

**CITY OF MARATHON, FLORIDA
RESOLUTION 2008-32**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A JOINT PARTICIPATION AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) AND THE CITY OF MARATHON TO UNDERTAKE AND COMPLETE REPAIRS TO THE EXISTING FDOT BOAT RAMP AT MILE MARKER 54 WITHIN THE INCORPORATED LIMITS OF THE CITY.

WHEREAS, the boat ramp owned by the FDOT located at Mile Marker 54, is identified in exhibit A, and attached hereto; and

WHEREAS, the Mile Marker 54 boat ramp is located within the City of Marathon (the City) and is utilized by citizens of and visitors to the City on a routine and frequent basis; and

WHEREAS, the Mile Marker 54 boat ramp is in serious need of maintenance and repair; and

WHEREAS, the City, in communication with FDOT, wishes to undertake repairs to the boat ramp utilizing funds earmarked for such improvements from the City's Capital Infrastructure fund; and

WHEREAS, the FDOT through a Joint Participation Agreement, has agreed to a 50 / 50 cost share of necessary repairs to the Mile Marker 54 boat ramp in an effort to accelerate the time frame for boat ramp repair;

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. Council authorizes approval of a Joint Participation Agreement mutually providing funds for the repair and maintenance of the Mile Marker 54 boat ramp

Section 3. This resolution shall take effect immediately upon its adoption and shall be attached to and become a part of the Joint Participation Agreement for repair of the Mile Marker 54 boat ramp.

Section 4. Immediately upon adoption, this resolution and the approved JPA will be transmitted to the Florida Department of Transportation for approval and signature.

PASSED AND APPROVED by the City Council of the City of Marathon, Florida, this 26th day of February, 2008.

THE CITY OF MARATHON, FLORIDA



Edward P. Worthington, Mayor

AYES: Bull, Cinque, Tempest, Vasil, Worthington
NOES: None
ABSENT: None
ABSTAIN: None

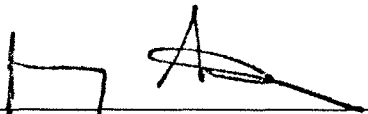
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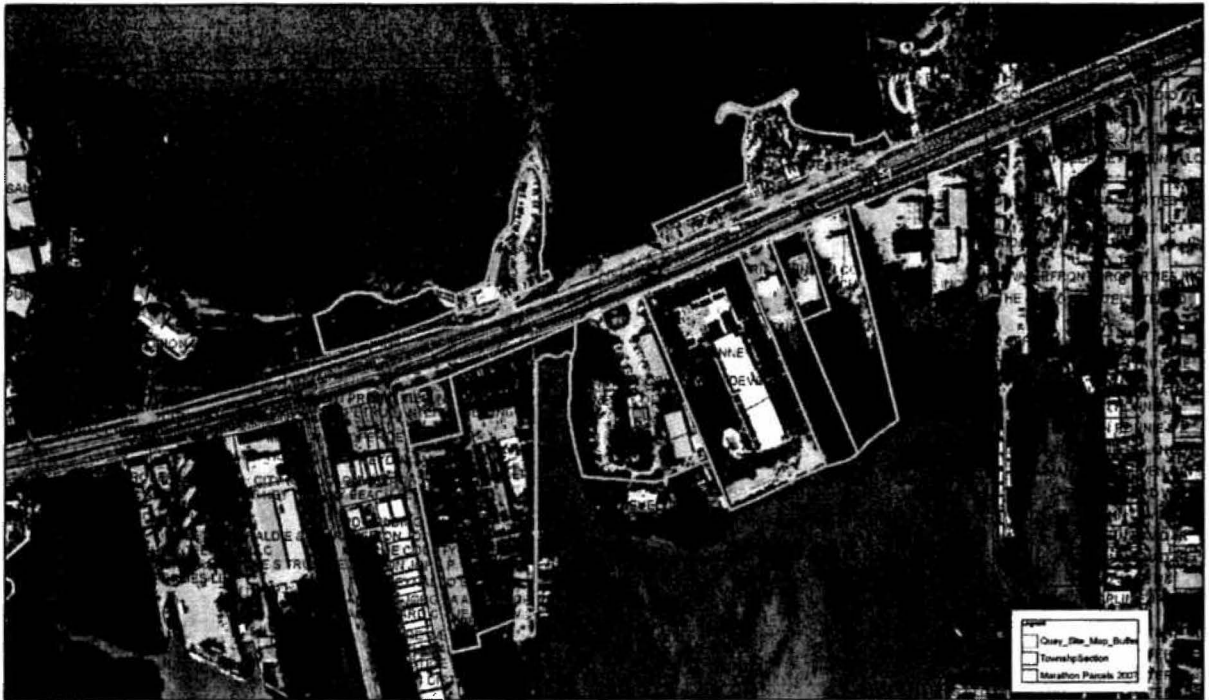
Diane Clavier, City Clerk

(City Seal)

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



City Attorney



City of Marathon, Florida

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

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, between the State of Florida Department of Transportation, a component agency of the State of Florida, hereinafter referred to as the 'DEPARTMENT', and the City of Marathon, a municipal corporation of the State of Florida, hereinafter referred to as the 'CITY'.

RECITALS:

WHEREAS, the CITY expects to undertake the construction of the Quay Boat Ramp within the corporate limits of the CITY; and

WHEREAS, the DEPARTMENT desires to improve that portion of the Quay Boat Ramp in Monroe County which is within DEPARTMENT rights-of-way at approximately Mile Marker 54, hereinafter referred to as the 'PROJECT', the individual elements of which are outlined in the attached Exhibit "A", 'Scope of Services', which is herein incorporated by reference; and

WHEREAS, the DEPARTMENT and the CITY desire to pool resources in order to gain efficiencies and economies for such work; and

WHEREAS, the DEPARTMENT agrees to participate in the costs of work performed on State Roadways and rights-of-way by reimbursing the CITY for eligible PROJECT costs up to a maximum limiting amount, as outlined in the attached Exhibit "B", 'Financial Summary', which is herein incorporated by reference; and

WHEREAS, the CITY has agreed to supervise and inspect all aspects of PROJECT construction and administration; and

WHEREAS, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and

WHEREAS, the parties are authorized to enter into this Agreement pursuant to **Sections 339.08(e) and 339.12, Florida Statutes;**

NOW, THEREFORE, in consideration of the premises, the mutual covenants and other valuable considerations contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. INCORPORATION OF RECITALS

The foregoing recitals are true and correct and are incorporated into the body of this Agreement, as if fully set forth herein.

2. GENERAL REQUIREMENTS

- a. The CITY shall submit this Agreement to its City Council for ratification or approval by resolution. A copy of said resolution is attached hereto as Exhibit "C", 'Resolution', and is herein incorporated by reference.
- b. The CITY covenants and agrees to obtain all necessary permits from the DEPARTMENT, and other concerned agencies, as needed, prior to commencing PROJECT construction on DEPARTMENT rights-of-way.
- c. The CITY covenants and agrees to advertise for bid, let the consultant and construction contracts, administer, supervise and inspect all aspects of PROJECT construction until completion, and, as further defined in Exhibit "A", 'Scope of Services'. The CITY shall complete the PROJECT on or before **March 31, 2009**. All aspects of PROJECT construction and administration are subject to DEPARTMENT standards and specifications and must be in compliance with all governing laws and ordinances.
- d. The CITY shall not execute any contract or obligate itself in any manner requiring the disbursement of DEPARTMENT funds, including consulting or construction contracts or amendments thereto, with any third party with respect to the PROJECT without the prior written approval of the DEPARTMENT. The DEPARTMENT specifically reserves the right to review qualifications of any consultant or contractor and to approve or disapprove CITY employment of same.
- e. The DEPARTMENT covenants and agrees to reimburse the CITY for eligible PROJECT costs as defined in Exhibit "B", 'Financial Summary', and in accordance with the financial provisions in Section 3 of this Agreement.

3. FINANCIAL PROVISIONS

- a. Eligible PROJECT costs may not exceed NINETY THOUSAND DOLLARS (\$90,000.00), as outlined in Exhibit "B", 'Financial Summary'. If additional funding is required, contingent upon DEPARTMENT approval, a supplemental agreement between the DEPARTMENT and the CITY

authorizing the additional funding shall be executed prior to such costs being incurred.

- b. The DEPARTMENT agrees to pay the CITY for the herein described services at a compensation as detailed in this Agreement.
- c. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Department's Comptroller under Section 334.044(29), Florida Statutes, or by the Department of Financial Services under Section 215.422(14), Florida Statutes.
- d. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.
- e. Travel costs will not be reimbursed.
- f. Records of costs incurred under the 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 five years after final payment is made. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred include the CITY's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the contractor and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs.
- g. In the event this contract is for services in excess of \$25,000.00 and a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

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 is 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 such 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 TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year.

h. The DEPARTMENT's obligation to pay is contingent upon an annual appropriation by the Florida Legislature.

4. GOVERNING LAW

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

5. AMENDMENT

This Agreement may be amended by mutual agreement of the DEPARTMENT and the CITY expressed in writing, executed and delivered by each party.

6. INVALIDITY

If any part of this Agreement shall be determined to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, if such remainder continues to conform to the terms and requirements of applicable law.

7. COMMUNICATIONS

a. All notices, requests, demands, consents, approvals and other communications which are required to be served or given hereunder, shall be in writing and hand-delivered or sent by either registered or certified U.S. mail, return receipt requested, postage prepaid, addressed to the party to receive such notices as follows:

To DEPARTMENT: Florida Department of Transportation
1000 Northwest 111 Avenue, Room 6205-B
Miami, Florida 33172-5800
Attn: Ronald Steiner, District Maintenance
Engineer

Ph: (305) 470-5351

To CITY:

City of Marathon
9805 Overseas Highway
Marathon, Florida 33050
Attn: George Garrett, FEMA Coordinator

Ph: (305) 289-4105

- b. Either party may, by notice given as aforesaid, change its address for all subsequent notices. Notices given in compliance with this section shall be deemed given when placed in the mail.

8. EXPIRATION OF AGREEMENT

The CITY agrees to complete the PROJECT on or before March 31, 2009. If the CITY does not complete the PROJECT within this time period, this Agreement will expire unless an extension of the time period is requested by the CITY and granted in writing by the DEPARTMENT's District Six Secretary or Designee, such Agreement not to be unreasonably withheld. Expiration of this Agreement will be considered termination of the PROJECT.

9. FINAL INVOICE

The CITY must submit the final invoice on this PROJECT to the DEPARTMENT within 120 days after the expiration of this Agreement. Invoices submitted after the 120-day time period will not be paid.

10. AUDITS

State of Florida Single Audit Act requirements as outlined in the attached Exhibit "D", 'Audit Reports', are incorporated herein by reference.

11. ENTIRE AGREEMENT

This Joint Participation Agreement is the entire Agreement between the parties hereto, and it may be modified or amended only by mutual consent of the parties in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the day and year above written.

CITY OF MARATHON

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION:

BY: Michael Hauto
CITY MANAGER

BY: [Signature]
DISTRICT SECRETARY

ATTEST: Jane Clavier
(SEAL) CITY CLERK

ATTEST: [Signature]
(SEAL) EXECUTIVE SECRETARY

LEGAL REVIEW:

[Signature]
CITY ATTORNEY

Alicia Trujillo
DISTRICT GENERAL COUNSEL

EXHIBIT "A"

SCOPE OF SERVICES

The CITY shall construct improvements to the Quay Boat Ramp within the below-identified PROJECT Limits. The CITY will let, supervise and inspect all aspects of PROJECT construction and administration.

PROJECT Limits: SR 5/US-1/Overseas Highway at Mile Marker 54

FDOT Financial Project Number: 413328-2-58-01

County: Monroe

FDOT Project Manager: Ronald Steiner, P.E.

CITY Project Manager: George Garrett

EXHIBIT "B"

FINANCIAL SUMMARY

Eligible PROJECT construction costs for reimbursement are below-listed:

Financial Project Number 413328-2-58-01 Maximum DEPARTMENT Financial Participation:	\$90,000.00
CITY Financial Participation:	<u>+ \$90,000.00</u>
Total PROJECT Cost Estimate:	\$180,000.00

EXHIBIT “C”

RESOLUTION

To be herein incorporated once approved by the CITY Commission.

EXHIBIT "D"

AUDIT REPORTS

The administration of resources awarded by the Department to **CITY OF MARATHON** may be subject to audits and/or monitoring by the Department, as described in this section. For further guidance, see the Executive Office of the Governor website, which can be found at: www.fssa.state.fl.us.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this agreement, the recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department staff to **CITY OF MARATHON** regarding such audit. **CITY OF MARATHON** further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

Recipients of federal funds (i.e. state, local government, or non-profit organizations as defined in OMB Circular A-133, as revised) are to have audits done annually using the following criteria:

1. In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this agreement indicates Federal resources awarded through the Department by this agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1., the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than \$500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities).
4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

PART II: STATE FUNDED

Recipients of state funds (i.e. a nonstate entity as defined by Section 215.97(2)(l), Florida Statutes) are to have audits done annually using the following criteria:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Executive Office of the Governor and the CFO; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this agreement indicates state financial assistance awarded through the Department by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

PART III: OTHER AUDIT REQUIREMENTS

The recipient shall follow up and take corrective action on audit findings. Preparation of a summary schedule of prior year audit findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the FDOT, the Comptroller, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:

A. The Department at each of the following addresses:

Florida Department of Transportation
1000 Northwest 111 Avenue
Miami, Florida 33172

B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

C. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. In the event that a copy of the reporting package for an audit required by PART I of this agreement and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the Department for reasons pursuant to section .320 (e)(2), OMB Circular A-133, as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited schedule of expenditures of Federal awards directly to each of the following:

Florida Department of Transportation
1000 Northwest 111 Avenue
Miami, Florida 33172

In addition, pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the Department at each of the following addresses:

Florida Department of Transportation
1000 Northwest 111 Avenue
Miami, Florida 33172

3. Copies of financial reporting packages required by PART II of this agreement shall be submitted by or on behalf of the recipient directly to each of the following:

A. The Department at each of the following addresses:

Florida Department of Transportation
1000 Northwest 111 Avenue
Miami, Florida 33172

B. The Auditor General's Office at the following address:

Auditor General's Office
Room 401, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

4. Copies of reports or the management letter required by PART III of this agreement shall be submitted by or on behalf of the recipient directly to:

A. The Department at each of the following addresses:

Florida Department of Transportation
1000 Northwest 111 Avenue
Miami, Florida 33172

5. Any reports, management letter, or other information required to be submitted to the Department pursuant to this agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

6. Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION

1. The recipient shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of at least five years from the date the audit report is issued, and shall allow the Department, or its designee, the state CFO or Auditor General access to such records upon request. The recipient shall ensure that the independent audit working papers are made available to the Department, or its designee, the state CFO, or Auditor General upon request for a period of at least five years from the date the audit report is issued, unless extended in writing by the Department.