

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2005-035**

**A RESOLUTION OF THE CITY OF MARATHON, FLORIDA, APPROVING  
AND RATIFYING THE PREVIOUSLY SIGNED TRAFFIC SIGNAL  
MAINTENANCE AND COMPENSATION AGREEMENT BETWEEN THE  
CITY OF MARATHON AND THE STATE OF FLORIDA DEPARTMENT  
OF TRANSPORTATION**

**WHEREAS**, on July 30, 2002 the City Council of the City of Marathon (City) entered into an agreement between the City and the State of Florida Department of Transportation providing for compensation to the City for maintaining Traffic Signals within it's jurisdiction; and

**WHEREAS**, a revised agreement was entered into in September 2003 by the City's Community Development Director; and

**WHEREAS**, the revised agreement differs from the previous agreement dated September 30, 2002, as this agreement increases the compensation to the City for each fiscal year as described on the attached Exhibit "B".

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

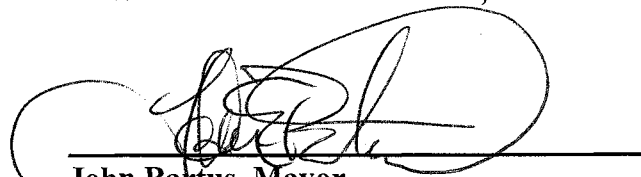
**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** The Traffic Signal Maintenance and Compensation Agreement between the City of Marathon and the State of Florida Department of Transportation, a copy of which is 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 and ratified.

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

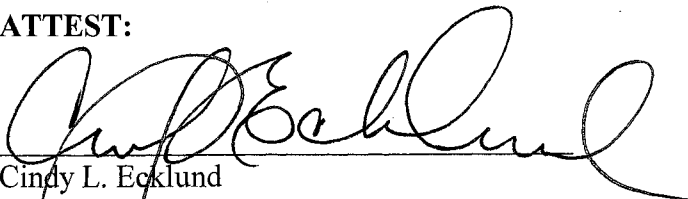
**PASSED AND APPROVED** by the City Council of the City of Marathon, Florida, this 22nd day of March, 2005.

**THE CITY OF MARATHON, FLORIDA**

  
\_\_\_\_\_  
**John Bartus, Mayor**

AYES: Bull, Mearns, Miller, Pinkus, Bartus  
NOES: None  
ABSENT: None  
ABSTAIN: None

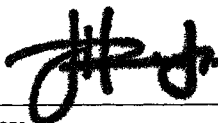
**ATTEST:**



Cindy L. Ecklund  
City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE  
CITY OF MARATHON, FLORIDA ONLY:**



City Attorney

CONTRACT NO. AM 761  
FINANCIAL PROJECT NO. 40557618802  
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, 2003, by and between the Florida Department of Transportation, an agency of the State of Florida, herein called the "Department", and CITY OF MARATHON 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, modems, and communications interconnect), flashing 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 flashing 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. Prior to any acceptance by the Department, the Maintaining Agency shall have the opportunity to inspect and request modifications/corrections to the installation(s) and Department agrees to undertake those prior to acceptance so long as the modifications/corrections comply with the contract and specifications previously approved by both the Department and Maintaining Agency. 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 and consultation with 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. Signal Systems timings (cycle length, split, offsets) are considered operational changes and may be changed by the Maintaining Agency 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 registered in the State of Florida. The Maintaining Agency shall make available a copy of the timings to the Department upon request. 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 will develop annually 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 maintained but 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. 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.

19. 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.

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

21. 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)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: Michael H Puto  
(Authorized Signature)

By: [Signature]  
(Authorized Signature)

Print/Type Name: Michael H Puto

Print/Type Name: Gus Aego

Title: Director of Community Dev.

Title: Director of Operations

Attest: \_\_\_\_\_  
(Seal if Applicable)

Attest: [Signature]

REVIEWED:

[Signature]  
Attorney Date

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY: [Signature]  
D. MICHAEL SCHLOSS, ESQ.

DATE: 9/25/03



Total Lump Sum	\$ 6875.70
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I certify that the above traffic signals will be maintained and operated in accordance with the requirements of the Traffic Signal Maintenance and Compensation Agreement.  
For satisfactory completion of all services detailed in this Agreement for this time period, the Department will pay the Maintaining Agency a Total Lump Sum of \$ 6875.70.

Michael H. Ruto      06/19/03  
Maintaining Agency      Date

[Signature]      09/24/03  
District Traffic Operations Engineer      Date

## 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.