

RESOLUTION NO. 2013- 321

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A DISTRICT FOUR HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT AND LOCAL GOVERNMENT RIGHT-OF-WAY CERTIFICATION STATEMENT BETWEEN THE CITY OF POMPANO BEACH AND THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That a Memorandum of Agreement and Certification Statement between the City of Pompano Beach and the State of Florida Department of Transportation, a copy of which Agreements are attached hereto and incorporated by reference as if set forth in full, are hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Agreements between the City of Pompano Beach and the State of Florida Department of Transportation.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this 23rd day of July, 2013.



LAMAR FISHER, MAYOR

ATTEST:



MARY L. CHAMBERS, CITY CLERK

PLEASE RETURN TO:

Mary L. Chambers, MMC
City Clerk
P.O. Drawer 1300, Suite 253
Pompano Beach, FL 33061

SECTION No.: N/A
FM No.: 433165-1-52-01
COUNTY: BROWARD
S.R. No.: N/A

**DISTRICT FOUR
HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT**

THIS AGREEMENT, made and entered into this 26th day of July, 2013, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the DEPARTMENT and CITY OF POMPANO BEACH, a municipal corporation of the State of Florida, existing under the Laws of Florida, hereinafter called the AGENCY.

WITNESSETH:

WHEREAS, the AGENCY has jurisdiction over:

- S. Cypress Road from E. McNab Road to E. Atlantic Boulevard,
 - E. McNab Road, from S. Cypress Road to N. Federal Highway,
- as part of the City Roadway System; and

WHEREAS, pursuant to Sections 339.07, 339.08 and 339.12, Florida Statutes and Federal funding provisions the DEPARTMENT is authorized to undertake projects within the AGENCY geographical limits; and

WHEREAS, in accordance with Title 23, U.S. Code, Section 116 and Federal Highway Administration regulations issued pursuant thereto, there must be an agreement from the AGENCY to maintain the project; and

WHEREAS, pursuant to such authority, the DEPARTMENT and the AGENCY are desirous of having the DEPARTMENT construct certain improvements more particularly described as Broward Mobility Projects Sidewalk and Bike Lane, Financial Project ID 433165-1; hereinafter referred to as the "PROJECT", as more particularly described in Exhibit "A"; 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 AGENCY by Action on the 23rd day of July, 2013, a copy of which is attached hereto and by this reference made a part hereof, desires to enter into this Agreement and authorizes its officers to do so;

NOW THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

1. The DEPARTMENT has undertaken and obtained the approval of Federal participation for the PROJECT, as more particularly described in Exhibit "A".
2. The AGENCY shall allow the DEPARTMENT and its contractors to enter onto the existing AGENCY property, including easements and property acquired by the DEPARTMENT, to construct this PROJECT.
3. The AGENCY shall continue to maintain the existing roadway and any property owned by AGENCY until the DEPARTMENT begins construction of the PROJECT.
4. It is understood and agreed by the parties that upon "final acceptance" by the DEPARTMENT of the PROJECT, (as that term is described in the Standard Specifications for Roadway and Bridge Construction dated 2013, as amended by contract documents), and Notice thereof to the AGENCY, the AGENCY shall be responsible for maintenance of said PROJECT, at its own cost, in accordance with the following Federally and State accepted standards and all costs related thereto: (a) FDOT Plans Preparation Manual (PPM), (b) Florida Green Book dated 2011, as amended (c) Governing standards and specifications: FDOT Design Standards dated 2013, as amended (d) Standard Specifications for Roadway and Bridge Construction dated 2013, as amended by contract documents, and (e) Manual on Uniform Traffic Control Devices (MUTCD), current edition, or as amended. This provision, however, shall not preclude the AGENCY from entering into agreements with other entities for maintenance of the Project.
5. The AGENCY grants herein to the DEPARTMENT all rights necessary to enter and construct the PROJECT.
6. Environmental and Occupancy permitting: If requested by the DEPARTMENT, the AGENCY shall sign as applicant and be responsible for the permits related to the PROJECT. Further the AGENCY shall be in compliance with all permits after the construction is complete. The AGENCY shall execute all documentation required by the permitting agencies in a timely manner to accept transfer of the Project.
7. Utilities: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to accomplish utility relocations for this Project. This shall include, but not be limited to, entering into utility subordination agreements with the affected utility owners, thereby assuming liability for future utility relocations within the AGENCY right of way. This shall also include having the AGENCY require the Utility to relocate or adjust if the utility is there by permit.

8. Unforeseen issues: If unforeseen issues shall arise, the AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, in order to construct the Project including but not limited to executing documents, allowing the DEPARTMENT or its contractor to enter into any real property owned, possessed and controlled by the AGENCY or any other Occupancy right the AGENCY may have.
9. The AGENCY shall execute "Local Government Right of Way Certification Statement", attached as Exhibit B, indicating that the PROJECT can be completed within the public right of way, and that no additional right of way is required.
10. E-verify requirements: The AGENCY:
 - shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the AGENCY during the term of the contract; and
 - shall expressly require any contractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
11. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

[The Remainder of this Page Intentionally Left Blank.]

"CITY":

Witnesses:

CITY OF POMPANO BEACH

Betty J. Mones

By: [Signature]
LAMAR FISHER, MAYOR

Shelley R. Bartholomew

By: [Signature]
DENNIS W. BEACH, CITY MANAGER

Attest:

[Signature]
MARY L. CHAMBERS
CITY CLERK

(SEAL)

Approved As To Form:

[Signature]
GORDON B. LINN
CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

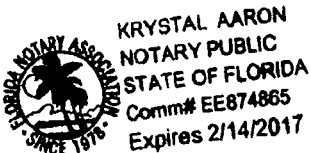
The foregoing instruments were acknowledged before me this 26th day of July, 2013 by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager and **MARY L. CHAMBERS**, City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA

Krystal Aaron
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number



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

ATTEST:

AGENCY

CITY OF POMPANO BEACH, through its
CITY COMMISSION

By _____

____ day of _____, 2013

Approval:

Approved as to form by

Telephone:

Facsimile:

By _____ (Date)

Title:

By _____ (Date)

Title:

DEPARTMENT

ATTEST:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

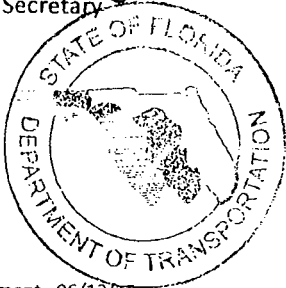
By Greg O'Reilly
Transportation Development Director

7 day of AUGUST, 2013

Approval :

Dawn Radwan 8/6/2013
Office of the General Counsel (Date)

Executive Secretary
(SEAL)



FDOT Agreement 06/12/13
MOA Pompano Beach 433165-1.docx

SECTION No.: N/A
FM No.: 433165-1-52-01
COUNTY: BROWARD
S.R. No.: N/A

EXHIBIT A

PROJECT IMPROVEMENTS AND SCOPE

All of the improvements are to be completed by DEPARTMENT within the AGENCY's existing right-of-way.

- S. Cypress Road from E. McNab Road to E. Atlantic Boulevard,
 - Mill and resurface roadway to create wide outside lane with bike sharrow markings on both sides of the corridor.
- E. McNab Road, from S. Cypress Road to N. Federal Highway
 - Widen, mill and resurface roadway to create bike facilities on both sides of the corridor.

LOCAL GOVERNMENT RIGHT-OF-WAY CERTIFICATION STATEMENT

No Additional Right of Way Required


LOCAL AGENCY: City of Pompano Beach STATE ROAD: N/A
R/W ITEM/SEGMENT NO.: N/A DESCRIPTION: MPO Broward Mobility
CONST. ITEM SEGMENT NO.: N/A Sidewalk/Bike Lane Project
F.A.P. NO.: 433165-1 PREFERRED LETTING DATE: April 2, 2014

I, the signature below certify and represent that the following interests in land (Right of Way) will NOT be required for the construction of this project:

- Fee Title – land on which a permanent improvement is to be placed and maintained.
- Perpetual Easement – may be used when permanent improvement is to be constructed and maintained on a parcel for which acquisition of fee title is impractical.
- Temporary Easement – used when it is necessary to temporarily occupy a parcel. No improvement that is a permanent part of the transportation facility or that requires maintenance beyond the term of the easement will be constructed on the temporary easement.

The concept plans have been compared to current right of way data and the right of way, as shown, will accommodate the planned construction. The construction activities will be performed in the existing right of way. The contractor will not be required to temporarily enter upon property not owned by the local government executing this statement for the purpose of restoration and harmonization. There are no encroachments within existing right of way that impact the construction project.

Local Agency: City of Pompano Beach


* SIGNATURE

July 22, 2013

DATE

Alessandra Delfico PE

PRINTED NAME

City Engineer

TITLE

*NOTE: (Must be authorized employee of the local agency)

Financial Project ID: 433165-1-52-01
 Federal Aid Number: # 8886-312-A
 Project Name: BROWARD MPO MOBILITY PROJECTS

Sequence:	370	
	S. Cypress Road from E. McNab Road to E. Atlantic Boulevard	
Description of Work:	The scope of work includes milling, resurfacing, and restriping of the existing pavement to provide a wide outside lane with sharrows.	
Owning Agency:	City of Pompano Beach	
Primary Contact:	Alessandra Delficio, PE	Position: City Engineer
	Mailing Address: 1201 NE S Avenue. Pompano Beach, FL 33066	
	Phone Number: (954) 786-4144	
	E-mail Address: alessandra.delficio@copbf.com	
Lane Closure Restrictions:	Lane closures are restricted to off peak hours only unless allowed as per lane closure analysis	
Work Hour Restrictions:	Work shall be performed between 7:00 AM and 7:00 PM only. Paving operations shall be restricted to off peak hours only.	
Noise Restrictions:	<p>(1) It shall be unlawful for any person, firm or corporation to do, perform or engage in any construction work, building, excavation, dredging, building alteration or repair work of any nature, to any building or structure, or upon any site for a building or structure in the city between the hours of 11:00 p.m. and 8:00 a.m. of any weekday and from 11:00 p.m. on Saturday to 8:00 a.m. on Monday of each week. It shall be unlawful for any person, firm or corporation to conduct any pile driving activity whatsoever between the hours of 5:30 p.m. and 9:00 a.m. of any weekday and from 5:30 p.m. on Saturday to 9:00 a.m. on Monday of each week.</p> <p>(2) Any person desiring to engage in the aforesaid activity beyond the stated hours of limitation, based upon cases of urgent necessity or upon the interests of public health, safety and ultimate convenience, may apply to the City Manager for a special permit allowing it. The permits, if granted, shall be limited to a period of up to three days' duration, but may be renewed for additional periods of up to three days each if the emergency or need continues. In the issuance of these permits the City Manager shall weigh all facts and circumstances and shall determine whether the reasons given for the urgent necessity are valid and reasonable, whether the public health, safety and ultimate convenience shall be protected or better served by granting the permit requested, and whether the manner and amount of loss or inconvenience to the party in interest imposes a significant hardship. Upon an affirmative finding of the foregoing considerations, the City Manager or his designee is authorized to issue the permit requested and any extensions thereof, as may be required.</p>	
Non-FDOT Standards/Specs:	No Non-FDOT Standards/ Specs	
Other Active or	Plans for existing Cypress Rd Construction can be found in Appendix M.	
Existing Landscape impacts:	All Tree Impacts shall be approved by the Department	

 7/22/13
 Alessandra Delficio, PE Date
 City Engineer, City of Pompano Beach

Financial Project ID: 433165-1-52-01
 Federal Aid Number: # 8886-312-A
 Project Name: BROWARD MPO MOBILITY PROJECTS

Sequence:	380	
	E. McNab Road from S. Cypress Road to N. Federal Highway	
Description of Work:	The scope of work includes widening the existing roadway to provide 5' bike lanes on both sides of the roadway. The scope of work also includes milling, resurfacing, and restriping of the existing pavement to provide the bike lanes.	
Owning Agency:	City of Pompano Beach	
Primary Contact:	Alessandra Delficio, PE	Position: City Engineer
	Mailing Address:	1201 NE 5 Avenue, Pompano Beach, FL 33066
	Phone Number:	(954) 786-4144
	E-mail Address:	alessandra.delficio@copbfl.com
Lane Closure Restrictions:	Lane closures are restricted to off peak hours only unless allowed as per lane closure analysis	
Work Hour Restrictions:	Work shall be performed between 7:00 AM and 7:00 PM only. Paving operations shall be restricted to off peak hours only.	
Noise Restrictions:	<p>(1) It shall be unlawful for any person, firm or corporation to do, perform or engage in any construction work, building, excavation, dredging, building alteration or repair work of any nature, to any building or structure, or upon any site for a building or structure in the city between the hours of 11:00 p.m. and 8:00 a.m. of any weekday and from 11:00 p.m. on Saturday to 8:00 a.m. on Monday of each week. It shall be unlawful for any person, firm or corporation to conduct any pile driving activity whatsoever between the hours of 5:30 p.m. and 9:00 a.m. of any weekday and from 5:30 p.m. on Saturday to 9:00 a.m. on Monday of each week.</p> <p>(2) Any person desiring to engage in the aforesaid activity beyond the stated hours of limitation, based upon cases of urgent necessity or upon the interests of public health, safety and ultimate convenience, may apply to the City Manager for a special permit allowing it. The permits, if granted, shall be limited to a period of up to three days' duration, but may be renewed for additional periods of up to three days each if the emergency or need continues. In the issuance of these permits the City Manager shall weigh all facts and circumstances and shall determine whether the reasons given for the urgent necessity are valid and reasonable, whether the public health, safety and ultimate convenience shall be protected or better served by granting the permit requested, and whether the manner and amount of loss or inconvenience to the party in interest imposes a significant hardship. Upon an affirmative finding of the foregoing considerations, the City Manager or his designee is authorized to issue the permit requested and any extensions thereof, as may be required.</p>	
Non-FDOT Standards/Specs:	No Non-FDOT Standards/ Specs	
Other Active or	No other active or planned projects	
Existing Landscape impacts:	All Tree impacts shall be approved by the Department before impacted	

 7-22-13
 Alessandra Delficio, PE Date
 City Engineer, City of Pompano Beach