

RESOLUTION NO. 09-108

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE EXECUTION OF THE ATTACHED INTERLOCAL AGREEMENT BETWEEN THE CITY OF KEY WEST, MONROE COUNTY, MARATHON, LAYTON, KEY COLONY BEACH AND ISLAMORADA, VILLAGE OF THE ISLANDS REGARDING DISTRIBUTION OF THE LOCAL OPTION FUEL TAX; PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

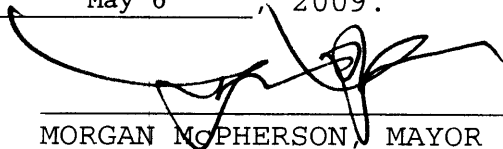
Section 1: That the attached Interlocal Agreement is hereby approved.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 5<sup>th</sup> day of May 2009.

Authenticated by the presiding officer and Clerk of the Commission on May 6, 2009

Filed with the Clerk May 6, 2009.

  
MORGAN MCPHERSON, MAYOR

ATTEST:

  
CHERYL SMITH, CITY CLERK

**LOCAL OPTION GAS TAX SHARING**  
**INTERLOCAL AGREEMENT**

**THIS INTERLOCAL AGREEMENT** is made and entered into on the 20<sup>th</sup> day of May, 2009 between **Monroe County (MONROE COUNTY)**, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West, Florida 33040, **AND the City of Key West (KEY WEST)**, a municipal corporation of the State of Florida and whose address is 525 Angela Street, P. O. Box 1409, Key West, Florida; **the City of Key Colony Beach (KEY COLONY BEACH)**, a municipal corporation of the State of Florida and whose address is P. O. Box 510141, 600 West Ocean Drive, Key Colony Beach, Florida 33051; **the City of Layton (LAYTON)**, a municipal corporation of the State of Florida and whose address is P. O. Box 778, Long Key, Florida 33001; **the City of Marathon (MARATHON)**, a municipal corporation of the State of Florida and whose address is 9805 Overseas Highway, Marathon, Florida 33050; and the city of **Islamorada, The Village of Islands (ISLAMORADA)**, a municipal corporation of the State of Florida and whose address is 87000 Overseas Highway, Islamorada, Florida 33036; and

**WHEREAS**, pursuant to Florida Statutes Section 336.025, the county and municipalities may enter into an interlocal agreement setting forth a distribution formula for dividing the entire proceeds of the tax among county government and all eligible municipalities within the county; and

**WHEREAS**, on May 24, 1999, **MONROE COUNTY** renewed the Interlocal Agreement for the distribution of local option gas tax revenues with the cities of **KEY WEST, KEY COLONY BEACH** and **LAYTON** to distribute the proceeds of the six cent local option gas tax imposed by **COUNTY** under *Ordinance No. 016-1989*, as amended by County *Ordinance No. 026-1989*, and as authorized by Sec. 336.025, Florida Statutes, **among the COUNTY and the cities of KEY WEST, KEY COLONY BEACH and LAYTON, according to the following percentages: Monroe County - 60.5%, City of Key West - 36.5%, City of Key Colony Beach - 2.0%, and City of Layton - 1.0%;**

**WHEREAS**, on May 16, 2006 the parties agreed to extend the Agreement under the same terms, with the present Agreement due to expire June 30, 2009; and

**WHEREAS**, the city of **ISLAMORADA, VILLAGE OF ISLANDS**, became incorporated on December 31, 1997 and became operational in March, 2000 and entitled to receive a proportionate share of local option gas tax revenues collected in Monroe County; and

**WHEREAS**, the city of **MARATHON** became incorporated on November 30, 1999 and became operational on February 24, 2000 and entitled to receive a proportionate share of local option gas tax revenues collected in Monroe County starting July 1, 2000; and

**WHEREAS**, pursuant to Sec. 336.025(4)(b), Florida Statutes, the percentage of gas tax revenues payable to a new city is based upon a statutory lane mile formula; and

**WHEREAS**, on June 16, 2004, **MONROE COUNTY** entered into an individual Interlocal Agreement between **MONROE COUNTY** and the city of **ISLAMORADA, VILLAGE OF ISLANDS** for distribution of **\$294,500 local option gas tax revenues for each fiscal year** during the term of the Agreement; and

**WHEREAS**, on May 16, 2006 the parties agreed to extend the Agreement under the same terms, with the present Agreement due to expire June 30, 2009; and

**WHEREAS**, on June 16, 2004, **MONROE COUNTY** entered into an individual Interlocal Agreement between **MONROE COUNTY** and the city of **MARATHON** for distribution of **\$273,733.38 local option gas tax revenues for each year** during the term of the Agreement; and

**WHEREAS**, the parties agreed to extend the Agreement under the same terms on May 16, 2006, with the present Agreement due to expire June 30, 2009;

**WHEREAS**, the State of Florida, Department of Revenue is authorized to distribute directly to the COUNTY and to the named municipalities their statutory share of the gas tax revenues; and

**WHEREAS**, pursuant to Chapter 336.025(5)(a), Florida Statutes, **COUNTY** must notify the State of Florida, Department of Revenue, in writing, of **COUNTY's** intent to let these Agreements expire or, if to be extended, to adopt and provide the Department of Revenue with a new Agreement by July 1, 2009; and

**WHEREAS**, it is the desire of all parties to extend the existing Interlocal Agreements under the present terms and conditions in each individual Interlocal Agreement under one combined Interlocal Agreement; and

**WHEREAS**, the COUNTY has scheduled and noticed for May 20, 2009, a public hearing for an additional five-cent local option gas tax pursuant to the authority of F.S. 336.025(1)(b), and the parties desire to set forth in this agreement their agreement as to the distribution of any proceeds from the proposed additional tax that may result from an ordinance passed at that May 20<sup>th</sup> meeting; now, therefore

**IN CONSIDERATION OF** the mutual promises and conditions contained herein, the PARTIES agree as follows:

### **SECTION 1. TERM.**

Pursuant to Sec. 163.01, Florida Statutes, subject to and upon the terms and conditions set forth herein, this Agreement shall be effective beginning July 1, 2009 and continue in force for five years. If a new agreement has not been adopted by July 1, 2014, the terms of this agreement shall continue to be effective until such time as either: A) a new interlocal agreement is in place; or B) an agreement with respect to the statutory formula specified in Florida Statute section 336.025 is reached, or a determination regarding such formula for distribution is made by the Administration Commission.

### **SECTION 2. DISTRIBUTION OF REVENUES.**

The State of Florida, Department of Revenue, is authorized to distribute the designated share of the local option gas tax revenues directly to the COUNTY and the named cities in this Interlocal Agreement.

### **SECTION 3. REVENUE SHARE ALLOCATION**

A. All parties agree the proceeds of the six cent local option gas tax, imposed by County *Ordinance No. 016-1989*, as amended by County *Ordinance No. 026-1989*, and as authorized by Sec. 336.025,

Florida Statutes, shall be distributed among the COUNTY and the named cities based on prior distributions, as set forth below:

**Distribution**

<b>City of Key West</b>	<b>36.5% of the taxes distributed</b>
<b>City of Key Colony Beach</b>	<b>2.0% of the taxes distributed</b>
<b>City of Layton</b>	<b>1.0% of the taxes distributed</b>
<b>City of Marathon</b>	<b>\$273,733.38 per annum</b>
<b>Islamorada, VOI</b>	<b>\$294,500.00 per annum</b>
<b>Monroe County</b>	<b>Remainder</b>

B. All parties agree the proceeds of any of the additional five cent local option gas tax currently proposed to be imposed by County Ordinance, as is set for public hearing at the May 20, 2009 County Commission regularly scheduled meeting, and as authorized by Sec. 336.025, Florida Statutes, upon approval of an ordinance levying same, shall be distributed among the COUNTY and the named cities based on the percentages set forth below:

**DISTRIBUTION PERCENTAGE**

<b>City of Key West</b>	<b>31.21 %</b>
<b>City of Key Colony Beach</b>	<b>1.09 %</b>
<b>City of Layton</b>	<b>0.26 %</b>
<b>City of Marathon</b>	<b>13.17 %</b>
<b>Islamorada, VOI</b>	<b>9.06 %</b>
<b>Monroe County</b>	<b><u>45.21 %</u></b>
<b>TOTAL</b>	<b>100.00 %</b>

**SECTION 4. ADJUSTMENT**

No adjustment to the distributions specified in Section 3 above shall be made except in a written document executed by all parties affected by the adjustment.

**SECTION 5. AUTHORIZATION**

Pursuant to Section 163.02, Florida Statutes, the parties are authorized to enter into this Interlocal Agreement.

**SECTION 6. TERMINATION.** This Agreement may be terminated prior to the June 30, 2014, date only in writing and by agreement of the parties hereto.

**SECTION 7. ASSIGNMENT.** No Party may assign this Agreement or assign or subcontract any of its obligations under this Agreement without the approval of the governing boards of the other Parties. All the obligations of this Agreement will extend to and bind the legal representatives, successors and assigns of the all Parties.

**SECTION 8. SUBORDINATION.** This Agreement is subordinate to the laws and regulations of the United States, and the State of Florida, whether in effect on commencement of this agreement or adopted after that date.

**SECTION 9. GOVERNING LAWS/VENUE.** This Agreement is governed by the laws of the State of Florida and the United States. Venue for any dispute arising under this Agreement must be in Monroe County, Florida. In the event of any litigation, the prevailing party is entitled to a reasonable attorney's fee and costs.

**SECTION 10. NOTICES.** Notices in this Agreement, unless otherwise specified, must be sent by certified mail to the following:

**COUNTY:**

County Administrator Roman Gastesi  
1100 Simonton Street  
Key West, FL 33040  
&  
County Attorney Suzanne Hutton  
P. O. Box 1026  
Key West, FL 33041

**ISLAMORADA:**

Mayor Don Achenberg  
81990 Overseas Highway, 2<sup>nd</sup> Floor  
P. O. Box 568  
Islamorada, FL 33036  
&  
Nina Boniske, Village Attorney  
2665 S. Bayshore Drive, Suite 420  
Miami, FL 33133

**KEY COLONY BEACH:**

Thomas D. Wright  
City Attorney for Key Colony Beach  
9711 Overseas Highway  
Marathon, FL 33050  
&  
Mayor Ron Sutton  
PO Box 510141  
Key Colony Beach, FL 33051

**LAYTON:**

Mr. Dirk Smits, Esq  
City Attorney for Layton  
81990 Overseas Highway, Third Floor  
Islamorada, FL 33036  
&  
Mayor Norman Anderson  
PO Box 778  
Long Key, FL 33001

**MARATHON:**

Mayor Mike Cinque  
9805 Overseas Highway  
Marathon, FL 33050  
&  
City Attorney Jimmy Morales  
150 W. Flagler Street, Suite 2200  
Miami, FL 33130

**KEY WEST:**

City Manager Jim Scholl &  
City Attorney Shawn Smith  
P. O. Box 1409  
Key West, FL 33041

**SECTION 11. FULL UNDERSTANDING.** This Agreement is the parties' final mutual understanding regarding the subject matter hereof. It replaces any earlier agreements or understandings, whether written or oral. This Agreement cannot be modified or replaced except by another written and signed agreement.

**SECTION 12. EXECUTION IN COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

**SECTION 13. EFFECTIVE DATE**

This Interlocal Agreement will take effect on July 1, 2009.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized representative.

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

By: *Samuel S. Smith*

Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By: *George R. Neugeant*

Mayor/Chairman

(SEAL)

ATTEST:

By: \_\_\_\_\_

Clerk

ISLAMORADA, VILLAGE OF ISLANDS

By: \_\_\_\_\_

Mayor



CITY OF KEY WEST

By: *Samuel S. Smith*

Mayor

(SEAL)

ATTEST:

By: \_\_\_\_\_

Clerk

CITY OF KEY COLONY BEACH

By: \_\_\_\_\_

Mayor

(SEAL)

ATTEST:

By: \_\_\_\_\_

Clerk

CITY OF LAYTON

By: \_\_\_\_\_

Mayor

(SEAL)

ATTEST:

By: \_\_\_\_\_

Clerk

CITY OF MARATHON

By: \_\_\_\_\_

Mayor

FILED FOR RECORD  
2009 MAY 26 PM 2:51  
DANNY L. KOLHAGE  
CLERK CIR. CT.  
MONROE COUNTY, FL

5/21/09