

RESOLUTION NO. 2003-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE INTERLOCAL AGREEMENT BETWEEN THE CITY AND MONROE COUNTY FOR REHABILITATION OF THE BOOT KEY HARBOR BRIDGE; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Marathon, Florida (the "City") and Monroe County, Florida (the "County") (collectively, the "Parties") previously entered into a Memorandum of Understanding dated May 16, 2001 whereby the City agreed to accept ownership of the Boot Key Harbor Bridge (the "Bridge") conditioned upon the County agreeing to pay up to \$1,000,000.00 for repairs to the Bridge; and

WHEREAS, the Parties believe it is in their best interest to enter into an Interlocal Agreement regarding the repairs to be done the Bridge.


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 of Agreement.** The Agreement between the City and the County in substantially the form as the attached as Exhibit "A," together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is approved. The Mayor is authorized to execute said Agreement on behalf of the City.

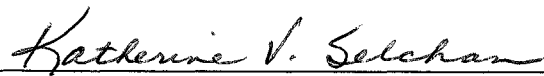
Section 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 11th day of December, 2002.



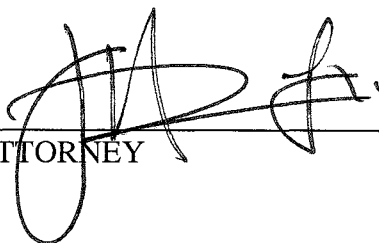
JOHN BARTUS, MAYOR

ATTEST:



KATHERINE V. SELCHAN
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY



CITY ATTORNEY



BOARD OF COUNTY COMMISSIONERS

Mayor Dixie M. Spehar, District 1
Mayor Pro Tem "Sonny" McCoy, District 3
Murray Nelson, District 5
George Neugent, District 2
David P. Rice, District 4

Office of the County Attorney
502 Whitehead Street, Rear
Post Office Box 1026
Key West, FL 33041-1026
(305) 292-3470



Handwritten notes:
10/19/05
10/19/05
Kathy Peters

November 2, 2005

Ms. Cindy Ecklund, Clerk
City of Marathon
10045-55 Overseas Highway
Marathon, FL 33050

Re: Addendum to Interlocal Agreement for the
Rehabilitation of the Boot Key Harbor Bridge

Dear Ms. Ecklund:

Enclosed please find one (1) originally executed copy of the above-referenced *Addendum* which was approved by the Monroe County Board of County Commissioners on 10/19/05 for your records. Should you have any questions or concerns, please feel free to contact Assistant County Attorney Natileene "Nat" Cassel, or myself, by phoning (305) 292-3470. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Kathy Peters'.

Kathy Peters for:
NATILEENE W. CASSEL
Assistant County Attorney

KMP/

Enclosures: (1) originally executed copy

cc: Mr. Mike Puto, City Manager, City of Marathon

**ADDENDUM TO
INTERLOCAL AGREEMENT FOR THE REHABILITATION
OF THE BOOT KEY HARBOR BRIDGE**

THIS FIRST ADDENDUM to the Interlocal Agreement for the Rehabilitation of the Boot Key Harbor Bridge dated the 19th day of October 2005 is entered into pursuant to Sec. 163.01, FS, by and between the City of Marathon (City), a Florida municipal corporation whose address is 10045-55 Overseas Highway, Marathon, FL 33050; and Monroe County (County), a political subdivision of the State of Florida, whose address is Gato Building, 1100 Simonton Street, Key West, FL 33040.

WITNESSETH:

WHEREAS, on May 16, 2001, the City and the County entered into a Memorandum of Understanding in which the County agreed to convey the Boot Key Bridge to the City; and the County agreed to pay up to \$1,000,000.00 for the necessary repairs to the Boot Key Bridge; and

WHEREAS, on January 15, 2003, the County and the City entered into an Interlocal Agreement in which the County agreed to pay up to \$956,400.00 for the necessary repairs to the Boot Key Bridge; and

WHEREAS, the City has requested and the County has agreed to change the Interlocal Agreement to allow the City to use the allotted sum for maintenance and repair of the roads within the City as well as for bridge rehabilitation; and

WHEREAS, on September 17, 2003, the Board of County Commissioners voted to delete the restrictions on the expenditures set forth in the Interlocal Agreement in order to allow the monies to also be used by the City for road maintenance;

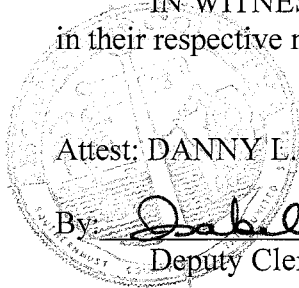
NOW THEREFORE IN CONSIDERATION of the mutual promises contained herein, the parties hereby agree as follows:

1. Section 2. a. of the Interlocal Agreement dated January 15, 2003, shall be amended by adding the following sentence:
 - a. Effective September 17, 2003, the City may also perform the necessary services to maintain and repair the roads in the City; and the allocation of the funds as stated in Exhibit A no longer apply.
2. Section 3.d. of the Interlocal Agreement dated January 15, 2003, shall be amended by adding the following sentence:
 - d. Effective September 17, 2003, the restrictions on how the \$956,400.00 is divided shall not apply in order to enable the City to allocate the funds to be used as necessary for bridge rehabilitation and for maintenance of

roads in the City; and the allocation of the funds as stated in Exhibit A no longer apply.

3. The remaining terms of the Interlocal Agreement entered into on May 16, 2001, not inconsistent herewith shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused these presents to be executed in their respective names.



Attest: DANNY L. KOLHAGE, CLERK

By: *Daniel C. DeSantis*
Deputy Clerk

Date: 10-19-05

BOARD OF COUNTY
COMMISSIONERS OF MONROE
COUNTY, FLORIDA

By: *Heidi M. Spahr*
Mayor/Chairman

(SEAL)

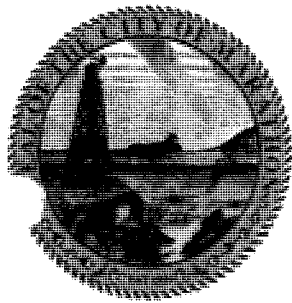
Attest: Clerk
By: *[Signature]*
City Clerk

Date: 10/14/05

CITY OF MARATHON, FLORIDA
By: *[Signature]*
Mayor

By: *[Signature]*
City Attorney

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Natleene W. Cassel
(NATILEENE W. CASSEL)
ASSISTANT COUNTY ATTORNEY
Date: 10/19/05



John Bartus
Mayor

Randy Mearns
Vice Mayor

Franklin D. Greenman
Councilman

John Repetto
Councilman

Pete Worthington
Councilman

Craig Wrathell,
Moyer, Ward, Wrathell
& Associates
City Manager

Nina L. Boniske
John R. Herin, Jr.,
Weiss Serota Helfman
Pastoriza & Guedes, P.A.
City Attorneys

December 17, 2002

County of Monroe
Engineering Department
1100 Simonton Street
Key West, FL 33040

Attention: Mr. David S. Koppel, P.E.
County Engineering

Subject: **City of Marathon – Monroe County, Florida
Boot Key Bridge – Interlocal Agreement**

Dear Mr. Koppel:

On behalf of the City of Marathon, I am pleased to provide you with three (3) duplicate originals of the revised agreement concerning the Boot Key Bridge. The documents have been executed on behalf of the City of Marathon, and will now need to be executed on behalf of Monroe County.

Upon completion, please return one (1) fully executed original to my attention for the City's records at the following address:

**Mrs. Katey Selchan, City Clerk
City of Marathon
c/o Seven Trent Services-Moyer
210 N. University Drive, Suite 702
Coral Springs, Florida 33071**

Should you have any further questions or concerns, please do not hesitate to contact me directly.

Your attention to this matter is greatly appreciated.

Sincerely,

Katherine V. Selchan
City Clerk
City of Marathon

:ks
Enclosures

c: Mr. Nina L. Boniske, City Attorney
Weiss, Serota, Helfman, Pastoriza & Guedes, P.A.
2665 South Bayshore Drive, Suite 420
Miami, Florida 33133

PLEASE REPLY TO:

10045-55 Overseas Highway ■ Marathon, Florida 33050 ■ Phone: 305-743-0033 ■ Fax: 305-743-3667
 210 N. University Drive, Suite 702 ■ Coral Springs, Florida 33071 ■ Phone: 954-753-5841 ■ Fax: 954-345-1292

**INTERLOCAL AGREEMENT FOR THE
REHABILITATION OF THE BOOT KEY HARBOR BRIDGE**

THIS INTERLOCAL AGREEMENT (the "Interlocal Agreement") is entered into pursuant to Sec. 163.01, FS, by and between the City of Marathon (City), a Florida municipal corporation whose address is 10045-55 Overseas Highway, Marathon, FL 33050; and Monroe County (County), a political subdivision of the State of Florida, whose address is Gato Building, 1100 Simonton Street, Key West, FL 33040.

RECITALS

WHEREAS, the parties previously entered into a Memorandum of Understanding dated May 16, 2001 (the "MOU"); and

WHEREAS, pursuant to the MOU, the City agreed to accept ownership of the Boot Key Bridge (the "Bridge") conditioned upon the County agreeing to pay up to \$1,000,000.00 for repairs to the Bridge; and

WHEREAS, pursuant to the MOU the parties prepared a joint engineering report dated February 22, 2002 (the "Report") to identify necessary repairs of the Bridge; and

WHEREAS, the Report contains an Engineering estimate for rehabilitation costs, estimating the cost of 22 line items at \$630,333, plus a 20% contingency in the sum of \$126,066; and

WHEREAS, Design and other professional services required for the Bridge repair work are estimated to cost \$200,000.

NOW THEREFORE, IN CONSIDERATION of the mutual promises set forth below, the parties agree as follows:

1. This Interlocal Agreement supersedes the one approved by the Board of County Commissioners on September 18, 2002.

2. Project. The City agrees:

- a. to perform the necessary services to rehabilitate the Bridge, located within the City, hereafter the Project. The Project includes: professional engineering, design, construction administration and inspection services, preparation of the appropriate procurement documents to bid the rehabilitation work, review of the bids, award of the rehabilitation work and construction services. The Project work is more particularly described in Exhibit "A," which is attached to, and made a part of, this interlocal agreement.
- b. The City will be responsible for bidding and selection of the appropriate contractors entering into contracts for the Project and supervising all design, construction administration, inspection services and construction services.

3. Payment. The County agrees to reimburse the City for the Project as follows:

- a. Reimbursement is on a monthly basis.
- b. To receive payment, the City must submit to the County Engineer, an invoice in the format attached as Exhibit "B," . The invoice must describe the services

performed together with proof that payment has been made to the City's contractor(s) and materialmen.

- c. If the invoice is satisfactory to the County Engineer, he/she shall forward the invoice to the County Clerk for payment. If the County Engineer or County Clerk determine that an invoice contains an error or omission, then the County Engineer or County Clerk (as appropriate) must return the invoice to the City with a written explanation of the error or omission. If the invoice contains no error or omission, then the County shall pay the City within 20 days of the County Engineer's receipt of the invoice. If the invoice is returned for correction, then the payment must be made within 20 days of the date the County official who requested the correction receives the corrected invoice.
- d. The maximum amount the County is obligated to reimburse the City under this Interlocal Agreement is \$956,400.00; provided that this amount shall be further divided as follows: \$200,000.00 for professional engineering, design, bidding, construction administration, and inspection services and \$756,400.00 for the construction costs of the Bridge rehabilitation. The allocation of amounts for the particular construction tasks are set forth in detail in Exhibit A. Those allocations are guidelines, however, and shall be adjusted to reflect the actual amounts of the construction contract(s) entered into by the City.
- e. Before the final payment may be made releases for any and all claims against the City from its contractor(s) and materialmen must also be furnished to the County.

4. Records. The City agrees to keep its financial records pertaining to the Project according to generally accepted accounting principles and to retain such records for three years following the date when the Project is complete. The records must be made available for inspection by an auditor employed by the County Clerk or County during regular business hours (Monday to Friday, 9 AM – 5 PM, holidays excepted). If the auditor determines that County funds paid to the City under this Interlocal Agreement were used for a purpose not authorized by this agreement, then the City must refund the funds improperly spent with interest calculated pursuant to Section 55.03, Florida Statutes, with interest running from the date the County paid the improperly spent funds to the City. This paragraph will survive the completion of Project and the receipt of the final payment by the City.

5. Indemnification. To the extent permitted by Section 768.28, Florida Statutes, the City agrees to indemnify and hold harmless the Board Of County Commissioners, the County, its officers, employees, agents and contractors, from any negligent act(s) or omission(s) of the City, its officers and employees, contractors (in any tier) and materialmen, that occur during, or as a result of, the Project, including any claims by unsuccessful bidders. This paragraph will survive the completion of the Project and the receipt of the final payment by the City.

6. Funding. The parties agree that the County's responsibility under the Agreement is to provide funding only. Accordingly, all design and inspection professionals, Project contractors (in any tier) and materialmen furnishing materials for the Project, are in privity with the City only, may not seek direct payment from the County, and that the County has no duty, liability or other obligation to such persons. The City agrees to include a sentence similar to the foregoing in all contracts entered into by the City for the Project.

7. Applicable Laws. In awarding contracts for the engineering, design, bidding, construction administration, inspection and rehabilitation of the Bridge the City agrees to abide by all applicable City ordinances and state and federal laws.

8. Time Issues. The parties recognize that the City will enter into contractual obligations with third parties in order to perform the services required by this Project and that the County shall be the funding source for a significant portion of the City's cost of the Project. Accordingly, the County and the County Clerk shall timely process all invoices received from the City in accordance with the provisions of Paragraph 2.

9. Notices. All correspondence between the parties made necessary by this interlocal agreement must be in writing and delivered to the following by registered mail, return receipt requested, hand delivery or private postal carrier:

Monroe County
Dave Koppel, Engineer
1100 Simonton Street
Key West, FL 33040

City of Marathon
City Manager
10045-55 Overseas Highway
Marathon, FL 33050

Copy to: City Attorney
Weiss Serota Helfman
Pastoriza & Guedes, P.A.
2665 South Bayshore Drive
Suite 420
Miami, FL 33133

10. Term. This Interlocal Agreement shall be effective upon the date of execution by the last party and a copy is filed with the Clerk of the Circuit Court, pursuant to Section 163.05(11), Florida Statutes and shall remain effective until final reimbursement of funds under Paragraph 3(d) is made to the City by the County.

11. Venue/Attorneys' Fees. Venue for any litigation arising under this Interlocal Agreement must be in a court of competent jurisdiction in Monroe County, Florida. In the event of any administrative, trial or appellate litigation arising out of this Agreement, the prevailing party is entitled to costs plus a reasonable attorney's fee from the non-prevailing party.

12. Prior Agreements. The parties agree that this Interlocal Agreement represents the parties' final mutual understanding and replaces any prior agreements concerning the same subject matter whether written or oral. This Interlocal Agreement may only be modified by a writing agreed to by both parties.

13. Severability. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, illegal, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.

14. Assignment. This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered by either party without the prior written consent of the other party.

15. Amendment. No modification, amendment or alteration in the terms or conditions of this Interlocal Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement.

16. Survival of Provisions. Any terms or conditions of either this Interlocal Agreement or any subsequent Agreement that require acts beyond the date of the term of either agreement, shall survive termination of the agreements, shall remain in full force and effect unless and until the terms or conditions are completed, and shall be fully enforceable by either party.

Exhibit A

Scope of Work – To perform repairs necessary to bring the Boot Key Bridge into a condition acceptable for transfer from Monroe County to the City of Marathon. Work will include repairs to the concrete structure, structural steel, electrical system and mechanical system. Details of particular items and estimated quantities are identified on the estimated rehabilitation cost sheet amended 2/22/02. Twenty-two items are identified having a total estimated cost of \$756,400.00, which includes a 20% contingency.

Project: Boot Key Bridge Rehabilitation
 Location: Monroe County, Florida
 Date: 2/1/02
Amended 2/22/02

Item No.	Qty	Unit	Description	Unit Price	Extension
1	L.S.	L.S.	Mobilization	L.S.	\$60,000.00
2	L.S.	L.S.	Maintenance of Traffic	L.S.	30,000.00
3	300	L.F.	Turbidity Barrier	\$12.00	3,600.00
4	1800	L.F.	Relocating Barriers	1.00	1,800.00
5	650	L.F.	Reseal Expansion Joints	\$20.00	13,000.00
6	4984	Inches	Inject & Seal Cracks	\$ 1.67	8,373.00
7	L.S.	L.S.	Structural Steel Repair	L.S.	150,000.00
8	L.S.	L.S.	Paint Structural Steel	L.S.	170,250.00
9	L.S.	L.S.	Concrete Bridge Railing	L.S.	12,400.00
10	L.S.	L.S.	Submarine Cable	L.S.	4,500.00
11	L.S.	L.S.	Traffic Signals	L.S.	1,200.00
12	5	Ea.	Warning Gates	\$2000.00	10,000.00
13	L.S.	L.S.	Electrical Repair	L.S.	12,000.00
14	L.S.	L.S.	Mechanical Repair & Adjust	L.S.	18,000.00
15	91,517	cu.in.	Spalling Conc. Repair(Epoxy)	\$0.145	13,270.00
16	52,876	cu.in.	Spalling Conc. Modified P.CC	\$0.052	2,750.00
17	L.S.	1 Ea.	Remove Generator/Install Remote	L.S.	8,000.00
18	L.S.	L.S.	Remove & Repair Side	L.S.	1,040.00
19	88	L.F.	Structural Pile Jacket	\$850.00	74,800.00
20	34	L.F.	Regular Pile Jacket	\$600.00	20,400.00
21	600	L.F.	Guard Railing	\$20.00	12,000.00
22	L.S.	L.S.	Abutment Slope Protection	L.S.	3,000.00
					\$630,333.00
				20%	126,066.00
			Estimated Rehabilitation Cost		\$756,400.00

IBC/jl
 BootKeyBrRehabCostList.DOC

17. Default/Termination Remedies.

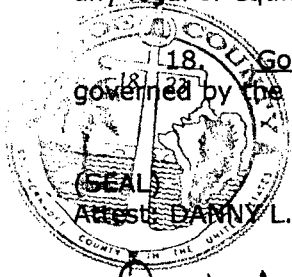
17.1 In the event of a failure to perform or a breach of any obligation of this Interlocal Agreement by either County or City, which failure or breach is not cured within thirty (30) days of written notice thereof, such action shall constitute a default by the party committing said default.

17.2 If and when any default of this Interlocal Agreement occurs, the non-defaulting party may, by 10 days written notice to the defaulting party, terminate this Interlocal Agreement and avail itself of any legal or equitable remedies that may apply, including, but not limited to, injunctive relief, actual damages and specific performance of this Agreement.

17.3 Such remedies may be exercised in the sole discretion of the non-defaulting party.

17.4 Nothing contained in this Agreement shall limit either party from pursuing any legal or equitable remedies that may apply.

18. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.



Attest: DANNY L. KOLHAGE, Clerk

By Sahel C. DeSantis
Deputy Clerk

Date 01-15-03

County Attorney

(SEAL)
Attest: Clerk

By Katherine V. Selchan
Katherine Selchan, City Clerk

Date December 11, 2002

WEISS SEROTA HELFMAN
PASTORIZA & GUEDES, P.A.

[Signature]
City Attorney

jdlaCOMBKHBNS

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By [Signature]
Mayor/Chairperson

DANNY L. KOLHAGE
CLERK, C.R. CT.
MONROE COUNTY, FLA.
2003 MAR -3 PM 3:00

FILED FOR RECORD

CITY OF MARATHON, FLORIDA

By [Signature]
John Bartus, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY: [Signature]
ROBERT N. WOLFE
DATE 12-23-02