	2/1/2031	\$150,000.00
City to pay County	2/1/2032	\$150,000.00
City to pay County	2/1/2033	\$150,000.00
City to pay County	2/1/2034	\$150,000.00