

ROADWAY TRANSFER AGREEMENT

From Florida Department of Transportation to City of Pompano Beach (Various Roadways within the City of Pompano Beach)

THIS AGREEMENT, made and entered into this _____ day of _____, 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 subject roadways segments 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" through "I", and, specifically identified as:

1. NW 5th Ter from NW 32nd St to south of NW 35th St
2. SW 2nd Pl from Andrews Ave to 0.068 miles east
3. SW 9th Ter from north of 6th St to end of road
4. SW 8th St from Andrews Ave to 10th Ave
5. NW 1st St from NW 10th Ave to NW 9th Ave
6. NW 1st St from NW 8th Ave to NW 7th Ave
7. SE 22nd Ave from SR 814/Atlantic Blvd to SE 2nd St and SE 2nd St from SE 22nd Ave to US1/SR5/S Federal Hwy
8. NE 20th Ave from SR 814/Atlantic Blvd NE 2nd St and NE 2nd St from NE 20th Ave to US1/SR 5/N Federal Hwy

WHEREAS, the CITY, has agreed to accept the transfer of the ROADWAYS 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. _____, adopted on this _____ day of _____, 2016 and attached and incorporated herein as Exhibit "J".

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 DISTRICT Secretary.
3. The DEPARTMENT gives up all rights to the ROADWAYS, including the right of way, except as may be specified in this AGREEMENT.
4. The CITY shall be responsible for maintenance of the right of way and of public sidewalks, bike paths, and other ways in the right of way.
5. The CITY agrees to accept all operational and maintenance responsibilities of the ROADWAYS and to perform all activities necessary to keep the ROADWAYS fully and properly functioning at all times upon the EFFECTIVE DATE of transfer. Examples of maintenance activities may include, but are 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, and repair/replacement of signs.
6. It is agreed that all obligations of the DEPARTMENT, under existing maintenance, landscape, utility, railroad, or other such agreements, including permits and easements, relating to the ROADWAYS to be transferred, shall be transferred at the same time, or soon thereafter, and in the same manner as jurisdictional responsibilities. The CITY acknowledges that copies of any existing permits, agreements and easements have been turned over to the receiving entity for their records prior to execution of this AGREEMENT.
7. Historical and archaeological resources were not identified within or adjacent to the ROADWAYS by the DEPARTMENT as incorporated herein as Exhibit "K". The CITY agrees to coordinate with the Florida State Historic Preservation Officer with respect to subsequently discovered historical or archaeological resources to determine the potential impacts.
8. No Federal-Aid funding has been used on the ROADWAYS in the past 10 years.
9. 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.
10. 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.

11. 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.
12. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of Florida.
13. 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.
14. 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.
15. 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.
16. 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: _____
Lamar Fisher
Mayor, City of Pompano Beach

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

Date: _____

Date: _____

ATTEST: _____

Legal Review

ATTEST: _____

Legal Review

Mark E. Berman
City Attorney

Laurice Mayes, Esq.
District Four Legal Counsel