

**RESOLUTION NO. 02-07-97**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT BETWEEN THE CITY OF MARATHON AND THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION; AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO FINALIZE THE TERMS AND CONDITIONS OF SAID AGREEMENT; AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Marathon (“City”) desires to enter into an agreement between the City and the State of Florida Department of Transportation (“FDOT”) that would provide for compensation to the City for maintaining Traffic Signals within it’s jurisdiction; and

**WHEREAS**, this agreement differs from the previous agreement approved by Resolution No. 02-10-07 dated October 23, 2001, as this agreement provides for compensation to the City for the required maintenance activities associated with the equipment relating to Traffic Signal Maintenance within the City.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:**

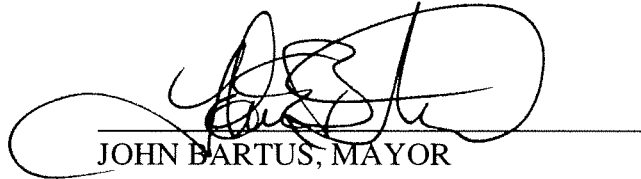
**Section 1.    Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2.    Approval.** Said agreement for Traffic Signal Maintenance and Compensation between the City and the State of Florida Department of Transportation, in substantially the form as attached hereto as Exhibit “A”, is hereby approved. The City Manager

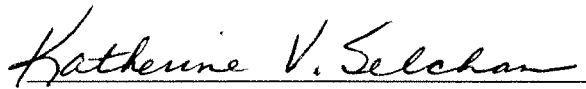
and the City Attorney are authorized to finalize the terms and conditions of said Agreement, if deemed necessary, and the Mayor is authorized to execute said Agreement on behalf of the City.

**Section 3.** **Effective Date.** This resolution shall take effect immediately upon adoption.

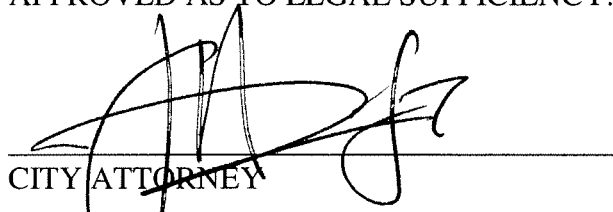
PASSED AND ADOPTED this 30th day of July, 2002.

  
\_\_\_\_\_  
JOHN BARTUS, MAYOR

ATTEST:

  
\_\_\_\_\_  
KATHERINE V. SELCHAN  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
CITY ATTORNEY

#6038v1.Rs.073002

**SCANNED**

8/2/02 #6114 KSV

CONTRACT NO. AM 761  
FINANCIAL PROJECT NO. 4055761 88 02  
F.E.I.D. NO. \_\_\_\_\_

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT**

**THIS AGREEMENT**, made and entered into this 30<sup>th</sup> day of SEPTEMBER, 2002, by and between the Florida Department of Transportation, an agency of the State of Florida, herein called the "Department", and CITY OF MIAMI, Florida, herein called the "Maintaining Agency".

**WITNESSETH:**

**WHEREAS**, the Maintaining Agency has the authority to enter into this Agreement and to undertake the maintenance and operation of traffic signals or signal systems on the State Highway System, and the Department is authorized under Sections 334.044 and 335.055, Florida Statutes, to enter into this Agreement; and

**WHEREAS**, the Maintaining Agency has authorized its undersigned representative to enter into and execute this Agreement.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained herein to be undertaken by the respective parties hereto, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties mutually agree and covenant as follows:

1. The Maintaining Agency shall be responsible for the maintenance and continuous operation of the traffic signals, traffic signal systems (central computer, cameras, message signs, and communications interconnect), school zone traffic control devices, intersection flashing beacons, illuminated street name signs, and the payment of electricity and electrical charges incurred in connection with operation of such traffic signals and signal systems upon completion of their installation. The Department agrees to pay to the Maintaining Agency, an annual compensation based on Department's fiscal year for the cost of the maintenance and continuous operation of full traffic signal locations as identified in Exhibit A. Flashing beacons, emergency signals, and school zone signals are not included. Payments will be made in accordance with Exhibit B. Should the Maintaining Agency withdraw from the compensation portion of this Agreement, the Maintaining Agency will still be responsible for the maintenance and continuous operation of the above items. In the case of construction contracts, the Maintaining Agency shall be responsible for the payment of electricity and electrical charges incurred in connection with the operation of the traffic signals and signal systems, and shall undertake the maintenance and continuous operation of said traffic signals and signal systems upon final acceptance of the installation by the Department. Repair or replacement and other responsibilities of the installation contractor and the Department, during construction, are contained in the Department's Standard Specifications for Road and Bridge Construction.
2. The Maintaining Agency shall maintain and operate the traffic signals and signal systems in a manner that will ensure safe and efficient movement of highway traffic and that is consistent with maintenance practices prescribed by the International Municipal Signal Association (IMSA) and operational requirements of the Manual on Uniform Traffic Control Devices (MUTCD), as amended. The Maintaining Agency's maintenance responsibilities shall include, but not be limited to, preventive maintenance (periodic inspection, service and routine repairs), and emergency maintenance (trouble shooting in the event of equipment malfunction, failure, or damage). The Maintaining Agency shall record its maintenance activities in a traffic signal maintenance log.
3. The Maintaining Agency may remove any component of the installed equipment for repair; however, it shall not make any permanent modifications and/or equipment replacements unless the equipment provided is capable of performing at minimum the same functions. The Department shall not make any modifications and/or equipment replacements without prior written notice to the Maintaining Agency.
4. The Maintaining Agency shall set and maintain the timing and phasing of the traffic signals in accordance with the Department's timing and phasing plans, specifications, or special provisions. The Maintaining Agency shall obtain prior written approval from the Department for any modification in phasing of signals and signal systems to accommodate changing needs of traffic. The Maintaining Agency may make changes in the signal timing provided these changes are made under the direction of a qualified Professional Engineer and be contingent upon an engineering report or documentation of engineering judgment prepared by, or for, the Maintaining Agency in accordance with Section 1A.09, Engineering Study and Engineering Judgment, of the MUTCD, recommending such changes and signed and sealed by a qualified Professional Engineer registered in the State of Florida. The Maintaining Agency shall send a signed/sealed copy of the timings to the Department immediately after installation. The Department reserves the right to examine equipment, timing and phasing at any time and, after consultation with the Maintaining Agency, may specify modifications. If the Department specifies modification in timing and/or phasing, implementation of such modifications shall be coordinated with, or made by, the Maintaining Agency.
5. The Maintaining Agency shall note in the maintenance log any time/phasing changes and keep a copy of the timings and any approval documentation in a file.

6. The Maintaining Agency and the Department shall develop the Exhibit A which by this reference is made a part of this Agreement as though fully set forth herein. Exhibit A shall contain all existing traffic signals on the State Highway System, applicable to the jurisdiction of the Maintaining Entity, those that are maintained by the Maintaining Agency and those that are not included for compensation. No changes or modifications will be made to Exhibit A during the year for compensation. New signals added by the Department during the fiscal year shall be maintained and operated by the Maintaining Agency upon final acceptance as stated in paragraph 1. The Maintaining Agency and the Department, preceding each fiscal year, shall develop and execute a new Exhibit A, which shall include all new Department signals added during the previous fiscal year and delete those removed. The Maintaining Agency shall begin receiving compensation for new Department's signals in the next fiscal year. In the event that no change has been made to the previous year's Exhibit A, a statement to this effect should be included. The annual compensation will be a lump sum payment detailed in Exhibit B. Future payments will be based on the information provided in Exhibit A, in accordance with the provisions as detailed in Exhibit B, attached and made a part hereof.

- a) Payment shall be made only after receipt and approval of service.
- b) Payment shall be made in accordance with Section 215.422, Florida Statutes.
- c) Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.
- d) Record of costs incurred under terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for three (3) years after final payment for the work pursuant to this Agreement is made. Copies of these documents and records shall be furnished to the Department upon request. Record of costs incurred include the Maintaining Agency's general accounting records, together with supporting documents and records of the Maintaining Agency and all subcontractors performing work, and all other records of the Maintaining Agency and subcontractors considered necessary by the Department for proper audit of costs.

7. Maintaining Agency providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has five (5) working days to inspect and approve the goods and services, unless the Agreement specifies otherwise. The Department has twenty (20) days to deliver a request for payment (voucher) to the Department of Banking and Finance. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

8. If a payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to Section 215.422, Florida Statutes, shall be due and payable, in addition to the invoice amount, to the Maintaining Agency. Interest penalties of less than one (1) dollar shall not be enforced unless the Maintaining Agency requests payment. Invoices returned to a Maintaining Agency because of Maintaining Agency preparation errors shall result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

9. A Vendor Ombudsman has been established within the Department of Banking and Finance. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the State Comptroller's Hotline, 1-800-848-3792.

10. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

11. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

12. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement.

13. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

- (a) The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection shall be null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than one year.

14. The Maintaining Agency may be subject to inspections of traffic signals and traffic signal systems by the Department. Such findings will be shared with the Maintaining Agency and shall be the basis of all decisions regarding payment reduction, reworking, Agreement termination, or renewal. If at any time the Maintaining Agency has not performed the maintenance responsibility on the locations specified in the Exhibit A, the Department shall have the option of (a) notifying the Maintaining Agency of the deficiency with a requirement that it be corrected within a specified time, otherwise the Department shall deduct payment for any deficient traffic signal(s) maintenance not corrected at the end of such time, or (b) take whatever action is deemed appropriate by the Department. Any suspension or termination of funds does not relieve any obligation of the Maintaining Agency under the terms and conditions of this Agreement.

15. The Maintaining Agency may enter into agreements with other parties pertaining to traffic signals and signal systems including, but not limited to, agreements relating to costs and expenses incurred in connection with the operation of traffic signals and signal systems on the State Highway System, provided that such Agreements are consistent with the mutual covenants contained in this Agreement. The Maintaining Agency shall furnish a copy of such agreements to the Department.

16. This Agreement may not be assigned or transferred by the Maintaining Agency in whole or in part without consent of the Department.

17. The Maintaining Agency shall allow public access to all documents, papers, letters, or other material subject to provisions of 119, Florida Statutes, and made or received by the Maintaining Agency in conjunction with this Agreement. Failure by the Maintaining Agency to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the Department.

18. The Maintaining Agency, to the extent allowed by Section 768.28, Florida Statutes, shall indemnify, defend, save and hold harmless, the State, the Department, any joint pole owner and all of their officers, agents and employees from all suits, actions, claims, demands, and liabilities of any nature whatsoever arising out of, because of, or due to breach of, this Agreement by the Maintaining Agency, its subcontractors, agents or employees or due to any act or occurrence of omission or commission of the Maintaining Agency, its subcontractors, agents or employees. The parties agree that this paragraph shall not waive sovereign immunity of the State of Florida, nor waive the benefits or provisions of Section 768.28, Florida Statutes, or any similar provision of law.

19. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The invalidity or unenforceability of any portion of this Agreement shall not affect the remaining provisions and portions hereof. Any failure to enforce or election on the part of the Department to not enforce any provision of this Agreement shall not constitute a waiver of any rights of the Department to enforce its remedies hereunder or at law or in equity.

20. This Agreement shall remain in force during the life of the original installed equipment and/or the life of any replacement equipment installed with the mutual consent of the parties hereto.

21. Upon execution, this Agreement cancels and supersedes any and all prior Traffic Signal Maintenance Agreement(s) between the parties.

22. This Agreement contains all the terms and conditions agreed upon by the parties.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

CITY OF MARATHON, Florida  
(Maintaining Agency)

By: [Signature]  
(Authorized Signature)

Print/Type Name: John Bartus

Title: Mayor

Attest: Katherine V. Selcher  
City Clerk (Seal if Applicable)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: [Signature]  
(Authorized Signature)

Print/Type Name: GUS PEGO

Title: Director of Operations

Attest: [Signature]

REVIEWED:

Attorney

[Signature]  
Date: 7/30/02

Reviewed:

Alicia Layett  
Attorney, FDOT



**EXHIBIT B**

**TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT**

**1.0 PURPOSE**

This exhibit defines the method and limits of compensation to be made to the Maintaining Agency for the services described in this Agreement and in Exhibit A and Method by which payments will be made.

**2.0 COMPENSATION**

For the satisfactory completion of all services detailed in this Agreement and Exhibit A of this Agreement, the Department will pay the Maintaining Agency the Total Lump Sum in Exhibit A. The Maintaining Agency will receive one lump sum payment at the end of each fiscal year for satisfactory completion of service.

Total Lump Sum Amount for each Fiscal Year is calculated by adding all of the individual intersection amounts. The individual intersection amounts are calculated by taking the FY Unit Rate times the Percent of State Road Approaches to Total Approaches.

Example: For a intersection with 4 approaches with 2 approaches (50%) being state roads, the intersection amount will be:  $\$518 \times (2/4) = \$259$

**Unit Rates per 100% State Intersections**

|          |         |
|----------|---------|
| FY 02-03 | \$ 518  |
| 03-04    | \$1,599 |
| 04-05    | \$2,196 |
| 05-06    | \$2,262 |
| 06-07    | \$2,330 |

Beginning FY 07-08, the Unit Rate for each fiscal year will be 3% more than the Unit Rate for the previous fiscal year, unless otherwise specified in an amendment to this Agreement.

**3.0 PAYMENT PROCESSING**

The Maintaining Agency shall invoice the Department yearly in a format acceptable to the Department.



Chuck  
Jones file:  
DOT

# Florida Department of Transportation

JEB BUSH  
GOVERNOR

District Traffic Operations Office  
1000 NW 111 Avenue, Room 6202  
Miami, Florida 33172  
Telephone (305) 470-5335

THOMAS F. BARRY, JR.  
SECRETARY

June 4, 2002

JUN 21 2002

Mr. Chuck Adams  
Director of Community Services  
City of Marathon  
8700 Overseas Hwy  
Marathon, Florida 33050

CERTIFIED MAIL  
Z 403 389 609

**Re: Traffic Signal Maintenance & Compensation Agreement**

Dear Mr. Adams:

You may be aware of the previous letters sent to your local government about the new traffic signal maintenance agreement. Beginning in FY 2002/2003, these new agreements will allow the Florida Department of Transportation to reimburse local governments for the cost to maintain and operate traffic signals and highway lighting on the state highway system.

For traffic signals, the reimbursement rate will be a statewide standard rate that will be adjusted to reflect the proportion of state highway connections entering the intersection. Only full traffic control signals will be eligible for this reimbursement program. Flashing signals and school zone signals will not be considered for reimbursement.

To be eligible for reimbursement local governments must:

- Execute the new enclosed Traffic Signal Maintenance and Compensation Agreement.
- Execute Exhibit A (an annual list of traffic signals eligible for reimbursement).
- Submit a resolution or documentation designating the officer(s) authorized to sign the Agreements.
- Annually certify that the traffic signals were maintained and operated in accordance with the terms of the agreement.

The following information should be helpful to you:

- Carefully review the enclosed Exhibit A. Exhibit A is the form where the signalized intersections on the State Highway System are listed. Please list all eligible Traffic signals on the attached Exhibit A. If you note any discrepancies on the form, please contact the Department immediately.

Cont...




Exhibit A must be signed and submitted with the Traffic Signal Maintenance and Compensation Agreement. For your information, each year the local government and the Department must agree on the number of signals for reimbursement and must sign a new Exhibit A.

- A resolution by the local government authorizing the execution of the agreement is no longer required by the Agreement. However, the Department will still need a resolution authorized to sign the Agreement of documentation that an officer(s) is authorized to sign the Agreement. Please submit a copy of the resolution or documentation with the executed Traffic Signal Maintenance and Compensation Agreement.
- Please send the above documents; the Traffic Signal Maintenance and Compensation Agreement, Exhibit A, and the resolution or documentation, to me at the address on the letterhead as soon as possible. The Department would like to receive the documents by June 30, 2002; however we realize at this late date in the year that may not be possible.
- If you have any questions about the new Traffic Signal Maintenance and Compensation Agreement, please contact Gary Ogle in our District Six office at (305) 470-5335.
- All questions concerning the Highway Lighting Maintenance Agreement should be directed to Jesus Valderrama at (305) 470-5347.

Hopefully, the above information will be helpful to you. We look forward to the execution of the required documents so that the Department can begin to compensate you for some of the costs to maintain traffic signals and highway lighting on the state highway system. Please contact us if you have any questions.

Sincerely,

  
Rory Santana, P.E.  
District Traffic Operations Engineer

cc: Gary D. Ogle, Traffic Operations Engineer

Enclosures: Traffic Signal Maintenance and Compensation Agreement  
Exhibit A



## Florida Department of Transportation

JEB BUSH  
GOVERNOR

THOMAS F. BARRY, JR.  
SECRETARY

District Six – Traffic Operations  
1000 N.W. 111<sup>th</sup> Avenue, Room 6202  
Miami, Florida 33172  
(305) 470-5335

October 8, 2002

Katherine V. Selchan  
City Clerk  
City of Marathon  
210 N. University Drive, suite 702  
Coral Springs, Fl. 33071



Re: City of Marathon  
Executed Traffic Signal Maintenance & Compensation Agreement

Dear Ms. Selchan:

Please find enclosed one (1) executed Agreement of the above referenced Agreement. If you have any questions please call.

Sincerely,

Gary D. Ogle  
Field Operations Engineer

Cc: Rory Santana, P.E. District Traffic Operations Engineer

**SETTLEMENT AGREEMENT  
BETWEEN  
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
AND  
THE CITY OF MARATHON**

THIS AGREEMENT made this 12<sup>th</sup> day of MARCH, 2009, between the State of Florida Department of Transportation, an agency of the State of Florida, 1000 Northwest 111<sup>th</sup> Avenue, Miami, Florida 33172, hereinafter referred to as "Department", and the City of Marathon, 9805 Overseas Highway, Marathon, Florida 33050, hereinafter referred to as "Maintaining Agency".

WHEREAS, on September 30, 2002, the parties entered into a Traffic Signal Maintenance and Compensation Agreement, numbered AM 761, providing for the Maintaining Agency to undertake the maintenance and operation of traffic signals or signal systems on the State Highway System (hereinafter referred to as "Master Agreement") in exchange for compensation to be paid by the Department, and

WHEREAS, Exhibit "A" of said Master Agreement is a list of all traffic signals on the State Highway System to be maintained by the Maintaining Agency, and

WHEREAS, pursuant to the Master Agreement, the parties agreed that preceding each fiscal year they would develop and execute a new, updated Exhibit "A", which was to include all new Department traffic signals added during the previous fiscal year and delete all those traffic signals removed, and

WHEREAS, compensation by the Department to the Maintaining Agency was agreed to be an annual lump sum based upon the list of traffic signals set forth on Exhibit "A," and

WHEREAS, based on the annual updates of Exhibit "A", the Department was to encumber funds in advance, to cover payments that were to be invoiced by the Maintaining Agency during the ensuing fiscal year; and

WHEREAS, following execution of the Master Agreement, an updated Exhibit "A" was not developed in advance of each fiscal year. Instead, the updated exhibit was submitted to the Department the fiscal year after the services were rendered, contrary to the requirements of the Master Agreement. As a result, funds were not encumbered prior to the services being rendered, and

WHEREAS, the Maintaining Agency has submitted an invoice in the amount of \$10,319.55, representing the total sum for the traffic signal maintenance on state roads in Miami-Dade County from July 1, 2007 thru June 30, 2008, and

WHEREAS, the Maintaining Agency has, in good faith, provided the maintenance and operations services set forth in the invoice, and has asserted a colorable legal claim in support of its demand for payment, and

WHEREAS, a process has been developed to execute, preceding each fiscal year, a new, updated Exhibit "A", thus avoiding entering into a settlement agreement with the Maintaining Agency in the following years; and

WHEREAS, the Department, by entering into this Settlement Agreement, admits no liability for payment of the services performed by the Maintaining Agency.

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

1. The recitals hereinbefore set forth are true and correct and are deemed to be incorporated herein.

2. Upon receipt of payment as provided in paragraph number 3 below, the Maintaining Agency for itself and for its attorneys, heirs, executors, or administrators, does hereby discharge the State of Florida Department of Transportation, and its agents, representatives, and attorneys of and from all claims, demands, actions, causes of action, suits, damages, losses, and expenses, of any and every nature whatsoever, arising out of or in any way related to the above referenced Master Agreement, services or work performed in conjunction with or on said Master Agreement, and any invoices for such services or work including, but not limited to, those claims asserted or other claims that were or may be asserted in any federal, state or local agency or court, by or on behalf of the Maintaining Agency.

3. The Department herein agrees to submit to the Comptroller of the State of Florida for payment the sum of \$10,319.55 in full and complete satisfaction of any amounts or costs associated with the work performed by the Maintaining Agency and any claims and invoices associated therewith, or with any other written or verbal supplementation and/or renewal thereto, including all interest and costs and fees associated with the claim matters referenced herein.

4. This agreement is contingent upon approval by the Chief Financial Officer of the State of Florida. Until such approval is received the Department has no obligation to make any payments pursuant to this agreement.

5. The parties to this agreement further agree and covenant that this agreement is binding on the parties, their heirs-at-law, and their assigns and successors in interest as evidenced by their signatures and lawful executions below.

6. All terms and conditions of this settlement are fully set forth in this document and no other material terms in settlement exist outside this document.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

THE CITY OF MARATHON

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

BY: Clyde Burnett

BY: Stephanie Kopelousus  
Stephanie Kopelousus, Secretary

Title: CITY MANAGER

ATTEST: Diane Clavier  
Secretary/Notary

FOR DEPARTMENT USE ONLY APPROVED FUNDS AVAILABLE  
ROBIN NAITOVE - COMPTROLLER

Scott Bizabali 3/11/09  
CENTRAL LEGAL REVIEW

MAR 11 2009  
FDOT COMPTROLLER  
APPROVAL [Signature]