MEMORANDUM OF UNDERSTANDING BETWEEN THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION AND THE CITY OF KEY WEST

This Memorandum of Understanding (the "MOU") is entered into this ____ day of_____, 20___ (the "Effective Date"), by and between the **State of Florida, Department of Transportation**, an agency of the State of Florida (hereinafter called "**FDOT**") and **The City of Key West,** a municipal corporation of the State of Florida (hereinafter called **"CKW**"), each referred to herein as, a "Party", and collectively as the "Parties".

RECITALS

WHEREAS, FDOT is undertaking a resilience flooding mitigation Project FM# 454101-1-52-01 (the "Resilience Project") at the intersection of SR 5/North Roosevelt Boulevard / Truman Avenue and Jose Marti Drive, extending from just south of Albury Street to Virginia Street (the "Project Limits").

WHEREAS, the Parties intend for FDOT, at the request of the CKW, to design, plan, and construct roadway, drainage, stormwater pump station system, signing and marking, lighting and signalization (the "Improvements") along the Project Limits, and for the CKW to maintain the Improvements in perpetuity in accordance with a separate Memorandum of Maintenance Agreement (the "MMOA") to be entered into between the Parties; and

WHEREAS, the Parties agree to herein memorialize each Party's responsibilities with regard to the Improvements.

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the Parties agree to the following terms:

1. The Recitals set forth above are incorporated into and are made a part hereof.
2. The term of this MOU shall commence on the Effective Date and shall terminate upon mutual written agreement of the Parties.
3. FDOT's responsibilities:
    a. FDOT shall preserve existing trees within the Project Limits, where feasible, at FDOT's sole discretion.
    b. FDOT shall design, plan, install and construct the proposed Improvements within the public right-of-way and within the Project Limits
    c. FDOT's total financial responsibility for the Resiliency Project is 50% of the projected construction cost as set forth in the current Opinion of Probable Cost attached hereto as Exhibit "A" and incorporated herein by reference, which describes the Resilience Project construction cost for the proposed Improvements which includes the construction of a pump station within the Project Limits and is subject to change, based on fluctuating unit prices.

4. CKW's responsibilities:

    a. CKW shall fund the other 50% of the projected construction cost as set forth in the current Opinion of Probable Cost attached hereto as Exhibit "A", which is subject to change, based on fluctuating unit prices.

    b. CKW shall maintain the Improvements in perpetuity at CKW's sole cost and expense in accordance with the MMOA which will be entered into between the Parties prior to Phase IV (100%) design plans. The MMOA will set forth CKW's maintenance obligations regarding the proposed project improvements.

5. The Parties are working towards drafting and finalizing a Locally Funded Agreement ("LFA") in accordance with the terms of this MOU that will set forth in greater detail the Parties' respective rights and obligations regarding the Resilience Project. All FDOT responsibilities set forth herein are conditional upon the Parties entering into an LFA in accordance with the terms of this MOU.

6. All FDOT responsibilities set forth in this MOU are conditional upon the Parties entering into an MMOA in accordance with the terms of this MOU and the Resiliency Project shall not be advertised until the MMOA is executed by the Parties.

7. This MOU may be executed in counterparts, and when taken together, the same shall constitute a binding agreement on all Parties. A photocopy or facsimile copy of this MOU and any signatory hereon shall be considered for all purposes as an original.

8. This MOU shall be binding upon and shall insure to the benefit of the Parties hereto, and their respective successors, permitted assigns, heirs and legal representatives; provided, however that this MOU may not be assigned by either Party without the express written consent of the other Party.

9. This MOU is governed by and shall be interpreted and enforced under the laws of the State of Florida. Venue for any actions or suits arising from or related to this MOU shall be in the Circuit Courts of Monroe County, Florida.

10. This MOU constitutes the entire agreement between the Parties and may be amended or modified only in writing of the same formality by this MOU and executed by each Party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the Parties have attached their hands and seals this ____ day of _____, 20____.

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION	**CITY OF KEY WEST**
By:_____	By:_____
Name:_____	Name:_____
Title:_____	Title:_____
Date: _____	Date: _____
Approved as to form and legality:	
Department Legal Review:	City of Key West Legal Review:
By:_____	By:_____
Name:_____	Name:_____

Exhibit "A"

Opinion of Probable Cost