

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: 11/16/11 - KL

Division: County Attorney

Bulk Item: Yes XX No XX Staff Contact Person: Suzanne Hutton, 292-3470

AGENDA ITEM WORDING:

Approval of an extension and amendment of agreement with County Administrator Roman Gastesi, providing for an automobile to be supplied by County for official business and extension of contract to May 11, 2016.

ITEM BACKGROUND:

Roman Gastesi was appointed County Administrator, effective May 12, 2012. The contract requires at least 60 days notice with respect to a renewal, but for planning purposes of both parties, the renewal is being submitted several months earlier.

PREVIOUS RELEVANT BOCC ACTION: April 16, 2008, approval of 4-year employment contract. June 29, 2010, approval of clarification of compensation subject to retirement.

CONTRACT/AGREEMENT CHANGES: 4 year extension; provision of vehicle.

STAFF RECOMMENDATIONS: N/A

TOTAL COST: ___ **INDIRECT COST:** ___ **BUDGETED:** Yes ___ No ___

DIFFERENTIAL OF LOCAL PREFERENCE: _____

COST TO COUNTY: ___ **SOURCE OF FUNDS:** _____

REVENUE PRODUCING: ___ No ___ **AMOUNT PER MONTH** ___ **Year** ___

APPROVED BY: County Atty SA X OMB/Purchasing ___ Risk Management ___

DOCUMENTATION: Included X Not Required

DISPOSITION: _____ **AGENDA ITEM #** _____

**AMENDMENT TO AND EXTENSION OF
EMPLOYMENT AGREEMENT
COUNTY ADMINISTRATOR**

THIS AMENDMENT AND EXTENSION is made and entered into this 16th day of November, 2011, between the Board of County Commissioners of Monroe County, Florida, hereinafter "County", and Roman Gastesi, hereinafter "Administrator."

WHEREAS, on April 16, 2008, the parties entered into an agreement for County Administrator for the period May 12, 2008, through May 11, 2012; and

WHEREAS, the contract was amended June 29, 2010 to clarify compensation includable in retirement calculations; and

WHEREAS, both parties desire to renew and extend the agreement for another term, with minor modifications; now therefore,

IN CONSIDERATION OF the mutual covenants contained herein, The Parties agree as follows:

1. The contract entered between the parties on April 16, 2008, as amended on June 29, 2010, shall be amended as follows:

a) Paragraph 7.A. shall be amended by adding one sentence to reflect an extension of this agreement, and the entire paragraph shall now read:

The normal term of this agreement shall be for a period of forty- eight (48) months, commencing at 8:00 A.M. on the 12th day of May, 2008, and ending at 5:00 P.M. on the 11th day of May, 2012. Renewal and extension of this agreement shall commence at 5:01 P.M. on the 11th day of May, 2012, and continue through 5:00 P.M. on the 11th day of May, 2016, after which the one-year renewal terms in Paragraph 7.B shall apply.

b) Paragraph 9 shall be amended to read as follows:

Administrator shall be assigned, as soon as practical after this amendment and extension is executed by both parties, notwithstanding the extension portion of the agreement does not commence until May 11, 2012, a motor vehicle for transportation within the limits of Monroe County that may be necessary, required, or appropriate in fulfilling his responsibilities and duties under this Agreement. Due to the nature of the Administrator's duties and the travel that he incurs throughout Monroe County on a regular basis, it is anticipated that he shall take the vehicle home at night and may have occasional personal use within Monroe County as an insignificant and immaterial consequence of his continuous need for a vehicle for official purposes. Said vehicle may be removed from Monroe County only if the Administrator is travelling on official business outside the County. All other costs of official travel shall be paid or reimbursed pursuant to County travel policy and Ch. 112, Florida Statutes. At its sole discretion, and upon request by Administrator, the Board may authorize the reimbursement of

Administrator's actual expenditures where documented evidence is provided detailing the actual expenses incurred.

2. In all other respects, the Agreement entered April 16, 2008, as amended June 29, 2010 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused these presents to be executed in their respective names on the date first set above.

Mayor Heather Carruthers _____
Mayor Pro Tem David Rice _____
Commissioner Sylvia Murphy _____
Commissioner George Neugent _____
Commissioner Kim Wigington _____

ROMAN GASTESI:

By: _____
Roman Gastesi, County Administrator

(SEAL)
Attest: **DANNY L. KOLHAGE, Clerk**

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

By _____
Deputy Clerk

By _____
Mayor/Chairperson

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Suzanne A. Hutton
SUZANNE A. HUTTON
COUNTY ATTORNEY
11/27/11

ADDITIONAL BACK-UP

**EMPLOYMENT AGREEMENT
BETWEEN
MONROE COUNTY, FLORIDA
AND
ROMAN GASTESI
FOR POSITION OF
COUNTY ADMINISTRATOR**

THIS AGREEMENT is entered into April 16, 2008, by and between Monroe County, Florida, acting through its Board of County Commissioners ("Board or "BOCC"), a political subdivision of the State of Florida, whose main business address is 1100 Simonton Street, Key West, Florida 33040, and Roman Gastesi ("Administrator"), whose present residence address is 87200 Overseas Highway, Unit S-10, Islamorada, Florida 33036.

WHEREAS, the Monroe County is currently operating under the administration of an acting County Administrator; and

WHEREAS, the BOCC has advertised for applicants for the position of Monroe County Administrator; and

WHEREAS, after review of applications, meeting with selected applicants, and conducting interviews of four finalists, the BOCC has selected Roman Gastesi as its first choice to be offered the position of Monroe County Administrator; and

WHEREAS, negotiations between Monroe County and Roman Gastesi has resulted in this mutually acceptable Employment Agreement ("Agreement"); now therefore,

IN CONSIDERATION of the covenants and promises contained herein, the **PARTIES** hereby agree as follows:

1. EMPLOYMENT. Roman Gastesi is hereby employed by the BOCC as County Administrator for Monroe County, Florida (hereinafter "Administrator").

2. FULL-TIME EMPLOYMENT. County and Administrator agree that the position of County Administrator will be a full-time position. Work hours performed, annual leave, personal leave, and sick leave hours taken will be documented on a form or forms to be provided by County.

3. DUTIES OF ADMINISTRATOR.

A. Administrator will perform the duties of County Administrator as provided for in Sections 125.70 through 125.74, Florida Statutes, known as the "County Administration Law of 1974"; all duties required by other applicable provisions of Florida law; all duties required by the Monroe County Code and lawfully adopted Resolutions of the BOCC; and all duties as may be set forth in administrative and personnel policies and procedures adopted by use by the County.

B. Additionally, Administrator shall perform those duties, functions, and assignments which may from time to time be directed by the BOCC.

C. Duties shall be performed in a professional, respectful, and timely manner and in accordance with the highest standards of ethical behavior established by the Code of Ethics of the International City/County Manager Association and with Part III, Chapter 112, Florida Statutes, entitled Code of Ethics for Public Officers and Employees.

D. Administrator understands and agrees his duties under this Agreement will require him to routinely work varied hours in excess of the normal County workday, and the hours worked shall be consistent with the needs of the position. Administrator shall not receive overtime compensation for hours worked in excess of forty (40) per week, including work done pre- or post-disaster, including but not limited to hurricanes.

E. Nothing in this Agreement or in the BOCC's policies, rules, and procedures will limit the Administrator's right to make passive financial investments; to participate in charitable service or work with charitable organizations and other community activities, including trade and professional organizations; or to undertake other activities which do not interfere with the performance of the Administrator's duties under this Agreement, it being mutually agreed that the Administrator's participation in such activities is of such benefit to the BOCC and the County.

F. The Administrator will be reasonably available to BOCC members and key County staff twenty-four (24) hours per day. Such availability will be by telephone or electronic messaging, or in person.

G. Due to the nature of the Administrator's duties and the requirements of the position, interference with the Administrator's private life is to be expected and it is recognized that Administrator may from time to time absent himself during normal business hours for personal reasons; however, Administrator shall remain reasonably available to Board members and key Board staff by telephone or other electronic means.

4. **SOLE EMPLOYMENT.** In partial consideration for the agreements to be performed by the BOCC for the benefit of the Administrator as contained elsewhere in this Agreement, Administrator agrees that he will not perform any work, consulting services, or other activities for any other person or entity, whether for remuneration or at no charge, without the prior express written approval of the BOCC. It is the intent that Administrator's attentions will be devoted solely to County-related duties and obligations.

5. **POST-EMPLOYMENT RESTRICTIONS.** In partial consideration for the agreements to be performed by the BOCC for the benefit of the Administrator as contained elsewhere in this Agreement, Administrator agrees that for a period of twenty-four (24) months from the effective date of termination or cancellation of this Agreement, Administrator will not personally appear on behalf of another person or entity for compensation before the BOCC sitting in its legislative or quasi-judicial capacity, unless Administrator is appearing on behalf of another governmental agency. Additionally, Administrator agrees that for a period of twenty-four (24) months from the effective date of termination or cancellation of this Agreement, Administrator will not lobby the BOCC sitting in its legislative or quasi-judicial capacity. For purposes of this section, "lobbies" and "lobbyist" will have the same meaning as defined in Section 112.3215(d) and (e), Florida Statutes. This section will survive the termination or cancellation of this Agreement, but may be waived by a majority vote of the BOCC at a public meeting.

6. **DISCLOSURE OF FINANCIAL INTERESTS.** Section 112.3145, Florida Statutes, requires financial disclosure by a "local officer", and subsection (1)(a)3, defines local officer to include any person holding one or more of the following positions: "...county...manager; chief administrative employee of a county...". Administrator agrees to make such disclosures on such forms and at such times as may be required by state law.

7. TERM OF AGREEMENT; TERMINATION; CANCELLATION; GENERAL RELEASE.

A. Normal Term of Agreement. The normal term of this agreement shall be for a period of forty-eight (48) months, commencing at 8:00 A.M. on the 12th day of May, 2008, and ending at 5:00 P.M. on the 11th day of May, 2012.

B. Extension of Normal Term. This Agreement may be renewed for periods of one year by written agreement executed by both parties unless either the BOCC or the Administrator gives the other notice of its or his intent to terminate the Agreement. Such written notice shall be given not less than ninety (90) days prior to the normal expiration date of this Agreement, or sixty (60) days prior to the expiration of any renewal term year, as applicable. Once either party gives written notice under this section, this Agreement will not be modified or extended except as may be mutually agreed, in writing, by and between the BOCC and the Administrator.

C. Termination of Agreement by BOCC for Cause. This Agreement may be terminated by the BOCC for cause, only by majority vote of the BOCC at a public meeting duly noticed and held. At least fifteen (15) days prior to the date on which the agenda for the BOCC is prepared that contains the item of termination to be acted upon, BOCC shall provide to the Administrator a detailed written statement of the reason or reasons for which termination is being sought. The statement will include, but not be limited to, the act or acts, omission or omissions, or default or defaults which form the basis for which termination is sought, along with the relevant date or dates, time or times, and location or locations. As used in this Section 7, "for cause" will mean (a) dishonesty with respect to the business and operation of the BOCC; (b) confirmed violation of the BOCC's drug policy; (c) refusal to cooperate in an investigation regarding any aspect of the business or operation of the BOCC or County, which investigation is conducted by or at the express direction of the BOCC, the State Attorney, or any federal or state agency with jurisdiction over the matter under investigation; (d) conviction of a crime which is classified as a felony or a crime involving moral turpitude; (e) gross neglect or willful and intentional misconduct; (f) conviction of a crime directly relating to the powers, duties, or privileges of County Administrator; (g) violation of a provision of the Monroe County Code; (h) repeated or egregious violation of County policies adopted in writing by the BOCC; and (i) breach of any material term or condition of this Agreement by the Administrator. In the event that the Administrator prevails in any litigation challenging his termination for cause, he shall receive from the BOCC his reasonable attorneys' fees, costs of litigation, and related expenses, both at the trial and appellate levels.

D. Termination of Agreement by Administrator for Breach by BOCC. This Agreement may be terminated by Administrator upon a breach of this Agreement by the BOCC, provided the BOCC has not cured the breach within thirty (30) days following the notice of the breach. If the breach has not been cured, termination will be effective on the thirty-first day following receipt of written notice from the Administrator by the BOCC. Upon termination of this Agreement due to breach by the BOCC, the Administrator shall be entitled to receive the prospective benefits as if this Agreement had been cancelled by the BOCC.

E. Termination of Agreement by Normal Expiration. This Agreement shall terminate upon its normal expiration date as stated in Sub-section 7.A unless renewed under the terms of Sub-section 7.B.

F. Cancellation of Agreement by BOCC. The BOCC may cancel this Agreement without cause, effective thirty (30) days after giving written notice to the Administrator. Such cancellation will be by a Resolution adopted by a majority vote of the BOCC at a duly noticed public meeting. Upon the effective date of the cancellation, the Administrator will be entitled to receive from the Board, and within fifteen (15) days will be paid by the BOCC, a sum equal to the cost of three months' health insurance premiums for

employee coverage only plus, after six months' employment, a sum equal to six months' salary.

(i) **General Release.** Upon timely payment by the BOCC of the sum required for cancellation without cause, the Administrator will execute a general release in favor of all officers, members, and employees of the BOCC and County relating to any cause or causes of action the Administrator has, had, or may have related to the Agreement and the cancellation thereof. The general release will encompass all applicable federal, state, and local laws and ordinances relating to claims of illegal discrimination, intentional and unintentional torts, whistle blower rights, and all other types of claims whether known or unknown through the date of cancellation. To the extent that it is prohibited by applicable federal, state or local law, this provision will be deemed void and of no effect.

G. Termination of Agreement by Resignation of County Administrator. This Agreement will be terminated upon the effective date of resignation by the Administrator. In the event that the Administrator does not give at least sixty (60) days written notice to the BOCC of his effective date of resignation, Administrator shall forfeit the pay of accrued sick and personal leave provided under County policy for all employees, which shall not be a penalty but shall be considered as compensation to the BOCC to be used at the discretion of the BOCC for the costs and expenses of hiring an interim administrator or replacement administrator. This section shall survive the termination or cancellation of this Agreement.

H. Abolishment of Position of County Administrator. If the BOCC takes such action as to lawfully abolish the position of County Administrator during the term of this Agreement, the abolishment of the position, for the purposes of this Agreement, shall be deemed to be a termination of this Agreement by cancellation by the BOCC.

8. SALARY. As partial consideration for the agreements and services to be performed by the Administrator for the benefit of the BOCC and County as contained elsewhere in this Agreement, the BOCC will pay to the Administrator an annual salary of ONE HUNDRED FIFTY-FIVE THOUSAND DOLLARS (\$155,000.00). After six months' employment and an opportunity for the Administrator and any commissioner to confer regarding County policies and the role of the County Administrator, that salary shall be raised to ONE HUNDRED SIXTY-FIVE THOUSAND DOLLARS (\$165,000.00), which amount shall be automatically increased on December 1, unless conflicting action is taken prior to that date. The salary shall be increased thereafter according to the County policy of cost-of-living and merit increases provided to other County employees.

A. The salary shall be paid in installments at the same time and in the same manner as other County employees are paid, and will be subject to all legally required deductions. Currently, payments are paid in equal biweekly installments (26 pay periods per annum).

B. Administrator shall be entitled to health, accidental death & dismemberment and life insurance coverage under County group policies.

9. TRANSPORTATION. Administrator agrees that he will be responsible for providing his own motor vehicle for transportation within the limits of Monroe County that may be necessary, required, or appropriate in fulfilling his responsibilities and duties under this Agreement. In lieu of the preparation, maintenance, submission, review, approval, and auditing of detail travel expense reimbursements, and as partial consideration for Administrator's entering into this Agreement, Board agrees to pay to Administrator the sum of SIX HUNDRED FIFTY DOLLARS (\$650.00) per month as and for a transportation allowance. For travel out of Monroe County by motor vehicle, Administrator will be reimbursed by Board on a per trip

basis at the rate allowed for under Chapter 112, Florida Statutes, with mileage calculated as if departure commenced at the Monroe County-MiamiDade County line and return ended at the Monroe County-MiamiDade County line. At its sole discretion, and upon request by Administrator, Board may authorize the reimbursement of ~~Administ~~ actual expenditures where documented evidence is provided detailing the actual expenses incurred. ~~rador's~~

10. TRAVEL REIMBURSEMENT. The BOCC agrees to pay to or reimburse the Administrator for the costs of mileage, meals, other expenses and lodging incurred by the Administrator for travel outside the County by any mode other than motor vehicle that may be necessary, required, or appropriate in fulfilling the Administrator's duties and responsibilities under this Agreement. Meals, expenses other than mileage, and lodging will be paid for or reimbursed at the rates provided for by applicable Monroe County Code provisions, and shall be consistent with the provisions of this Agreement. At its sole discretion, and upon request by the Administrator, the BOCC may authorize the reimbursement of the Administrator's actual expenditures where documented evidence is provided detailing the actual expenses incurred.

11. FLORIDA RETIREMENT SYSTEM. The BOCC agrees that the position of County Administrator will be a position classified as, and eligible for the benefits provided under, the Senior Management Service Class, in accordance with Section 112.055, Florida Statutes. The BOCC will contribute such amounts at such times as is required by the Florida Retirement System law, and any other applicable law or statute.

12. PROFESSIONAL MEMBERSHIPS. The Administrator shall, as a minimum, maintain membership in the following professional organizations and interest groups: International City/County Managers Association and Florida City/County Managers Association. All dues, occupational licenses, fees, and costs for obtaining and maintaining the memberships delineated above will be paid for by the BOCC.

13. LOCAL LIAISONS AND MEMBERSHIPS. The Administrator shall establish and maintain liaisons with his counterparts in local governmental and public agencies located within the geographical limits of Monroe County, and with such agencies of the State of Florida and the federal government as may be appropriate and desirable. Any reasonable costs, fees, charges, or other expenses incurred in establishing and maintaining these liaisons shall be reimbursed or paid for by the BOCC. Additionally, the Administrator is authorized to become a member of civic clubs or organizations deemed to be appropriate by Administrator, and the costs of membership shall be paid for by the BOCC; provided, however, that the costs of membership and participation in such civic organizations shall not exceed ONE THOUSAND DOLLARS (\$1,000.00) each fiscal year.

14. OFFICE SPACE; OFFICE STAFF; AND SUPPORTING SERVICES.

A. Office Space. The BOCC will provide office space for the Administrator at the Historic Gato Cigar Factory Building at 1100 Simonton Street, Key West, Florida, and this space will be the primary office for the Administrator.

B. Staff. The BOCC will provide qualified and trained staff to assist the Administrator in efficiently, productively, and professionally meeting the mission, goals and objectives of the office of the County Administrator and the duties of Administrator,

C. Supporting Services. The BOCC will provide utilities, telephone service, computer hardware and software, electronic research and e-mail services, world wide web and internet access, books and

subscriptions, periodicals, office supplies, photocopy equipment, county web-page presence and server access and storage space, postage, office equipment and furniture, and other similar materials, equipment and services as may be necessary for the proper, productive, and efficient operation of the County Administrator's office.

15. ANNUAL LEAVE; SICK LEAVE; PERSONAL LEAVE; TRANSFER OF LEAVE.

A. The Administrator will earn and be credited with annual leave at a rate per month equal to the highest rate earned by any other employee or officer of the BOCC. The Administrator may accumulate annual leave without limit and no unused annual leave shall be forfeited due to nonuse, any provisions of the Personnel Policies and Procedures Manual to the contrary notwithstanding.

B. The Administrator will earn and be credited with sick leave at a rate per month equal to the highest rate earned by any other employee or officer of the BOCC. The Administrator may accumulate sick leave without limit and no unused sick leave shall be forfeited due to nonuse, any provisions of the Personnel Policies and Procedures Manual to the contrary notwithstanding. Additionally, the Administrator shall have the option of joining and receiving the benefits of the Monroe County Sick Leave Pool in accordance with the policies and procedures that are applicable and in effect.

C. The Administrator will be credited with five (5) days of paid personal leave each year, commencing with the date of May 12, 2008, and each anniversary of that date thereafter. Such leave may be used by the Administrator at his discretion, and may be accumulated without limit, except that any accrued such leave shall not be included in final payment when this agreement terminates for any reason.

16. PARTICIPATION IN EDUCATIONAL AND COUNTY-RELATED EVENTS. The BOCC agrees to budget for and to pay the costs incurred by the Administrator in attending seminars, continuing education courses, BOCC and County-related events and out-of-county meetings as may be necessary or appropriate to the Administrator's duties and responsibilities under this Agreement.

17. EMPLOYMENT BENEFITS.

A. **Cell Phone; Laptop Computer.** The BOCC agrees to provide a cell phone of its choice with a carrier of its choice to the Administrator, and shall provide a laptop computer of its choice to Administrator. The costs of acquisition, use, upgrade, and other expenses related to the supplying and use of the cell phone and laptop computer shall be paid for by the BOCC.

B. **Health, Medical, Dental, Vision, and Related Benefits.** The BOCC agrees to make available to the Administrator all health, medical, dental, vision, and related benefits as it currently offers to other non-union County employees, under the same terms and conditions as offered to other non-union County employees, and as may be changed, amended, deleted, or added to from time to time. The BOCC shall pay the premiums required for single medical coverage for the Administrator, and the Administrator shall be responsible for the premiums required for individual dental and vision coverage and dependent coverage.

C. **Holiday Benefits.** The Administrator will receive the same paid holidays as the County's non-union employees receive.

D. **Other Customary Benefits.** The Administrator shall have the right to participate in and receive the benefits of other employment-related benefits as are available to other non-union County employees.

E. One-time Relocation Expense. The salary set forth in Section 8 has been negotiated to include the maximum amount of relocation expense reimbursement which would have been available to an administrator hired from outside the county since the Administrator had a home in Monroe County prior to the time of hire.

F. Bonds. The BOCC will obtain a fidelity bond and any other applicable bonds covering the Administrator while employed during the term of this Agreement, and the costs and expense of obtaining and maintaining such bonds shall be paid for by the BOCC.

18. INDEMNIFICATION AND COOPERATION.

A. Indemnification. The BOCC agrees to defend, hold harmless, and indemnify the Administrator against any tort, professional liability, or other legal demand, claim, or action which is related directly or indirectly to the Administrator's action in his capacity as County Administrator.

B. Cooperation. In the event of actual or threatened litigation and/or administrative proceedings involved the BOCC or the County which arises out of an action or actions which occurred or are alleged to have occurred while the Administrator was acting in the capacity of County Administrator, the Administrator will cooperate with the BOCC and its counsel in defending and resolving the litigation or proceeding. In such regard, the BOCC agrees to pay the Administrator's reasonable travel and subsistence expenses incurred in cooperating with the BOCC and its counsel, including preparation for and actual discovery, settlement, and trial and hearing of such matters.

(i) The Administrator agrees that, unless required by law, he will not cooperate with or assist any party, person, or entity who has, had, or may have, or asserts that he, she or it has or may have any claim of any nature against the BOCC or the County, its agents, officers, or employees, unless the BOCC or its authorized agent expressly consents in writing to waive this provision of this Agreement.

(ii) The Administrator will not disclose to any person, party, or entity any confidential, proprietary, time-sensitive, or non-public information relating to the BOCC, the County, and its operations unless required by law to do so.

(iii) The restrictions, prohibitions, and conditions set forth in Section 18.B(i) and (ii) will not be applicable in instances where one or more governmental entities with jurisdiction over a claim or a violation of law are involved.

19. GOVERNING LAW; ATTORNEY'S FEES AND COSTS; VENUE. This Agreement is made in the State of Florida and will be governed by Florida law. The prevailing party in any litigation, arbitration, or mediation relating to this Agreement will be entitled to recover its reasonable expenses and attorneys' fees from the other party for all matters, including but not limited to, appeals. Monroe County, Florida will be the proper venue for any litigation involving this Agreement.

20. FORM OF AGREEMENT. This is the entire agreement between the BOCC and the Administrator and may not be modified or amended except by a written document signed by the party against whom the enforcement is sought. This Agreement may be signed in more than one counterpart, in which case each counterpart will constitute an original of this Agreement. Paragraph headings are for convenience only and are not intended to expand or restrict the scope or substance of the provisions of this Agreement. Wherever used herein, the singular will include the plural, the plural will include the singular, and pronouns will be read as masculine, feminine, or neuter as the context requires.

21. PERFORMANCE EVALUATION. The BOCC and Administrator shall periodically define goals, performance objectives, relative priorities, and time lines for performance which the BOCC and Administrator mutually agree are minimally necessary for the proper operation of county government and achievement of the BOCC's policy objectives. The mutual agreement shall be memorialized by a Resolution or Resolutions of the BOCC, and the Resolution or Resolutions shall become the basis for review and evaluation of the Administrator's work performance. A review and performance evaluation of the Administrator may be conducted as often as the BOCC may deem appropriate.

22. OTHER TERMS AND CONDITIONS.

A. If any provision, term, or portion of this Agreement shall be held to be unconstitutional, illegal, invalid, or enforceable by a court of competent jurisdiction, the remaining terms, conditions, and portions shall remain in full force and effect as if originally agreed to without the term, condition, or portion that has been determined to be unconstitutional, illegal, invalid or unenforceable.

B. The waiver by either the BOCC of the Administrator of a breach or violation of any term or provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach or violation by the other party.

C. This Agreement shall be binding upon and shall inure to the benefit of the heirs or estate of the Administrator.

D. Should the Administrator die during the term of this Agreement, the obligations of the BOCC under this Agreement shall immediately terminate except for payment of accrued and unused leave balances to the Administrator's designated beneficiaries of his estate; payment of all outstanding hospitalization, medical, dental, and vision bills in accordance with the County's plans, policies, and procedures; and payment of all life insurance benefits in accordance with the terms of the County's insurance policies or plans.

E. The BOCC and Administrator acknowledge that each has shared equally in the drafting and preparation of this Agreement and, accordingly, no court or administrative hearing officer shall construe any provision of this Agreement more strictly against one party over the other party, and every term, condition, covenant, and provision of this Agreement shall be construed simply according to its fair meaning.

F. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. It is further agreed that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained herein, and no deviation from the terms hereof shall be predicated upon any prior representations, offers, promises, inducements, or agreements, whether oral or written, and by whomever made. The text herein constitutes the entire agreement between the BOCC and the Administrator, and this agreement cannot be amended except by a written document mutually agreed to and executed with the same formalities as this Agreement.

G. The rights and obligations of this Agreement are personal to the Administrator and cannot be assigned, transferred, or otherwise impaired by the Administrator.

WHEREFORE, the parties hereto have signed and sealed this agreement on the date first above written.

(SEAL)
Attest: DANIEL L. KOLHAGE, Clerk
By: [Signature]
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS OF
MONROE COUNTY, FLORIDA

By: [Signature]
Mayor/Chairman

Witnesses:
[Signature]
[Signature]

ROMAN GASTESI
By: [Signature]

FILED 2008 APR 17 PM 12:38
DANIEL L. KOLHAGE
CLK. CIR. CL.
MONROE COUNTY, FLA.

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM

[Signature]
SUZANNE A. HUTTON
COUNTY ATTORNEY
Date 4/15/08

**AMENDMENT TO EMPLOYMENT AGREEMENT
COUNTY ADMINISTRATOR**

THIS AMENDMENT is made and entered into this 21st day of July, 2010, between the Board of County Commissioners of Monroe County, Florida, hereinafter "County", and Roman Gastesi, hereinafter "Administrator."

WHEREAS, on April 16, 2008, the parties entered into an agreement for County Administrator for the period May 12, 2008, through May 11, 2012; and

WHEREAS, the contract has been interpreted by the County's auditors and the Florida Retirement System (FRS) to preclude the inclusion in regular compensation, subject to state retirement calculations, of the automobile allowance; and

WHEREAS, all prior Monroe County Administrators and prior and current Monroe County Attorneys, the employees of Monroe County normally under contract, have received automobile allowance as regular compensation, subject to FRS contributions and included in retirement calculations; and

WHEREAS, both parties to this agreement contemplated that the compensation package, other than employee benefits listed in Paragraph 17, would be subject to County contributions to the FRS and included in the final average compensation computation for calculating retirement benefits;

WHEREAS, the County has been making the contributions into the FRS for the compensation heretofore described as salary and automobile allowance; and

WHEREAS, the parties find it in the best interests of both to amend the agreement to render the existing contract consistent with expectations of the parties; now therefore,

IN CONSIDERATION OF the mutual covenants contained herein, The Parties agree as follows:

1. 2. The contract entered between the parties on April 16, 2008 shall be amended to revise paragraphs 8, 9, and 17.D to read, effective May 12, 2008, as follows:

8. **SALARY.** As partial consideration for the agreements and services to be performed by the Administrator for the benefit of the BOCC and County as contained elsewhere in this Agreement, the BOCC will pay to the Administrator an annual salary of ONE HUNDRED SIXTY-THREE THOUSAND THREE HUNDRED DOLLARS (\$163,300.00). After six months' employment and an opportunity for the Administrator and any commissioner to confer regarding County policies and the role of the County Administrator, that salary shall be raised to ONE HUNDRED SEVENTY-THREE THOUSAND THREE HUNDRED DOLLARS (\$173,300.00), which amount shall be automatically increased on December 1, unless conflicting action is taken prior to that date. The salary shall be increased thereafter according to the County policy of cost-of-living and merit increases provided to other County employees.

A. The salary shall be paid in installments at the same time and in the same manner as other County employees are paid, and will be subject to all legally required deductions. Currently, payments are paid in equal biweekly installments (26 pay periods per annum).

B. Administrator shall be entitled to health, accidental death & dismemberment and life insurance coverage under County group policies.

9. **TRANSPORTATION.** Administrator agrees that he will be responsible for providing his own motor vehicle for transportation within the limits of Monroe County that may be necessary, required, or appropriate in fulfilling his responsibilities and duties under this Agreement. For travel out of Monroe County by motor vehicle, Administrator will be reimbursed by Board on a per trip basis at the rate allowed for under Chapter 112, Florida Statutes, with mileage calculated as if departure commenced at the Monroe County-MiamiDade County line and return ended at the Monroe County-MiamiDade County line. At its sole discretion, and upon request by Administrator, Board may authorize the reimbursement of Administrator's actual expenditures where documented evidence is provided detailing the actual expenses incurred.

17. **D. Other Customary Benefits.** The Administrator shall have the right to participate in and receive the benefits of other employment-related benefits, other than in-county mileage reimbursement, as are available to other non-union County employees.

2. In all other respects, the Agreement entered April 16, 2008, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused these presents to be executed in their respective names on the date first set above.

Mayor Sylvia Murphy	<u>Yes</u>
Mayor Pro Tem Heather Carruthers	<u>Yes</u>
Commissioner George Neugent	<u>Absent</u>
Commissioner Mario Di Gennaro	<u>Absent</u>
Commissioner Kim Wigington	<u>Yes</u>

FILED FOR RECORD
2010 JUL -1 AM 11:35
DANNY L. KOLHAGE
CLERK OF BOARD OF COUNTY COMMISSIONERS
MONROE COUNTY, FLORIDA

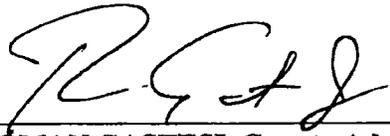
(SEAL)
Attest: **DANNY L. KOLHAGE, Clerk**

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

By *Salvatore De Santis*
Deputy Clerk

By *Sylvia J. Murphy*
Mayor/Chairperson

APPROVED BY
FORM:
[Signature]
6/23/10



ROMAN GASTESI, County Administrator