

ROADWAY TRANSFER AGREEMENT

From Florida Department of Transportation to City of Pompano Beach

**SR 814/Atlantic Boulevard from East of NW 6 Avenue to SR A1A
(Excluding S.C. Fox Memorial Bridge – Bridge ID 860157)**

AND

SR 811/Dixie Highway from Northern Limit of Bridge 860032 to SR 834/Sample Road

THIS AGREEMENT, made and entered into this 19th day of April, 2016, by and between the FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the DEPARTMENT, and the CITY OF POMPANO BEACH, hereinafter called the CITY.

WITNESSETH

WHEREAS, the roadway segments on SR814/Atlantic Boulevard from east of NW 6th Avenue to SR A1A and SR 811/Dixie Highway from northern limit of Bridge 860032 to SR 834/Sample Road are located within the CITY boundaries and are currently owned by the DEPARTMENT, hereinafter called ROADWAYS, as depicted on the Location Maps attached and incorporated herein as Exhibits "A" and "B", and,

WHEREAS, the CITY, has agreed to accept the transfer of the ROADWAYS, with the exception of the S.C. Fox Memorial Bridge (Bridge ID: 860157, Section ID: 86130000 from Mile Point 7.641 to Mile Point 7.712), to the CITY Street System, and these transfers are mutually agreed upon, between the CITY and the DEPARTMENT; and

WHEREAS, this AGREEMENT is being entered into in accordance with Section 335.0415, Florida Statutes; and

WHEREAS, the AGREEMENT has been approved by the CITY Commissioners through Resolution No. 2016-153, adopted on this 22nd day of March, 2016 and attached and incorporated herein as Exhibit "C".

NOW, THEREFORE, THIS INDENTURE WITNESSETH: in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the CITY and the DEPARTMENT agree as set forth below:

1. The above recitals are true and correct and are incorporated herein by reference.
2. This AGREEMENT, pursuant to Section 335.0415, Florida Statutes, sets forth the terms and conditions under which the CITY and the DEPARTMENT will abide. The commencement of jurisdictional and maintenance responsibilities is the date of the approval of the roadway transfer by the Secretary of the Florida Department of Transportation.

3. The DEPARTMENT gives up all rights to the ROADWAYS, including the right of way, except as may be specified in this AGREEMENT.

4. **Atlantic Boulevard** (SR 814) – from east of NW 6th Avenue to SR A1A (Excluding S.C. Fox Memorial Bridge – Bridge ID 860157)

The DEPARTMENT gives up all rights to the Atlantic Boulevard segment of roadway, identified above, including the right of way, except as may be specified herein.

(a) The S.C. Fox Memorial Bridge (Bridge ID: 860157) over the Intracoastal from abutment to abutment will continue to be owned, operated and maintained by the DEPARTMENT.

(b) The handrail, bridge lighting system connected to the bridge electric power, the approach slabs, signs pertaining to the bridge, roadway barriers to the end of the approach slabs, and traffic control signals associated with the S.C. Fox Memorial Bridge (Bridge ID: 860157) will continue to be owned, operated and maintained by the DEPARTMENT. The CITY agrees to perform maintenance of all roadway features, including sidewalks, on both approaches up to the bridge abutments as well as on the bridge. This includes the repair and maintenance of traffic stripes and markings, raised pavement markers, asphalt pavement, sweeping, litter pick-up and graffiti removal to keep the bridge fully and properly functioning at all times. Improvements constructed by the CITY on the S.C. Fox Memorial Bridge and the respective tender house will continue to require a permit from or a construction agreement with the DEPARTMENT. The CITY is responsible for maintaining any decorative features and other improvements added to the area by the CITY after this AGREEMENT is effective.

(c) The CITY will designate two parking spaces to the DEPARTMENT for the sole use of bridge tenders and maintenance of the S.C. Fox Memorial Bridge (Bridge ID: 860157) as shown on Exhibit "A" or an alternate location agreed upon by the DEPARTMENT. The CITY agrees to retain these spaces in perpetuity while the bridge exists.

5. **Dixie Highway** (SR 811) - from Northern Limit of Bridge 860032 to SR 834/Sample Road

The DEPARTMENT gives up all rights to the Dixie Highway segment of roadway, identified above, including the right of way, except as may be specified herein.

(a) The DEPARTMENT currently has a Lease Agreement with the Florida East Coast (FEC) Railway for bus stop locations along Dixie Highway; eleven locations of which are within the CITY limits of Pompano Beach (Exhibit "D"). This lease expires January 24, 2020. The DEPARTMENT shall pay for the required insurance coverage for the continuous use of the existing eleven bus stops located within the CITY limits for the duration of the lease or until terminated. It is understood, however, that the DEPARTMENT does not intend to renew the lease at the end of the expiration period and at that time, the CITY will be responsible for any arrangements regarding the use of the bus stop locations. Further, the DEPARTMENT retains the right to terminate that portion of the lease lying within the CITY prior to the expiration period. Upon such expiration or termination of the lease, the

DEPARTMENT will have no further obligations with respect to the bus stops or the landscape areas identified in the lease that are located within the CITY.

- (b) The area on the north approach slab to Bridge 860032, as illustrated in Exhibit B, will continue to be owned by the DEPARTMENT. The CITY agrees to maintain roadway features in the approach slab such as, but not limited to, asphalt overlay, traffic stripes and markings, raised pavement markers, and signs and perform all activities such as sweeping, picking up litter, graffiti removal, etc., to keep the approach to Bridge 860032 fully and properly functioning at all times.

6. Obligations as to both Roadways:

Prior to this transfer, the DEPARTMENT had scheduled two roadway improvement projects along the subject roadway segments of Dixie Highway. A total of \$4,562,065 (Four Million Five Hundred Sixty Two Thousand Sixty Five Dollars), shall be provided to the CITY after this transfer but prior to January 1, 2017 for improvements towards the subject roadway(s) or within the roadway right of way. The allocations shall be as follows:

- (a) Under FM No 427011.2 (SR-811/Dixie Highway from south of McNab Road to south of Atlantic Boulevard), the DEPARTMENT agrees to transfer the CITY a lump sum amount of \$1,675,855 (One Million Six Hundred Seventy-Five Thousand Eight Hundred Fifty-Five Dollars).
- (b) Under FM No 430606.1 (SR-811/Dixie Highway from Atlantic Boulevard to Copans Road), the DEPARTMENT agrees to transfer the CITY a lump sum amount of \$2,406,210 (Two Million Four Hundred Six Thousand Two Hundred Ten Dollars).
- (c) The DEPARTMENT also agrees to transfer to the CITY a lump sum amount of \$480,000 (Four Hundred Eighty Thousand Dollars).

It is understood that the obligation regarding any funds to be transferred to the CITY must be in accordance with Section 339.135(6)(a), Florida Statutes and that the DEPARTMENT's performance and obligation to transfer funding under this agreement shall be contingent upon annual appropriation by the Legislature.

Upon the effective date of transfer, the CITY accepts all responsibility for operation and maintenance of the ROADWAYS referenced above, including but not limited to:

- (a) All traffic control signals and devices, landscape, roadway lighting system, curbs, culverts and drainage structures within the right of way at the time of transfer. The DEPARTMENT agrees to remove State Road signs, as appropriate. The ownership and maintenance responsibilities for all remaining signs and signage structures located within the transfer limits are included in this transfer to the CITY.
- (b) The right of way and public sidewalks, bike paths, and other ways in the right of way.

- (c) The CITY agrees to perform all activities necessary to keep the ROADWAYS fully and properly functioning at all times. Examples of maintenance activities may include, but not limited to, maintenance of pavement and sidewalk surfaces, mowing, cleaning and desilting of ditches, retention ponds, drainage structures and other underground drainage systems, picking up litter, graffiti removal, repair/replacement of signs, etc. The DEPARTMENT will provide any information it has or becomes aware of that may have an impact on the function or operation of the ROADWAYS.
- (d) The CITY shall be fully responsible for maintaining the drainage system associated with the ROADWAYS. The DEPARTMENT shall retain flowage rights to the drainage system. Currently this drainage system is operational. Since the drainage system serves drainage for SR A1A, Bridge 860157 and other segments of SR 811 and SR 814, the CITY agrees that any modification or alteration to the drainage system shall be reviewed and concurred by the DEPARTMENT before implementation. If the drainage system is not properly maintained by the CITY, the DEPARTMENT reserves the right to perform necessary maintenance activities at the CITY's expense only after giving the CITY advance written notice of any maintenance activities or repairs.
- (e) The DEPARTMENT retains the right to access Bridges 860032 and 860157 without the need to obtain permits from the CITY for conducting its own maintenance or betterment projects to the bridges or bridge features. Except for emergencies, the DEPARTMENT's Maintenance Office will notify the CITY in advance to provide scope of work and corresponding work schedule and will coordinate the maintenance of traffic (MOT) with the CITY's Public Works Department prior to starting the work when one or more lane closures is required.
- (f) It is agreed that all obligations of the DEPARTMENT, under any maintenance, utility, railroad crossing AGREEMENT or other such AGREEMENT, or permits relating to any specific road to be transferred, shall be transferred at the same time, or soon thereafter, and in the same manner as jurisdictional responsibility. The CITY agrees to accept the ownership and assume all required maintenance obligations and duties of the two railroad crossings, along with the relevant traffic control devices, located within the ROADWAYS through a separate Railroad Transfer Agreement that is to be approved and executed subsequent to approval of this AGREEMENT. Copies of any existing permits, agreements and easements will be turned over to the CITY for their records prior to execution of this AGREEMENT or shortly after execution and approval of this AGREEMENT. The DEPARTMENT will assign all of its rights, title and interest related to the two railroad crossings and the relevant traffic control devices located within the ROADWAY boundaries described in this AGREEMENT through a separate Railroad Transfer Agreement. Such documents listed in assigning the rights, title and interest related to the two railroad crossings, once approved, will become Exhibit "E" to the CITY in this AGREEMENT.
- (g) Historical and archaeological resources were identified within or adjacent to the transfer area and the segments of railway within the ROADWAYS have been deemed National-Register eligible. The DEPARTMENT has provided the CITY with a letter from the Florida Department of State (Exhibit "F," dated January 25, 2016) confirming that based on the results of a cultural resource assessment survey no historic properties will be directly

affected by the transfer of ownership of the ROADWAYS. The CITY agrees to maintain any existing and all subsequently discovered historical or archaeological resources determined to be significant pursuant to Section 267.061, F. S. The CITY also agrees to coordinate with the Florida State Historic Preservation Officer to determinate the potential impacts to any historic resources should an improvement to any of these ROADWAYS occur in the future.

(h) The CITY shall continue the traffic data collection of 24-hour average daily traffic (ADT) count data at the following Traffic Monitoring Sites (TMSs):

- SR 814/Atlantic Boulevard: 860071, 867423, 860435
- SR 811/Dixie Highway: 860025, 860048, 860029, 865334

Collection shall occur at the locations as depicted in Exhibits "A" and "B," at least once a year during the peak season (typically between January and mid-April). Traffic count data shall be collected by following the existing guidelines/policies/procedures of the DEPARTMENT and submitted via e-mail in format compatible (TXT is preferred, PRN is acceptable) with the most current version of Survey Processing Software (SPS) to the District Traffic Data Coordinator for the preparation of the DEPARTMENT's annual data processing within 30 calendar days after the data are collected. Contact the District Traffic Data Coordinator with any questions or additional information at 954-777-4364.

(i) Federal-aid funds were expended on the ROADWAYS on the following F.M. numbers:

- SR 814/Atlantic Blvd: 227921-1, 227921-2, 406506-1
- SR 811/Dixie Hwy: 424671-1

It is understood that the DEPARTMENT may conduct periodic inspections of the ROADWAYS in accordance with the provisions in DEPARTMENT's Procedure Number: 850-065-001, Inspection of Federal-Aid Projects under Local Jurisdiction (Exhibit "G"). Such inspections will be conducted to ensure compliance with obligations related to the maintenance activities to be undertaken by the CITY as set forth in this agreement.

(j) Pursuant to Chapter 479, FS and Chapter 14-10, FAC, limitations apply to the use or erection of signs, displays or devices located within 660 feet or less from the nearest edge of the right of way of the ROADWAYS. In certain cases, depending on the nature of the signs that will be erected at the right of way parcel, permits from the DEPARTMENT may be required. Under the circumstance that a permit from the DEPARTMENT is not required, the CITY agrees to comply with all applicable laws, regulations and design standards to ascertain that the sight distance to the ROADWAYS and adjacent driveway intersections shall not be blocked by any sign erected on the right of way parcel.

7. Pursuant to Section 337.29, Florida Statutes (F.S.), deeds or existing right of way maps, including any existing sketch and legal descriptions, if available, will be recorded by the DEPARTMENT into the official records of Broward County. The DEPARTMENT, which currently has jurisdiction of the ROADWAYS, shall supply all right of way documentation.

8. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

9. This AGREEMENT embodies the whole AGREEMENT of the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this AGREEMENT shall supersede all previous communications, representations, or AGREEMENTs, either verbal or written, between the parties hereto.

10. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of Florida.

11. Each party is an independent contractor and is not an agent of the other party. Nothing contained in this AGREEMENT shall be construed to create any fiduciary relationship between the parties, during or after the performance of this AGREEMENT. Neither party shall have the authority to bind the other party to any obligation whatsoever to any third party without the express specific written consent of the other.

12. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

13. If any part of this AGREEMENT shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this AGREEMENT shall remain in full force and effect provided that the part of this AGREEMENT thus invalidated or declared unenforceable is not material to the intended operation of this AGREEMENT.

14. The parties may be reached at the following addresses and phone numbers.

City of Pompano Beach

Dennis Beach
City Manager
100 West Atlantic Boulevard
Pompano Beach, FL 33060
Telephone: (954) 786-4601

Florida Department of Transportation

Steven C. Braun, P.E.
District Planning and Environmental Engineer
3400 West Commercial Boulevard
Fort Lauderdale, Florida 33309-3421
Telephone: (954) 777-4143

With a copy to:

City Attorney
100 West Atlantic Boulevard
Pompano Beach, Florida 33061-2083
Telephone: (954) 786-4614

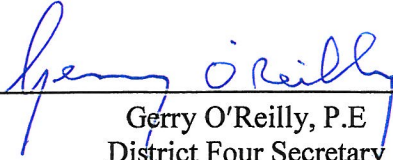
Office of General Counsel
3400 West Commercial Boulevard
Fort Lauderdale, Florida 33309-3421
Telephone: (954) 777-4529

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

CITY OF POMPANO BEACH

STATE OF FLORIDA
DEPARTMENT OF
TRANSPORTATION


BY: See City Signature Page Attached
Lamar Fisher
Mayor, City of Pompano Beach

BY: 
Gerry O'Reilly, P.E.
District Four Secretary

Date: _____

Date: 4/7/2016

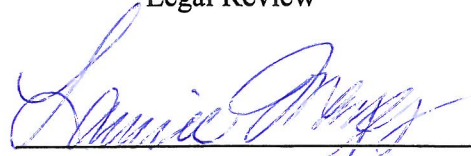
ATTEST: _____

ATTEST: 

Legal Review

Legal Review

Mark E. Berman
City Attorney


Laurice Mayes, Esq.
District Four Legal Counsel

"CITY":

Witnesses:

CITY OF POMPANO BEACH

Sandra M. Morway
Signature

By: [Signature]
LAMAR FISHER, MAYOR

Christine Kendel
Signature

By: [Signature]
DENNIS W. BEACH
CITY MANAGER

Attest:

[Signature]
ASCELETA HAMMOND
CITY CLERK

(SEAL)

Approved As To Form:

[Signature]
MARK E. BERMAN
CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 25th day of March, 2016 by LAMAR FISHER as Mayor, DENNIS W. BEACH, as City Manager and ASCELETA HAMMOND, City Clerk of the City of Pompano Beach, Florida, a municipal corporation, who is personally known to me.

NOTARY'S SEAL:

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA

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



Commission Number