

**CITY OF MARATHON, FLORIDA
RESOLUTION 2008-97**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA APPROVING GRANT AGREEMENT FY 2006 ECONOMIC DEVELOPMENT INITIATIVE (EDI)-SPECIAL PROJECT NO. B-06-SP-FL-0208 (MARINA WASTEWATER INFRASTRUCTURE UPGRADES), AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the "City") is expanding its laundry, bathroom and shower facilities at the Marina to meet an increased demand; and

WHEREAS, the current Marina wastewater infrastructure lacks the capacity to support the expanded laundry, bathroom and shower facilities, and does not meet new, more stringent, wastewater infrastructure requirements levied by the Florida Department of Environmental Protection; and

WHEREAS, the City received a \$74,250 Congressional Grant through the United States Department of Housing and Urban Development ("HUD"), Economic Development Initiative ("EDI") Program Marina Wastewater Infrastructure Upgrades; and

WHEREAS, HUD forwarded Grant Agreement FY2006 EDI-Special Project No. B-06-SP-FL-0208 for approval by the City;

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 City Council hereby approves FY2006 EDI-Special Project No. B-06-SP-FL-0208 Grant Agreement with the United States Department of Housing and Urban Development (a copy of which is attached hereto 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. The City Council hereby further authorizes the City Manager to execute the Grant Agreement.,

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 24th day of June 2008.

THE CITY OF MARATHON, FLORIDA



Edward P. Worthington, Mayor

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

ATTEST:



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

Assistance Award/Amendment

**U.S. Department of Housing
and Urban Development**
Office of Administration

1. Assistance Instrument <input type="checkbox"/> Cooperative Agreement <input checked="" type="checkbox"/> Grant		2. Type of Action <input checked="" type="checkbox"/> Award <input type="checkbox"/> Amendment																					
3. Instrument Number B-06-SP-FL-0208	4. Amendment Number	5. Effective Date of this Action	6. Control Number																				
7. Name and Address of Recipient City of Marathon 10045-55 Overseas Highway Marathon, FL 33050 EIN: 65-0984873		8. HUD Administering Office 2008 JUN 11 10:10 AM CPD, EDI Special Project Division 451 7th Street, SW, Rm 7146 Washington, DC 20410-7000																					
10. Recipient Project Manager Michael H. Puto		9. HUD Government Technical Representative Herbert Mallette 202-708-3773, Extension: 4885																					
11. Assistance Arrangement <input type="checkbox"/> Cost Reimbursement <input type="checkbox"/> Cost Sharing <input checked="" type="checkbox"/> Fixed Price	12. Payment Method <input type="checkbox"/> Treasury Check Reimbursement <input type="checkbox"/> Advance Check <input checked="" type="checkbox"/> Automated Clearinghouse	13. HUD Payment Office Chief Financial Officer																					
14. Assistance Amount		15. HUD Accounting and Appropriation Data																					
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16. Description
by the City of Marathon, Florida for the redevelopment of Boot Key Municipal Harbor

This Award consists of the following items which are appended to and hereby made part of this Award:

(A) Cover Page - HUD 1044
(B) Grant Agreement

Special Conditions:

Please contact Ubaldo Cazzoli - HUD Area Environmental Officer at 305-536-4652, Ubaldo_A._Cazzoli@hud.gov concerning environmental review. NO FUNDS may be committed to the project or drawn down prior to environmental release of funds approval.

17. <input checked="" type="checkbox"/> Recipient is required to sign and return three (3) copies of this document to the HUD Administering Office.		18. <input type="checkbox"/> Recipient is not required to sign this document.	
19. Recipient (By Name): Mr. Michael H. Puto		20. HUD (By Name): Otto V. Banks	
Signature & Title: City Manager	<i>Clyde Burnett</i> Clyde Burnett	Signature and Title: DAS for Economic Development	<i>Otto V. Banks</i> Otto V. Banks
Date:	7/2/08	Date:	7/18/08

Previous Editions are Obsolete

FY 2006 EDI-SPECIAL PROJECT NO. B-06-SP-FL-0208

GRANT AGREEMENT

This Grant Agreement between the Department of Housing and Urban Development (HUD) and City of Marathon (the Grantee) is made pursuant to the authority of Public Law 109-115 (Department of Housing and Urban Development Appropriation Act of 2006) and a listing of certain specific Economic Development Initiative Special Projects specified in the Congressional Record of November 18, 2005. The amount shown below is 99.00% of the amount specified in the Congressional Record of November 18, 2005, because of a 1.00% rescission mandated in the Act. The Grantee's application package, as may be amended by the provisions of this Grant Agreement, is hereby incorporated into this Agreement.

In reliance upon and in consideration of the mutual representations and obligations hereunder, HUD and the Grantee agree as follows:

Subject to the provisions of the Grant Agreement, HUD will make grant funds in the amount of \$74,250 available to the Grantee.

The Grantee agrees to abide by the following:

ARTICLE I. HUD Requirements.

The Grantee agrees to comply with the following requirements for which HUD has enforcement responsibility.

A. The grant funds will only be used for activities described in the application, which is incorporated by reference and made part of this Agreement as may be modified by Article VII (A) of this Grant Agreement.

B. EQUAL OPPORTUNITY REQUIREMENTS

The grant funds must be made available in accordance with the following:

1. For projects involving housing, the requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR Part 100; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107.
2. The requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1.
3. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR Part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8.

4. The requirements of 24 CFR 5.105(a) regarding equal opportunity as well as the requirements of Executive Order 11246 (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR Chapter 60.
5. For those grants funding construction covered by 24 CFR 135, the requirements of section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. 1701u) which requires that economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, be given to low- and very low-income persons and to businesses that provide economic opportunities for these persons.
6. The requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 concerning Women's Business Enterprise). Consistent with HUD's responsibilities under these Orders, the Grantee must make efforts to encourage the use of minority and women's business enterprises in connection with grant funded activities. See 24 CFR Part 85.36(e), which describes actions to be taken by the Grantee to assure that minority business enterprises and women business enterprises are used when possible in the procurement of property and services.
7. Where applicable, Grantee shall maintain records of its efforts to comply with the requirements cited in Paragraphs 5 and 6 above.

C. ENVIRONMENTAL REVIEW REQUIREMENTS.

1. If the Grantee is a unit of general local government, a State, an Indian Tribe, or an Alaskan Native Village, the Grantee agrees to assume all of the responsibilities for environmental review and decision- making and actions, as specified and required in regulations issued by the Secretary pursuant to the Multifamily Housing Property Disposition Reform Act of 1994 and published in 24 CFR Part 58.
2. If the Grantee is a housing authority, redevelopment agency, academic institution, hospital, or other non-profit organization, the Grantee shall request the unit of general local government, Indian Tribe, or Alaskan Native Village, within which the project is located and which exercises land use responsibility, to assume all of the responsibilities for environmental review and decision-making as specified in paragraph C.1 above, and the Grantee shall carry out all of the responsibilities of a recipient under 24 CFR Part 58.

- D. Administrative requirements of OMB Circular A-133 "Audits of States, Local governments and Non-Profit Organizations."
- E. For State and Local Governments, the Administrative requirements of 24 CFR Part 85, including the procurement requirements of 24 CFR Part 85.36, and the requirements of OMB Circular A-87 regarding Cost Principles for State and Local Governments. For Non-Profits, the Administrative requirements of 24 CFR Part 84, including the procurement requirements of 24 CFR Part 84.40, and OMB Circular A-122 regarding Cost Principles for Non-Profit Institutions. For Institutions of Higher Education the applicable OMB Circular regarding Cost Principles is A-21.
- F. The regulations at 24 CFR Part 87, related to lobbying, including the requirement that the Grantee obtain certifications and disclosures from all covered persons.
- G. The regulations at 24 CFR Part 21, regarding requirements for Drug- Free Workplace.
- H. The Uniform Relocation Act as implemented by regulations at 49 CFR Part 24.
- I. The Grantee will comply with all accessibility requirements under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8, where applicable.
- J. The regulations at 24 CFR Part 35, where applicable, regarding Lead-Based Paint Poisoning Prevention in Certain Residential Structures.

ARTICLE II. Conditions Precedent to Draw Down.

The Grantee may not draw down grant funds until the following actions have taken place:

- A. The Grantee has received and approved any certifications and disclosures required by 24 CFR 87.100 concerning lobbying.
- B. Any other conditions listed in Article VII (C) of this Grant Agreement.

ARTICLE III. Draw Downs.

- A. A request by the Grantee to draw down grant funds under the Voice Response Access system or any other payment system constitutes a representation by the Grantee that it and all participating parties are complying with the terms of this Grant Agreement.
- B. The Grantee will be paid on an advance basis provided that the Grantee minimizes the time elapsing between transfer of the grant funds and disbursement for project purposes and otherwise follows the requirements of 24 CFR Part 85 or Part 84 and Treasury Circular 1075 (31 CFR Part 205).

- C. Before the Grant Agreement is signed, the Grantee may incur cost for activities which are exempt from environmental review under 24 CFR Part 58 and may charge the costs to the grant.

ARTICLE IV. Progress Reports.

- A. The Grantee shall submit to the Grant Officer a progress report every six months after the effective date of the Grant Agreement. Progress reports shall consist of (1) a narrative of work accomplished during the reporting period and (2) a completed Financial Status Report - Form 269 A.

HUD may require additional information or increased frequency of reporting as described in Article VII (C).

- B. The performance reports must contain the information required under 24 CFR Part 85.40(b) (2) or 24 CFR Part 84.51(a), as applicable including a comparison of actual accomplishment to the objectives indicated in the approved application, the reasons for slippage if established objectives were not met, and additional pertinent information including explanation of significant cost overruns.
- C. No grant drawdowns will be approved for projects with overdue progress reports.

ARTICLE V. Project Close-out.

- A. The grantee shall submit to the Grant Officer a written request to close-out the grant 30 days after the grantee has drawn down all funds and completed the activities described in the application, as may be amended. The final report shall consist of (1) a narrative of all work accomplished during the project period and (2) a completed Financial Status Report - Form 269 A covering the entire project period.

HUD will then send the Close-out Agreement and Close-out Certification to the Grantee. At HUD's option, the Grantee may delay initiation of project close-out until the resolution of any HUD monitoring findings. If HUD exercises this option the Grantee must promptly resolve the findings.

- B. The Grantee recognizes that the close-out process may entail a review by HUD to determine compliance with the Grant Agreement by the Grantee and all participating parties. The Grantee agrees to cooperate with any review in any way possible, including making available records requested by HUD and the project for on-site HUD inspection.

- C. The Grantee shall provide to HUD the following documentation:
1. A Certification of Project Completion.
 2. A Grant Close-out Agreement.
 3. A final financial report giving the amount and types of project costs charged to the grant (that meet the allowability and allocability requirements of OMB Circular A-122, A-87 or A-21 as applicable, including the “necessary and reasonable” standard); a certification of the costs; and the amounts and sources of other project funds.
 4. A final performance report providing a comparison of actual accomplishments with each of the project commitments and objectives in the approved application, the reasons for slippage if established objectives were not met and additional pertinent information including explanation of significant cost overruns.
- D. The Grantee agrees that the grant funds are allowable only to the extent that the project costs, meeting the standard of OMB Circular A-122, A-87 or A-21 as applicable, equal the grant amount plus other sources of project funds provided.
- E. When HUD has determined that the grant funds are allowable, the activities were completed as described by the Grant Agreement, and all Federal requirements were satisfied, HUD and the Grantee will sign the Close-out Agreement and Close-out Certificate.
- F. The Close-out Agreement will include the Grantee’s Agreement to abide by any continuing federal requirements.

ARTICLE VI. Default.

A default under this Grant Agreement shall consist of using grant funds for a purpose other than as authorized by this Agreement, any noncompliance with legislative, regulatory, or other requirements applicable to the Agreement, any other material breach of this Agreement, or any material misrepresentation in the application submissions.

ARTICLE VII. Additional Provisions.

A. Project Description. The project is as described in the application with the following changes:

None

B. Changes or Clarification to the Application Related to Participating Parties:

The Administrative Agent if any:

C. Special Conditions:

The 2006 HUD Appropriations Act provides that no funds made available under the Act may be used to support any Federal, State or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For purposes of this provision, public use shall not be construed to include economic development that primarily benefits private entities.

U.S. Department of Housing
and Urban Development


Authorized Signature

Otto V. Banks
Deputy Assistant Secretary
for Economic Development

7/18/08
Date

City of Marathon
Mr. Michael H. Puto *CLYDE BURNETT*


Authorized Signature

CITY MANAGER
Title

7/2/08
Date