



COUNCIL AGENDA STATEMENT

Meeting Date: August 9, 2022
To: Honorable Mayor and City Councilmembers
From: Carlos Solis, Director of Public Works and Engineering
Through: George Garrett, City Manager

Agenda Item: **Resolution 2022-96**, Approving An Agreement With Pave Mobility For Installation Of Enforcement Camera, Monitoring, And Collection Services For Parking Violation At All City Operated Boat Ramps And Sombrero Beach For A Portion Of The Violation Fee Collected As Indicated In The Agreement; Authorizing The City Manager To Execute The Contract On Behalf Of The City And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

The City is implementing a system to collect parking and boat ramp usage fees at the Quay Boat Ramp, Harbor Drive Boat Ramp, 33rd Street Boat Ramp, and Sombrero Beach. In lieu of enforcement utilizing parking attendants, the City wishes to implement a system utilizing License Plate Recognition Enforcement Technology" or "LPRET for the enforcement of violation. PAVE Mobility provides such services in conjunction with the Pay Station being provided by FLOWBIRD Urban Intelligence for the issuance of violation notices and collection of fees associated with the violation.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	XXX	_____
2. Other _____	_____	_____

FISCAL NOTE:

Funding for this service will come from the revenue line item for parking fines.

RECOMMENDATION: **Council Approve Resolution**

Sponsored by: Garrett

**CITY OF MARATHON, FLORIDA
RESOLUTION 2022-96**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING A CONTRACT WITH PAVE MOBILITY FOR PARKING AND BOAT RAMP USAGE VIOLATION ENFORCEMENT AND COLLECTION; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City is implementing a program to charge for parking and boat ramp usage at various facilities within the City, and in lieu of utilizing enforcement officers wishes to use License Plate Recognition Enforcement Technology for enforcement and collection of violations; and

WHEREAS, PAVE Mobility provides such services in conjunction with the City’s proposed provider of pay stations; and

WHEREAS, the City wishes to approve an agreement (the “Agreement”) with PAVE Mobility For providing said system and enforcement services; and

WHEREAS, the City Manager recommends the City Council execute the contract with PAVE Mobility to provide enforcement services for violation of parking and boat ramp usage.

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 contract between the City and PAVE Mobility for parking violation enforcement, 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 by the City Attorney, are hereby approved. The City Manager is authorized to execute the agreement.

Section 4. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA THIS 9th DAY OF AUGUST, 2022.

THE CITY OF MARATHON, FLORIDA

John Bartus, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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:**

Steve Williams, City Attorney

MASTER PARKING ENFORCEMENT AGREEMENT

THIS MASTER PARKING ENFORCEMENT AGREEMENT (“Agreement”) is entered into as of this _____ day of _____, 2022, (“Effective Date”) by and between The City of Marathon, 9805 Overseas Highway Marathon, FL 33050 (CLIENT), and PAVE Mobility, Inc., a Delaware corporation (“PAVE”), 1815 Griffin Road, Suite 403, Dania Beach, FL 33004 (PAVE) (collectively the “Parties”). In consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, CLIENT hereby retains PAVE to provide parking enforcement services for certain properties owned or operated by Client and listed on Exhibit A to this Agreement (“Properties”). Services provided by PAVE shall include the detection, issuance, management and collection of parking debts, fees and claims arising when individuals park on CLIENT Property without paying or while parking in violation of posted Property rules (“Parking Rule Violations”).

1. PROPERTIES. CLIENT hereby represents and warrants that it is the owner or parking services provider of the Properties and has the right and authority to enter this Agreement.

2. GRANT OF AUTHORITY. CLIENT represents and warrants that it has the right and authority to control, regulate, restrict, direct and otherwise determine the right and privilege to park vehicles on the Properties. CLIENT hereby grants to PAVE, its representatives and agents the right, license and authority to install license plate recognition systems, parking and boat ramp control platforms and/or enter onto the Properties and issue Parking Charge Notices (sometimes “Notices”), to vehicles and/or boat trailers parked improperly or in violation of the rules and regulations on the Properties, and for use of boat ramps. CLIENT further permits and authorizes PAVE, its representatives, and agents to utilize the collection procedures described herein to collect Parking Charge Notices that PAVE may issue under the terms of this Agreement.

3. SERVICES TO BE PERFORMED BY PAVE.

A. LOT MONITORING. PAVE, its representatives and agents will utilize specialized camera equipment and related license plate recognition software (collectively “License Plate Recognition Enforcement Technology” or “LPRET”) to monitor the Properties and detect Parking and Boat Ramp Rule Violations. Client understands and agrees that all equipment installed or brought to the Properties by PAVE shall remain the property of PAVE during and after the term of this Agreement.

B. DISPUTE PROCESSING. PAVE’s and/or their subsidiary company’s contact information will be provided on the Parking Charge Notices when sent by PAVE, and PAVE will handle all customer communications, questions and disputes relating to any Parking Charge Notice issued by PAVE. All Parking Charge Notice disputes will be reviewed and resolved by PAVE. PAVE may uphold, dismiss or reduce any disputed Parking Charge Notice. PAVE may also, upon request by CLIENT, forward disputed Parking Charge Notices to CLIENT for review. Upon its review of any such forwarded Parking Charge Notice, CLIENT may uphold, dismiss, or reduce the debt associated with such Notice, provided that any such decision is communicated in

writing to PAVE within ten (10) days following the date on which it was forwarded to CLIENT by PAVE.

C. COLLECTION SERVICES. PAVE will professionally and timely collect the unpaid and/or unresolved Parking Charge Notices issued on the Properties by PAVE or its affiliates. Collection services include, but are not limited to the following:

a. DMV SERVICES. PAVE, an attorney or collection agency designated by PAVE (“Designated Attorney”) will timely obtain vehicle owner information from applicable state agencies on vehicles that have been issued a Parking Charge Notice. Methods used to obtain said vehicle owner information shall be in compliance with all applicable laws. CLIENT understands that PAVE cannot obtain DMV information from certain states. CLIENT further understands that PAVE will not obtain DMV information from certain other states which charge fees for their DMV information in excess of five dollars (\$5) per record unless CLIENT first agrees in writing to pay those states’ additional fees. CLIENT agrees to assist with DMV lookups as permitted by applicable law and current resources. PAVE will pay for all of integration costs for DMV lookups.

b. COLLECTIONS. After obtaining the vehicle owner information, PAVE will timely issue a series of letters to the vehicle owners, in escalating severity, in an attempt to obtain payment of the amount stated on the Parking Charge Notice.

D. PARKING VIOLATION/DATA MANAGEMENT. In order to manage its parking enforcement services, PAVE, its representatives and agents will provide, operate and maintain an automated, fully integrated parking management system, including database, reporting system and technical support. CLIENT will have unlimited web-based access to its customer Parking Charge Notice records including the payment and collection status of each Notice.

E. PAYMENT PROCESSING. PAVE will process all Parking Charge Notice payments, including payments by credit and debit cards, personal checks, and money orders. Any violator who elects to make payment by credit or debit card shall be charged an additional fee by PAVE to cover the cost of processing said payment charged by MasterCard, Visa, or other payment processor. PAVE shall be responsible for paying all such processing fees and shall be reimbursed for said payments out of Parking Charge Notice collections before said collections are allocated under the terms of compensation contained in Section 5 below.

Except as expressly provided herein, all responsibilities, liabilities, obligations and costs related to the services provided by PAVE will be the sole responsibility of PAVE.

F. EXCLUSIVE RIGHT OF PAVE TO USE UTILIZE LPRET ON CLIENT PROPERTIES. In consideration of the significant expense and labor expended by PAVE in making LPRET available to Client, Client hereby agrees that PAVE shall have the exclusive right to utilize LPRET (or any similar technology) on any property owned or operated by Client for the full term of this Agreement including any extensions hereof. Client shall utilize PAVE, and only PAVE, as its exclusive vendor for LPRET services on any such properties for the full term of this Agreement including any extensions hereof.

4. POSTING OF PREMISES AND INDEMNIFICATION BY CLIENT. Client shall determine parking fees and boat ramp usage fees and any and all late payment fees and other charges that may be levied against parking rule violators on its Properties and warrants that it has the right and authority to levy such fees and charges under applicable law. On or in any parking location on which PAVE provides parking enforcement services, CLIENT will provide and prominently post all signage that is required by applicable law with respect to the fees charged by CLIENT. All such signage will include, without limitation, the base parking fee and any and all late payment fees or charges which comprise the Parking Charge Notice fees and the debt assigned to PAVE hereunder. CLIENT will defend, indemnify and hold PAVE harmless from and against any and all costs, claims, expenses, damages, liabilities or obligations, including reasonable attorney's fees, of any nature which arise as a result of, or are in any way related to a breach, or alleged breach, by CLIENT of the covenants, representations, and warranties made in this paragraph.

5. COMPENSATION.

ENFORCEMENT SERVICES. PAVE shall invoice \$6.50 (Six Dollars and Fifty Cents) for each Parking Charge Notice issued pursuant to this agreement. PAVE shall remit to CLIENT 40% (forty percent) of all PCN revenue PAVE collects from the Client's properties during the month pursuant to this agreement on or before the tenth (10th) day of the following calendar month. Parking Charge Notices shall be \$90.00 (ninety dollars) but reduce to \$45.00 (forty-five) if paid within 15 (fifteen) days of the notice date.

ALTERNATE FEE FOR SERVICES. If CLIENT elects to issue municipal citations based on information from PAVE's LPRET System, PAVE shall invoice \$6.50 (Six Dollars and Fifty Cents) for each citation issued pursuant to this agreement. PAVE shall be compensated \$1.50 (One Dollar and Fifty Cents) per citation or letter sent if PAVE assists with CLIENT issued municipal citations.

6. REPORTING/ACCOUNTING. PAVE will provide CLIENT standardized and complete reports detailing all payments received, all dismissed Parking Charge Notices, and the status of each Notice by Notice number showing the status of collection efforts and the amount collected from each vehicle. PAVE will keep complete accounts of all transactions related to Parking Charge Notices which accounts may be reviewed by Client at any time with reasonable notice. PAVE will also provide CLIENT an individual client web access portal into its account operating system.

7. CONFIDENTIALITY. PAVE understands that, in the course of providing parking enforcement services related to CLIENT Properties, CLIENT may furnish to PAVE and PAVE may become aware of certain information, which is confidential and proprietary to CLIENT, including but not limited to documents, files, reports and other information and data relating to CLIENT business and its customers. As a condition to, and in consideration of, CLIENT furnishing confidential and proprietary information, PAVE agrees that all such confidential and proprietary information will be kept confidential by PAVE, will not be used other than in

connection with the parking enforcement services provided to CLIENT Properties, and will not be disclosed to any third parties without the prior written approval of CLIENT unless necessary to comply with any law or court order. PAVE will defend and hold CLIENT harmless from and against any and all costs, claims, expenses, damages, liabilities or obligations, including reasonable attorney's fees, arising out of or in any way related to a breach of PAVE's representations and warranties made in this paragraph.

8. TERM. The term of this Agreement will be for five (5) years, commencing upon the Effective Date first written above. At the end of the initial five (5) year term and at the end of any renewal term, this Agreement will automatically renew and be extended for succeeding one (1) year periods, upon the same terms and conditions stated herein. However, automatic renewal shall not occur if either Party gives the other Party at least ninety (90) days prior written notice of intent to terminate the Agreement effective as of the last day of the current term ("Termination Date"). Up to the Termination Date, PAVE will perform all the duties hereunder in a professional manner, and both Client and PAVE will assure that the other Party is paid all amounts due pursuant to this Agreement until the Termination Date. Additional Properties may be added to this Agreement at any time by written Addendum signed by the Parties. When new Properties are added in this way, all terms of this Agreement shall apply to said new Properties except for the Effective Date and Term. The Effective Date of this Agreement with respect to such new Properties shall be the effective date of the Addendum adding such new Property or Properties ("New Effective Date"). The Term of this Agreement with respect to such new Properties will be for five (5) years from the New Effective Date with automatic renewal for succeeding one (1) year periods upon the same terms and conditions stated in this Agreement. However, automatic renewal shall not occur if either Party gives the other Party at least ninety (90) days prior written notice of intent to terminate the Agreement with respect to any new Properties effective as of the last day of the current term for said Properties ("New Property Termination Date").

9. INDEMNIFICATION BY PAVE. PAVE covenants, represents and warrants to CLIENT that all enforcement and collection services will be provided according to all applicable laws, rules, statutes, regulations and industry standards regulating or affecting enforcement and collections. PAVE will defend, indemnify and hold CLIENT harmless from and against any and all costs, claims, expenses, damages, liabilities or obligations, including reasonable attorney's fees, of any nature which arise as a result of, or are in any way related to (a) a breach, by PAVE of the covenants, representations, and warranties made herein or (b) the wrongful acts, damaged caused by equipment, errors or omissions of PAVE, its representatives and agents.

10. INSURANCE. PAVE and/or its designated attorney will maintain insurance in the following minimum amounts during the term of this Agreement with an insurance company authorized to do business in the state(s) in which the Properties are located:

- a) Automobile and Comprehensive General Liability Insurance (including bodily injury, personal injury, Properties damage, completed operations, products liability and contractual liability) = \$1,000,000 per occurrence
- b) Workers' Compensation = Statutory Limits
- c) Employer's Liability = \$1,000,000 aggregate limit

d) Errors and Omissions = \$1,000,000

Limits less than those stated above must receive prior written approval by CLIENT.

11. INDEPENDENT CONTRACTOR. Nothing herein will be deemed or construed to create a partnership, joint venture or agency relationship between the parties. PAVE is strictly an independent contractor subject to no control by CLIENT other than as expressly provided herein.

12. NOTICE TO REMOVE EQUIPMENT. CLIENT agrees to give PAVE at least ten (10) business days prior written notice of any development that would require PAVE to remove or relocate any equipment installed or brought to the Properties by PAVE to meet the terms of this Agreement. .

13. NOTICES. Any notices required to be given to or served upon either Party hereto will be given or served by personal service or by express delivery or by mailing the same, postage prepaid, by United States registered or certified mail, return receipt requested, to the following addresses:

To CLIENT: City of Marathon
 9805 Overseas Hwy
 Marathon, FL 33050
 Attn: City Manager
 Copy City attorney

To PAVE: PAVE Mobility, Inc.
 Attn: Fred Bredemeyer
 1815 Griffin Road, Suite 403
 Dania Beach, FL 33004

14. MODIFICATIONS. This Agreement may not be modified or amended except by written agreement signed by PAVE and CLIENT.

15. ASSIGNMENT / BINDING EFFECT. Neither PAVE nor CLIENT may transfer or assign its rights, duties or obligations under this Agreement without the prior written consent of the other Party. Such prior written consent shall not be unreasonably withheld. This Agreement and the rights, duties and obligations set forth herein will bind and inure to the benefit of PAVE and CLIENT, and their respective successors and assigns.

16. WAIVER. No right or obligation under this Agreement will be deemed to have been waived unless such waiver is evidenced by a writing signed by the Party against whom the waiver is asserted. Any waiver will be effective only with respect to the specific instance involved and will not impair or limit the right of the waiving Party to insist upon strict performance of the right or obligation in any other instance, in any other respect, or at any other time. No failure to exercise and no delay in exercising any right under this Agreement will operate as a waiver hereof.

17. SEVERABILITY. The Parties intend that this Agreement be enforceable to the greatest extent permitted by applicable law. Therefore, should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be illegal or invalid, the validity of the remaining parts, terms and provisions shall not be affected, and any illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

18. GOVERNING LAW/VENUE. This Agreement will be construed, and the rights, duties, and obligations of the Parties will be determined in accordance with the laws of the state of Florida Venue and jurisdiction for any dispute arising under this Agreement shall lie in any court of competent jurisdiction located within said state.

19. ATTORNEY'S FEES. If any litigation or other dispute resolution proceeding is commenced between the Parties to this Agreement to enforce or determine the rights or responsibilities of the Parties, the prevailing Party in the proceeding will be entitled to receive, in addition to any other relief granted, its reasonable attorney's fees, expenses and costs. For purposes of this paragraph, the phrase "litigation or other dispute resolution" will be deemed to include any proceeding commenced in any court of general or limited jurisdiction, any arbitration or any proceeding commenced in the bankruptcy courts of the United States, and any appeal from any of the foregoing.

21. E-Verify Certificate

The bidder here by certifies that it has registered with the US Department of Homeland Security's E-Verification system to verify the work authorization status of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new employees hired by the subcontractor during the Contract term. Any subcontractor shall provide an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor shall comply with and be subject to the provisions of F.S. 448.095

20. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the Parties relating to the subject matter hereof and supersedes all prior agreements, understandings, or representations of the Parties (written or oral) relating to the same subject matter.

CLIENT and PAVE hereby execute and approve this Agreement entered as of the Effective Date first written above.

PAVE Mobility, Inc.

City of Marathon

By: _____

By: _____

Name: Fred Bredemeyer

Name: _____

Title: CEO

Title: _____

Date: _____

Date: _____

EXHIBIT A

CLIENT PROPERTIES LOCATION LIST

1. The Quay Property
2. The Aviation Blvd. & Harbor Drive Boat Ramp
3. The 33rd Street Boat Ramp
4. Sombrero Beach Parking Area