

**LOCALLY FUNDED AGREEMENT  
BETWEEN  
STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
AND  
CITY OF KEY WEST, DEPARTMENT OF TRANSPORTATION**

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 Key West, a political subdivision of the State of Florida, acting by and through the Department of Transportation, existing under the Laws of the State of Florida, hereinafter referred to as the "Participant".

**RECITALS**

**WHEREAS**, the Department has jurisdiction over and maintains SR 5/US-1/North Roosevelt Boulevard/Truman Avenue (the "State Road") at the intersection with Eisenhower Drive/Jose Marti Drive; and

**WHEREAS**, the Participant has jurisdiction over and maintains Eisenhower Drive/Jose Marti Drive; and

**WHEREAS**, at the request of Participant, the Department will undertake to complete various phases of a resiliency improvement project FM 454101-1-52-01, hereinafter referred to as the "Project", of which the individual elements are outlined in the attached Exhibit "A", "Scope of Work", which is herein incorporated by reference; and

**WHEREAS**, the Department will fund fifty percent (50%) of the estimated Project construction cost and the Participant shall fund the other fifty percent (50%) of the estimated Project construction cost; and

**WHEREAS**, the Department will utilize Participant funds to construct the Project; and

**WHEREAS**, the Participant shall deposit funds in escrow with the State of Florida, Department of Financial Services, Division of Treasury, in the amount set forth in Exhibit "D"; 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 Section 334.044(7) 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:

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**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. A true and correct copy of the Resolution of the Participant's City Commission approving this Agreement is attached hereto as Exhibit "C", 'Participant's Resolution', and is incorporated herein by reference.
- b. The Department will design and construct the Project in accordance with the attached Exhibit "A", "Scope of Work." The Department will complete the Project utilizing the funds provided by the Participant.
- c. The Participant agrees to a maximum participation for the Project, in the amount of Seven Million Six Hundred and Fifty Five Thousand Four Hundred and Ninety Two Dollars and Zero Cents (\$7,655,492.00), subject further to the provisions in Section 3 of this Agreement and as outlined in the attachment Exhibit "B", "Financial Summary", which is herein incorporated by reference.
- d. The Department will not be obligated to commence construction of the Project until Participant's funding for the Project is on deposit with the Department.

**3. FINANCIAL PROVISIONS**

- a. The Participant agrees that it will furnish the Department fifty percent (50%) of the estimated Project construction cost in the amount of Seven Million Six Hundred and Fifty Five Thousand Four Hundred and Ninety Two Dollars and Zero Cents (\$7,655,492.00) for the Project prior to the Department's Production Submittal date of October 19, 2026. The Department shall utilize the funds furnished by the Participant for payment of the construction costs of the Project.
- b. In the event that the bid contract price exceeds the Department's Project construction cost estimate, the parties recognize and acknowledge that both parties will agree to share the additional cost (50% by the Department and 50% by the Participant). The Participant will provide any additional funds within fourteen (14) calendar days of notification from the Department or prior to posting of the accepted bid, whichever is earlier, so that the total deposit by the Participant is equal to 50% of the bid contract price. The Department will notify the Participant as soon as it becomes apparent that the bid contract amount, is in excess of the estimated Project construction cost. If the Participant cannot provide the

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additional funds within fourteen (14) days, a letter must be submitted to the Department and must be reviewed by the District Six Secretary of the Department indicating when the additional deposit will be made. The Participant understands the request and approval of the additional time could delay the Project, and additional costs may be incurred due to a delay of the Project.

- c. If the accepted bid amount is less than the estimated Project construction cost, the Department will refund the Participant 50% of the difference between the estimated Project construction cost and the accepted bid amount if such refund is requested by the Participant in writing.
- d. The Department and the Participant shall have joint responsibility for resolving claims and requesting additional work for the Project. Prior to approval of any additional work, the Department must initiate a discussion with the Participant to review the scope and necessity of the requested work. Notwithstanding the foregoing, the Project shall continue in order to avoid further delays or claims. The responsibility for payment of claims and/or requests for additional work shall be allocated equitably between the Participant and the Department. In determining the equitable allocation of the parties' respective payments obligations, the parties shall consider the following: (i) their respective proportionate share percentages in the costs of the Project (50% by the Department and 50% by the Participant); (ii) the benefits to their respective facilities resulting from the additional work and materials; and (iii) their respective responsibility for the conditions or circumstances giving rise to the claim or additional work. Should Project modifications occur that increase the total estimated Project construction cost set forth in Exhibit "B," the Participant will be notified by the Department accordingly. The Participant agrees to provide, without delay, in advance of the additional services or work being performed, adequate funds to ensure that cash on deposit with the Department is sufficient to fully fund construction of the Project. The Department shall notify the Participant as soon as it becomes apparent the actual construction costs will overrun the total estimated Project construction cost set forth in Exhibit "B", and the Participant shall not be responsible for any costs exceeding the original estimate until such notice is given. Funds due from the Participant during the Project not paid within forty (40) calendar days from the date of the invoice are subject to an interest charge at a rate established pursuant to Section 55.03, Florida Statutes.
- e. The Department intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred and sixty days (360) of final payment to the Department's contractor. The Department considers the Project

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complete when the final payment has been made to the Department's contractor, not when the work under this Agreement is complete. All Project cost records and accounts shall be subject to audit by a representative of the Participant for a period of three (3) years after final close out of the Project. The Participant will be notified of the final Project construction cost. Both parties agree that in the event the final accounting of total Project construction costs pursuant to the terms of this Agreement is less than the total deposits to date, a refund of the excess will be made by the Department to the Participant. If the final accounting is not performed within three hundred and sixty (360) days, the Participant is not relieved from its obligation to pay.

- f. In the event the final accounting of total Project construction costs is greater than the total deposits to date, the Participant will pay the additional amount within forty (40) calendar days from the date of the invoice from the Department. The Participant agrees to pay interest at a rate established pursuant to Section 55.03, Florida Statutes, on any portion of its share not paid within forty (40) calendar days until that portion is paid. The Participant shall not be responsible for interest on any amounts attributable to the Department's share.
- g. The payment of funds under this Agreement will be made directly to the Department for deposit and as provided in the Escrow Agreement between Participant, Department, and the State of Florida, Department of Financial Services, Division of Treasury, attached hereto as Exhibit "D".
- h. Contact Persons:

PARTICIPANT: City of Key West

Address: 1300 White Street, Key West, FL 33040

Contact Person: Doug Bradshaw

Telephone #: 305-809-3828

Fax #: 305-292-8285

Federal Employer ID # (FEIN) 59-6000346

DEPARTMENT: Florida Department of Transportation, District 6

Address: 1000 NW 111 Avenue, Room 6247 Miami, FL 33172

Contact Person: Joaquin de la Cruz, P.E.

Telephone #: 305-470-5258

Joaquin.delacruz@dot.state.fl.us

Fax #: 305-640-5480

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**4. EFFECTIVE DATE OF THIS AGREEMENT**

This Agreement shall become effective upon execution by the Participant and the Department and as of the date set forth on page one (1) hereof.

**5. PROVISIONS SEPARABLE**

The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

**6. AMENDMENT OF AGREEMENT**

This Agreement may only be amended by mutual agreement of the Department and the Participant, expressed in writing, and executed and delivered by each.

**7. NOTICES**

All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when delivered (personally, by courier service such as Federal Express, or by other messenger) against receipt or upon actual receipt of registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

a. If to the Participant:

City of Key West Department of Transportation  
5701 College Road  
Stock Island, FL 33040  
Attention: Director, Department of Transportation

b. If to the Department:

Florida Department of Transportation, District 6  
1000 NW 111 Avenue, Room 6247  
Miami, FL 33172  
Attention: Project Manager for FM 454101-1

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Any party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this paragraph for the giving of notice.

**8. ENTIRE AGREEMENT**

This Agreement, including its attached Exhibits, contain the sole and entire Agreement between the parties with respect to such subject matter and supersede any and all other prior written or oral agreements between them with respect to such subject matter.

**9. BINDING EFFECT**

This Agreement shall be binding upon the parties and their respective representatives, successors, and assigns.

**10. WAIVER**

Waiver by either party of any breach of any provision of this Agreement shall not be considered as or constitute a continuing waiver or a waiver of any other breach of the same or any other provision of this Agreement.

**11. CAPTIONS**

The captions contained in this Agreement are inserted only as a matter of convenience or reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any of its provisions.

**12. ABSENCE OF THIRD-PARTY BENEFICIARIES**

Nothing in this Agreement, express or implied, is intended to (a) confer upon any entity or person other than the parties and their permitted successors and assigns any rights or remedies under or by reason of this Agreement as a third-party beneficiary or otherwise except as specifically provided in this Agreement; or (b) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement.

**13. OTHER DOCUMENTS**

The parties shall take all such actions and execute all such documents which may be reasonably necessary to carry out the purposes of this Agreement, whether or not specifically provided for in this Agreement; provided that the parties further acknowledge that certain additional actions by the Participant may require approval by the Participant's Commission, and, to the extent such approval is required by applicable law, obtaining such approval shall be a condition to the obligations of the Participant under this Section.

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**14. GOVERNING LAW**

This Agreement and the interpretation of its terms shall be governed by the laws of the State of Florida, without application of conflicts of law principles. Venue for any judicial, administrative, or other action to enforce or construe any term of this Agreement or arising from or relating to this Agreement shall lie exclusively in Leon County, Florida.

[signatures on following page]

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

**CITY OF KEY WEST:**

**STATE OF FLORIDA, DEPARTMENT OF  
TRANSPORTATION:**

**BY: \_\_\_\_\_  
(PARTICIPANT'S AUTHORIZED SIGNER'S  
TITLE)**

**BY: \_\_\_\_\_  
DISTRICT SECRETARY**

**ATTEST: \_\_\_\_\_  
(PARTICIPANT'S SIGNER'S TITLE)**

**ATTEST: \_\_\_\_\_  
EXECUTIVE SECRETARY**

**LEGAL REVIEW**

\_\_\_\_\_  
**PARTICIPANT'S ATTORNEY**

\_\_\_\_\_  
**DISTRICT SIX COUNSEL**

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EXHIBIT "A"**

**SCOPE OF WORK**

**Project Description:** SR 5/US-1/NORTH ROOSEVELT BLVD AT JOSE MARTI DR

**Project Limits:** SR 5/US-1/NORTH ROOSEVELT BLVD AT JOSE MARTI DR

**FDOT Financial Project Numbers:** 454101-1-52-01

**County:** Monroe County

**FDOT Project Manager:** Joaquin de la Cruz, P.E., Project Manager, 305-470-5258, Joaquin.DelaCruz@dot.state.fl.us

**Participant's Project Manager:** Rogelio Hernandez, Director, Department of Transportation  
KWDOT@cityofkeywest-fl.gov

- Raising of the roadway pavement a minimum of 6 inches
- Localized pavement reconstruction along Tuman Ave, North Roosevelt Blvd and Jose Marti Drive
- Installing new drainage pump station system
- Installing a new generator for the pump station system
- Raising sea wall approximately 24 inches at Jose Marti Drive
- Replacing traffic and pedestrian signals at the intersection
- Reconstructing sidewalk and pedestrian curb ramps
- Installing new signing and pavement markings
- Installing decorative lighting

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EXHIBIT "B"**

**FINANCIAL SUMMARY**

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**EXHIBIT "C"**

**PARTICIPANT'S RESOLUTION**

To be herein incorporated once approved by the Participant's Commission.

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**THREE PARTY ESCROW AGREEMENT**

To be herein incorporated once approved by the Department's Office of the Comptroller.