

COUNCIL AGENDA STATEMENT



Meeting Date: December 14, 2021

To: Honorable Mayor and Council Members

From: George Garrett, City Manager

Agenda Item: **Resolution 2021-125**, Approval Of A Memorandum Of Understanding Between The City Of Marathon And First Responders Employed By The City Of Marathon To Receive American Recovery Plan Act (ARPA) Funds Pursuant To Provisions Of ARPA And The Treasury Department Guidance Concerning The Use Of Such Funds

BACKGROUND

The American Rescue Plan Act of 2021 (“ARPA”) established the Coronavirus Local Fiscal Recovery Fund which provides cities and counties with funds to be used for specified purposes in relation to Coronavirus Disease 2019 (“COVID–19”) and its impacts. One of the specified purposes for the funds under the legislation is to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers. Sec. 603(c)(1)(B) of the ARPA.

The employees in the bargaining unit (hereinafter “firefighters”) representing all of the firefighters and emergency medical technicians/paramedics working for the City of Marathon, meet the definition of “eligible workers” as they were “workers needed to maintain continuity of operations of essential critical infrastructure sectors . . . [such as] emergency response....” 31 CFR § 35.3. These firefighters likewise meet the definition of performing “essential work” as it is work that is not performed from their respective residences and it is work that involves “regular in-person interactions with patients, the public or coworkers of the individual that is performing the work.” Id. Premium pay “responds” to workers performing essential work if it is intended to compensate them for the “heightened risk” of being “physically present at the jobsite.” Federal Register, 86 FR 26786, 26798 (2021).

Since the inception of the COVID–19 public health emergency, the firefighters and paramedics employed by the City of Marathon have experienced the “heightened risk” of “being physically present at the jobsite.” It has not been an option for them to take time off; they have been required to come to work -- no exceptions. They could not work from home, a luxury afforded to many Americans to responsibly avoid being exposed, getting sick and the possibility of death as result of potential COVID 19 infection. Due to the nature of their work, they could not abide by rules of social distancing on the job or comply with “stay-at-home” orders. It is, and has been, the responsibility of the firefighters and paramedics to respond to calls for service with compassion and to treat potential and actual COVID-19 patients on-scene or to take them to the hospital. The heightened risk is demonstrated by the fact that several firefighters and paramedics contracted COVID-19, which also reduced the number of responders available for calls, thereby making it more challenging for the remaining responders. The public health emergency represented and continues to represent days of uncertainty and fear for the firefighters and paramedics – not

knowing if they would get sick, like some of their coworkers, or bring COVID–19 home to their loved ones, whether there was or would be effective treatment, or even what the extent of the illness could bring, which is only recently known to include long hauler syndrome as well as permanent disabilities.

The higher risk of exposure required some firefighters and paramedics to quarantine away from their loved ones, and those firefighters and paramedics who have partners who are immunocompromised or have elderly parents were required to isolate even further. It was and continues to be extremely stressful, but the firefighters and paramedics do what they are required to do and remain committed to providing the highest level of service, as expected by the community they serve.

The U.S. Department of Treasury encourages recipients of funds, such as the City of Marathon, “...to prioritize providing retrospective premium pay where possible....” Federal Register, 86 FR 26786, 26798 (2021). The ARPA contemplates that premium pay means an amount of up to \$13.00 per hour, per worker, in addition to wages or remuneration, for all work performed by eligible workers during the COVID-19 public health emergency, up to a total of \$25,000 per worker. 31 CFR § 35.3.

In negotiation, the City has agreed upon an hourly amount for hours worked of \$5.50 per hour at ninety-six (96) hours for twenty-six (26) pay periods, as retroactive ARPA premium pay, and an adjusted rate of \$6.60 per hour for forty (40) hour employees.

In consideration of the focus of ARPA funds to be for lower income level employees and the fact that, with a relatively small fire and EMS work force in Marathon, all employees of the Department share in the threats and responsibilities noted herein, it is recommended that all employees of the City of Marathon Fire and EMS Department receive ARPA funds.

Guidance provided by the U.S. Department of Treasury indicates the following:

*Coronavirus State and Local Fiscal Recovery Funds
Frequently Asked Questions
AS OF JULY 19, 2021*

5. Eligible Uses – Premium Pay

5.1 What criteria should recipients use in identifying essential workers to receive premium pay?

Essential workers are those in critical infrastructure sectors who regularly perform in-person work, interact with others at work, or physically handle items handled by others.

Critical infrastructure sectors include healthcare, education and childcare, transportation, sanitation, grocery and food production, and public health and safety, among others, as provided in the Interim Final Rule. Governments receiving Fiscal Recovery Funds have the discretion to add additional sectors to this list, so long as the sectors are considered critical to protect the health and well-being of residents.

The Interim Final Rule emphasizes the need for recipients to prioritize premium pay for lower income workers. Premium pay that would increase a worker's total pay above 150% of the greater of the state or county average annual wage requires specific justification for how it responds to the needs of these workers.

Thus, the Department of Treasury indicates that the City should prioritize lower income employees for receipt of such dollars. The City does employ individuals that would exceed the 150% noted. However, as noted above, there are two essential facts concerning our Fire / EMS employees.

First, during the COVID 19 pandemic, there was no guarantee that any contact or emergency call would not have involved a COVID 19 case. It is also logical that the City would not parse out those points of contact, after the fact, that were COVID 19 cases as opposed to the rest of an employee's time where contact may not have occurred. The difference in this instance between an essential worker as defined is that those individuals had a real risk of contact where others working from home or in other forms of isolation, did not.

Second, the City has a limited essential employee work force. Though most positions are filled and there are three fully engaged shifts, all employees on a shift would be equally likely to encounter a COVID patient and the virus. The distinction between lower and higher paid employees with the City of Marathon IS NOT that they don't do the same tasks involving the same risks, but that those employees, in addition, have a responsibility for command and administrative duties.

CONSISTENCY CHECKLIST:

- 1. Comprehensive Plan
- 2. Other – 2010 Sewer Mandate

Yes

No

 X

 X

FISCAL NOTE:

APPROVED BY FINANCE DIRECTOR:

RECOMMENDATION:

Approval

**CITY OF MARATHON, FLORIDA
RESOLUTION 2021-125**

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA APPROVAL OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MARATHON AND FIRST RESPONDERS EMPLOYED BY THE CITY OF MARATHON TO RECEIVE AMERICAN RECOVERY PLAN ACT (ARPA) FUNDS PURSUANT TO PROVISIONS OF ARPA AND THE TREASURY DEPARTMENT GUIDANCE CONCERNING THE USE OF SUCH FUNDS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the American Rescue Plan Act of 2021 (“ARPA”) established the Coronavirus Local Fiscal Recovery Fund which provides cities and counties with funds to be used for specified purposes in relation to Coronavirus Disease 2019 (“COVID–19”) and its impacts; and

WHEREAS, one of the specified purposes for the funds under the statute is to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers. Sec. 603(c)(1)(B) of the ARPA; and

WHEREAS, the employees in the bargaining unit (hereinafter “firefighters”) representing all of the firefighters and emergency medical technicians, meet the definition of “eligible workers” as they were “workers needed to maintain continuity of operations of essential critical infrastructure sectors . . . [such as] emergency response....” 31 CFR § 35.3. These firefighters likewise meet the definition of performing “essential work” as it is work that is not performed from their respective residences and it is work that involves “regular in-person interactions with patients, the public or coworkers of the individual that is performing the work.” Id.;

WHEREAS, premium pay “responds” to workers performing essential work if it is intended to compensate them for the “heightened risk” of being “physically present at the jobsite.” Federal Register, 86 FR 26786, 26798 (2021); and

WHEREAS, since the inception of the COVID–19 public health emergency, the firefighters and paramedics employed by the City of Marathon have experienced the “heightened risk” of “being physically present at the jobsite.” It has not been an option for them to take time off; they have been required to come to work -- no exceptions. They could not work from home, a luxury afforded to many Americans to responsibly avoid getting exposed, getting sick and the possibility of death as result of infection. Due to the nature of their work, they could not abide by rules of social distancing on the job or comply with “stay-at-home” orders. It is, and has been, the responsibility of the firefighters and paramedics to respond to calls for service with compassion and to treat potential and actual COVID-19 patients on-scene or to take them to the hospital. The heightened risk is demonstrated by the fact that several firefighters and paramedics contracted COVID-19, which also reduced the number of responders available for calls, thereby making it

more challenging for the remaining responders. The public health emergency represented and continues to represent days of uncertainty and fear for the firefighters and paramedics – not knowing if they would get sick, like some of their coworkers, or bring COVID–19 home to their loved ones, whether there was or would be effective treatment, or even what the extent of the illness could bring, which is only recently known to include long hauler syndrome as well as permanent disabilities.

The higher risk of exposure required some firefighters and paramedics to quarantine away from their loved ones, and those firefighters and paramedics who have partners who are immunocompromised or have elderly parents were required to isolate even further. It was and continues to be extremely stressful, but the firefighters and paramedics do what they are required to do and remain committed to providing the highest level of service, as expected by the community they serve; and

WHEREAS, not knowing what the fiscal impact of the COVID-19 public health emergency on the City of Marathon would be, the firefighters previously forwent and have not yet received any type of hazard pay or compensation for their work, increased risk and sacrifice during this COVID-19 public health emergency; and

WHEREAS, the U.S. Department of Treasury encourages recipients of funds, such as the City of Marathon, “...to prioritize providing retrospective premium pay where possible...” Federal Register, 86 FR 26786, 26798 (2021); and

WHEREAS, the ARPA contemplates that premium pay means an amount of up to \$13.00 per hour, per worker, in addition to wages or remuneration, for all work performed by eligible workers during the COVID-19 public health emergency, up to a total of \$25,000 per worker. 31 CFR § 35.3.

WHEREAS, in negotiation, the City has agreed upon an hourly amount for hours worked of \$5.50 per hour at ninety-six (96) hours for twenty-six (26) pay periods, as retroactive ARPA premium pay, and an adjusted rate of \$6.60 per hour for forty (40) hour employees,

NOW, THEREFORE BE IT RESOLVED THAT THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. The above recitals are true and correct and incorporated into this Resolution by reference.

Section 2. The City Council of the City of Marathon, Florida formally approves the attached MOU, attached as “Exhibit A”; and

Section 3. The City Manager is authorized to sign the MOU pursuant to City Council approval.

Section 4. This Resolution shall take effect immediately upon adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, THIS 9TH DAY OF NOVEMBER, 2021.**

THE CITY OF MARATHON, FLORIDA

John Bartus, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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:**

Steve Williams, City Attorney

EXHIBIT A

**MEMORANDUM OF UNDERSTANDING BETWEEN
PROFESSIONAL FIREFIGHTERS OF MARATHON
AND
CITY OF MARATHON**

WHEREAS, the American Rescue Plan Act of 2021 (“ARPA”) established the Coronavirus Local Fiscal Recovery Fund which provides cities and counties with funds to be used for specified purposes in relation to Coronavirus Disease 2019 (“COVID–19”) and its impacts; and

WHEREAS, one of the specified purposes for the funds under the statute is to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers. Sec. 603(c)(1)(B) of the ARPA; and

WHEREAS, the employees in the bargaining unit (hereinafter “firefighters”) represented by the Professional Firefighters of Marathon meet the definition of “eligible workers” as they are “workers needed to maintain continuity of operations of essential critical infrastructure sectors... [such as] emergency response....” 31 CFR § 35.3. These firefighters likewise meet the definition of performing “essential work” as it is work that is not performed from their respective residences and it is work that involves “regular in-person interactions with patients, the public or coworkers of the individual that is performing the work.” *Id.*; and

WHEREAS, premium pay “responds” to workers performing essential work if it is intended to compensate them for the “heightened risk” of being “physically present at the jobsite.” Federal Register, 86 FR 26786, 26798 (2021).

WHEREAS, since the inception of the COVID–19 public health emergency, the firefighters and paramedics employed by the City of Marathon have experienced the “heightened risk” of “being physically present at the jobsite.” It has not been an option for them to take time

off; they have been required to come to work -- no exceptions. They could not work from home, a luxury afforded to many Americans to responsibly avoid getting exposed, getting sick and the possibility of death as result of infection. Due to the nature of their work, they could not abide by rules of social distancing on the job or comply with “stay-at-home” orders. It is, and has been, the responsibility of the firefighters and paramedics to respond to calls for service with compassion and to treat potential and actual COVID-19 patients on-scene or to take them to the hospital. The heightened risk is demonstrated by the fact that several firefighters and paramedics contracted COVID-19, which also reduced the number of responders available for calls, thereby making it more challenging for the remaining responders.

The public health emergency represented and continues to represent days of uncertainty and fear for the firefighters and paramedics – not knowing if they would get sick, like some of their coworkers, or bring COVID–19 home to their loved ones, whether there was or would be effective treatment, or even what the extent of the illness could bring, which is only recently known to include long hauler syndrome as well as permanent disabilities. The higher risk of exposure required some firefighters and paramedics to quarantine away from their loved ones, and those firefighters and paramedics who have partners who are immunocompromised or have elderly parents were required to isolate even further. It was and continues to be extremely stressful, but the firefighters and paramedics do what they are required to do and remain committed to providing the highest level of service, as expected by the community they serve.

WHEREAS, not knowing what the fiscal impact of the COVID-19 public health emergency on the City of Marathon would be, the firefighters previously forwent and have not yet received any type of hazard pay or compensation for their work, increased risk and sacrifice during this COVID-19 public health emergency; and

WHEREAS, The U.S. Department of Treasury encourages recipients of funds, such as the City of Marathon, "...to prioritize providing retrospective premium pay where possible..." Federal Register, 86 FR 26786, 26798 (2021); and

WHEREAS, the ARPA contemplates that premium pay means an amount of up to \$13.00 per hour, per worker, in addition to wages or remuneration, for all work performed by eligible workers during the COVID-19 public health emergency, up to a total of \$25,000 per worker. 31 CFR § 35.3.

NOW THEREFORE, in consideration of their mutual promises contained herein, the Parties hereby agree as follows:

1. For the period of one year prior to the date of ratification of this Memorandum of Understanding ("MOU"), all firefighters/EMTs and transport officers (all employees of the City Fire Department) who are employed by the City of Marathon at the time of ratification of this MOU, shall be paid within ninety (90) calendar days upon the City's receipt of the funds, an additional \$5.50 per hour at ninety-six (96) hours for twenty-six (26) pay periods, as retroactive ARPA premium pay, based on the aforementioned period. Forty (40) hour employees shall be compensated at an adjusted rate of \$6.60 per hour. It is understood that those first responders employed less than one (1) year prior to the ratification of this MOU shall receive a portion thereof, calculated per number of pay periods at 96 hours (shift employees) or 80 hours (40 hour employees) per pay period.
2. All pay pursuant to Paragraph 1 immediately above shall be in addition to any other pay and benefits, of any kind whatsoever, earned by the bargaining unit members for the performance of work during the period of time stated in Paragraph 1.
3. The ARPA premium pay specified herein shall be in addition to any other pay and benefits set forth in the applicable collective bargaining agreement between the parties, and it does not preclude any future hazard pay for any reason.

FOR THE CITY OF MARATHON

FOR PROFESSIONAL FIREFIGHTERS
OF MARATHON

Dated:

Dated: