| SECTION NO.: | 8605000 |
| :--- | :--- |
| PERMIT NO.: | 2017-C-491-0013 |
| COUNTY: | Broward |
| S.R. No.: | SR-A1A @ NE 2 ${ }^{\text {nd }}$ St |

## FLORIDA DEPARTMENT OF TRANSPORTATION - DISTRICT FOUR MAINTENANCE MEMORANDUM OF AGREEMENT

This AGREEMENT, made and entered into this $\qquad$ day of $\qquad$ , 2018, 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 existing under the Laws of Florida, hereinafter called the AGENCY.

## WITNESSETH:

WHEREAS, the DEPARTMENT has jurisdiction over State Road A1A / North Ocean Bivd @ NE 2nd St; and

WHEREAS, the DEPARTMENT seeks to install and have maintained by the AGENCY certain highway improvements; and

WHEREAS, as part of the continual updating of the State of Florida Highway System, the DEPARTMENT, for the purpose of safety, protection of the investment and other reasons, has constructed and does maintain State Road A1A / North Ocean Blvd @ NE 2nd St (within the limits of the AGENCY); and

WHEREAS, it is the intent of the AGENCY and the DEPARTMENT that the AGENCY shall maintain the black color coated painted mast arm assemblies (includes upright pole and arm), within the project limits under Permit Number 2017-C-491-0013 at the intersection of State Road A1A / North Ocean Blvd @ NE 2nd St at the intersection centerline of State Road A1A / North Ocean Blvd Mile Post (M.P.) 10.118; hereinafter called IMPROVEMENTS; and

WHEREAS, the Project involves the scope of work as described within Exhibit A (Project Location and Location Map) and Exhibit B (Signalization Plans), which will benefit the AGENCY; and

WHEREAS, Broward County (the maintaining signal agency), has no objection to this project as indicated in Exhibit C (Broward County Acknowledgement Letter); and

WHEREAS, the parties hereto mutually recognize the need for entering into an AGREEMENT designation and setting forth the responsibilities of each party; and

WHEREAS, the AGENCY by Resolution No. $\qquad$ dated 2018, 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 recitals set forth above are true and correct and are deemed incorporated herein.
2. INSTALLATION OF FACILITIES

The DEPARTMENT has issued Permit Number 2017-C-491-0013 to install the

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IMPROVEMENTS as detailed in Exhibit A (Project Location and Location Map) and Exhibit B (Signalization Plans), which will benefit the AGENCY.

## 3. MAINTENANCE OF FACILITIES

A. The AGENCY agrees to maintain the IMPROVEMENTS as provided herein. Maintenance by the AGENCY will include repair, restoration, and general maintenance of the black color coated painted mast arm assemblies (includes upright pole and arm) within the project limits. Non-standard items are defined as items requested by the AGENCY that are not defined in the DEPARTMENT'S Design Standards. This includes the IMPROVEMENTS within the project limits as referenced in Exhibit A (Project Location and Location Map).

1) The AGENCY shall be solely responsible for the maintenance and preservation of the IMPROVEMENTS within the project limits. The AGENCY shall inspect the painted color coatings on a yearly basis. All Maintenance or restoration activities shall be performed in accordance with a Maintenance Plan, as approved by the DEPARTMENT, as per the requirements in Exhibit D (Maintenance Plan Requirements).
2) The above-named functions to be performed by the AGENCY may be subject to periodic inspections by the DEPARTMENT at the discretion of the DEPARTMENT. Such inspection findings will be shared with the AGENCY and shall be the basis of all decisions regarding, reworking or AGREEMENT termination. The AGENCY shall not change or deviate from the AGENCY's approved Maintenance Plan as referenced in Exhibit D (Maintenance Plan Requirements) without written approval from the DEPARTMENT.
3) The AGENCY shall be solely responsible for any damages to surrounding property, real estate, vehicles, pedestrians, attachments to the light poles, or other assets occurring as a result of maintaining the painted color coating operations and shall repair such damage to the satisfaction of the DEPARTMENT at no expense to the DEPARTMENT.
B. It is understood and agreed by the parties that upon "final acceptance" (as that term is described in the Standard Specifications for Roadway and Bridge Construction, as amended by contract documents section 5-11) by the DEPARTMENT of the Project and Notice thereof to the AGENCY, the AGENCY shall be responsible for maintenance of the Project in accordance with the following Federally and State accepted standards (current editions at the time of execution and all amendments thereafter) of this AGREEMENT and any amendments hereafter) and all costs related thereto: (a) FDOT Design Manual (FDM), (b) FDOT Plans Preparation Manual (PPM), (c) Florida Green Book, (d) Standard Specifications for Roadway and Bridge Construction, (e) FDOT Design Standards, (f) Manual on Uniform Traffic Control Devices (MUTCD) and (g) Maintenance Rating Program (MRP).
4) The AGENCY shall be responsible for only the IMPROVEMENTS as referenced in Exhibit A (Project Location and Location Map) immediately after final acceptance of the construction project by the DEPARTMENT.

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C. The above-named functions to be performed by the AGENCY may be subject to periodic inspections by the DEPARTMENT at the discretion of the DEPARTMENT. Such inspection findings will be shared with the AGENCY and shall be the basis of all decisions regarding, repayment, reworking or AGREEMENT termination.
D. Any work impacting traffic flow on State Road A1A / North Ocean Blvd @ NE 2nd St must be coordinated with the DEPARTMENT. Lane closures must be submitted for approval in accordance with DEPARTMENT procedures and policies and will meet the goals established in the DEPARTMENT's Open Roads Policy.

## 4. NOTICE OF MAINTENANCE DEFICIENCIES

A. If, at any time while the terms of this AGREEMENT are in effect, it shall come to the attention of the DEPARTMENT that the AGENCY's responsibility as established herein or a part thereof is not being properly accomplished pursuant to the terms of this AGREEMENT, the DEPARTMENT may issue a written notice, that a deficiency or deficiencies exist(s), by sending a certified letter to the AGENCY, in care of the CITY OF POMPANO BEACH CITY MANAGER, to place the AGENCY on notice regarding its maintenance deficiencies. Thereafter, the AGENCY shall have a period of sixty ( 60 ) days within which to correct the citied deficiency or deficiencies. If said deficiencies are not corrected within the time period, the DEPARTMENT may, at its option, proceed under one or more or a combination of the following items:

1) The DEPARTMENT may repair any item or a number of items. Corrective actions will be performed with the DEPARTMENT and/or its independent contractor's materials, equipment and personnel. The actual cost for such work will be charged to the AGENCY.
2) If the AGENCY does not maintain the black color coated painted mast arm assemblies (includes upright pole and arm), the DEPARTMENT may remove all the black color coated painted mast arm assemblies (includes upright pole and arm) and repair any damaged galvanizing with DEPARTMENT and/or its independent contractor's materials, equipment and personnel. The actual cost for such work will be charged to the AGENCY.
3) The DEPARTMENT may remove or replace any item or number of items with the standard DEPARTMENT item. Corrective actions will be performed with the DEPARTMENT and/or its independent contractor's materials, equipment and personnel. The actual cost for such work will be charged to the AGENCY.
4) At the discretion of the DEPARTMENT, terminate the AGREEMENT in accordance with Paragraph 7 of this AGREEMENT and remove, by the DEPARTMENT or its Contractor's personnel, all of the IMPROVEMENTS installed under this AGREEMENT and charge the AGENCY the reasonable cost of such removal.
5. FUTURE DEPARTMENT IMPROVEMENTS

It is understood between the parties hereto that the IMPROVEMENTS covered by this AGREEMENT may be removed, relocated or adjusted at any time in the future as

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determined to be necessary by the DEPARTMENT in order that the adjacent state road be widened, altered or otherwise changed to meet with future criteria or planning of the DEPARTMENT.

## 6. FUTURE AGENCY IMPROVEMENTS

The AGENCY may construct additional improvements within the limits of the rights of ways identified as a result of this document, subject to the following conditions:
A. Plans for any new improvements shall be subject to approval by the DEPARTMENT. The AGENCY shall not change or deviate from said plans without written approval by the DEPARTMENT.
B. The AGENCY shall procure a permit and/ or Construction Agreement from the DEPARTMENT, as appropriate.
C. All improvements shall be developed and implemented in accordance with appropriate state safety and roadway design standards.
D. The AGENCY agrees to comply with the requirements of this AGREEMENT with regard to any additional improvements installed at no cost to the DEPARTMENT. The AGENCY through its City Manager shall execute an Amendment reflecting the additional mast arms under the same terms and conditions of this Agreement.

## 7. AGREEMENT TERMINATION

This AGREEMENT may be terminated under any one (1) of the following conditions:
A. By the DEPARTMENT, if the AGENCY fails to perform its duties under this AGREEMENT, following ten (10) days written notice. The AGENCY shall reimburse the DEPARTMENT for any expenditures for the installation of said improvements and the cost to remove and or replace said improvement with the standard improvement or remove in its entirety.
B. By the DEPARTMENT, for refusal by the AGENCY to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the AGENCY in conjunction with this AGREEMENT.
C. By the DEPARTMENT with a six (6) month written notice.
8. AGREEMENT TERM

The term of this AGREEMENT commences upon execution by all parties. The term of this AGREEMENT shall remain in effect for as long as the IMPROVEMENTS shall exist.

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## 9. LIABILITY AND INSURANCE REQUIREMENTS

A. With respect to any of the AGENCY'S agents, consultants, sub-consultants, contractors, and/or sub-contractors, such party in any contract for the IMPROVEMENTS shail agree to indemnify, defend, save and hold harmless the DEPARTMENT from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission or commission of such agents, consultants, sub consultants, contractors and/or subcontractors. The AGENCY shall provide to the DEPARTMENT written evidence of the foregoing upon the request of the DEPARTMENT. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the DEPARTMENT for its own negligence.
B. In the event that AGENCY contracts with a third party to provide the services set forth herein, any contract with such third party shall include the following provisions:

1) AGENCY'S contractor shall at all times during the term of this AGREEMENT keep and maintain in full force and effect, at contractor's sole cost and expense, Comprehensive General Liability with minimum limits of $\$ 1,000,000.00$ per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability and Worker's Compensation insurance with minimum limits of $\$ 500,000.00$ per Liability. Coverage must be afforded on a form no more restrictive that the latest edition of the Comprehensive General Liability and Worker's Compensation policy without restrictive endorsements, as filed by the Insurance Services Office and shall name the DEPARTMENT as an additional insured.
2) AGENCY'S contractor shall furnish AGENCY with Certificates of Insurance of Endorsements evidencing the insurance coverages specified herein prior to the beginning performance of work under this AGREEMENT.
3) Coverage is not to cease and is to remain in full force and effect (subject to cancellation notice) until all performance required of AGENCY'S contractor is completed. All policies must be endorsed to provide the DEPARTMENT with at least thirty (30) days notice of cancellation and or/or restriction. If any of the insurance coverages will expire prior to the completion of work, copies of renewal policies shall be furnished at least (30) days prior to the date of expiration.

## 10. E-VERIFY REQUIREMENTS

The AGENCY shall:
A. 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 for the work performed under this AGREEMENT; and
B. 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 EVerify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

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## 11. ENTIRE AGREEMENT

This writing embodies the entire AGREEMENT and understanding between the parties hereto and there are no other Agreements and understanding, oral or written, with reference to the subject matter (painting of mast arms) hereof that are not merged herein and superseded hereby except the Construction Agreement 2017-C491-013 signed between the parties, as amended.
12. LIABILITY

The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of TWENTYFIVE THOUSAND DOLLARS $(\$ 25,000.00)$ and which have a term for a period of more than one year.

## 13. DISPUTES

The DEPARTMENT'S District Secretary shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this AGREEMENT, the prosecution or fulfillment of the service hereunder and the character, quality, amount and value thereof; and his decision upon all claims, questions and disputes shall be final and conclusive upon the parties hereto.

## 14. ASSIGNMENT

This AGREEMENT may not be assigned or transferred by the AGENCY in whole or part without the consent of the DEPARTMENT.
15. LAWS GOVERNING

This AGREEMENT shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The AGENCY agrees to waive forum and venue and the DEPARTMENT shall determine the forum and venue in which any dispute under this AGREEMENT is decided.

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## 16. NOTICES

Any and all notices given or required under this AGREEMENT shall be in writing and either personally delivered with receipt acknowledgement or sent by certified mail, return receipt requested. All notices shall be sent to the following addresses.

If to the DEPARTMENT:
State of Florida Department of Transportation
Attention: District Maintenance Engineer
3400 West Commercial Blvd
Ft. Lauderdale, FL 33309-3421
If to the AGENCY:
City of Pompano Beach
Attention: City Manager
100 West Atlantic Blvd, Room 276
Pompano Beach, FL 33060
17. LIST OF EXHIBITS

Exhibit A: Project Location and Location Map
Exhibit B: Signalization Plans
Exhibit C: Broward County Acknowledgement Letter
Exhibit D: Maintenance Plan Requirements

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

Witnesses:
$\qquad$
$\qquad$

CITY OF POMPANO BEACH

By:
LAMMAR FISHER, MAYOR

By:
GREGORY P. HARRISON, CITY MANAGER
Attest:

## ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved As To Form:

MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD
The foregoing instrument was acknowledged before me this $\qquad$ day of 2018 by LAMAR FISHER as Mayor, GREGORY P. HARRISON as City Manager and ASCELETA HAMMOND as 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:
NOTARY PUBLIC, STATE OF FLORIDA
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

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IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

## DEPARTMENT:

ATTEST:
STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

Sign: $\qquad$
Director of Operations

Executive Secretary
(SEAL)

Print Name: $\qquad$

Date: $\qquad$

Legal Review:

Sign: $\qquad$
District General Counsel

Print Name: $\qquad$

Date: $\qquad$

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## EXHIBIT A

## PROJECT LOCATION AND LOCATION MAP

## A. PROJECT LOCATION

The AGENCY shall maintain the black color coated painted mast arm assemblies (includes upright pole and arm), within the project limits under Permit Number 2017-C-491-0013 at the intersection of State Road A1A / North Ocean Blvd @ NE 2nd St at the intersection centerline of State Road A1A / North Ocean Blvd Mile Post (M.P.) 10.118
B. LOCATION MAP

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## EXHIBIT B

## SIGNALIZATION PLANS

Signalization plans digitally signed and sealed by Adam B. Kerr, P.E., Kimley Horn and Associates, dated April 20, 2018, as approved by the DEPARTMENT.

SIGNALIZATION PLANS (attached)
Sheets Included:

| PDF Page <br> Number (\#) | Plan <br> Sheet (\#) | Sheet Description |
| :--- | :--- | :--- |
| 14 | 1 |  |
| 15 | 2 | KEY SHEET |
| 16 | 3 | BILL OF MATERIALS |
| 17 | 4 | GERNAL NOTES |
| 18 | 5 | SIGNALIZATION PLAN |
| 19 | 6 | STREET NAME SIGNS |
| 20 | 7 | TABULATION |
| 21 | 8 | MAST ARM ASSEMBLY DATA TABLE |
| 22 | 9 | INTERSECTION LIGHTING PLAN |
|  |  | MAST ARM TYPICAL SECTIONS |

[The remainder of this page intentionally left blank.]

## EXHIBIT C

## BROWARD COUNTY ACKNOWLEDGEMENT LETTER

Please see next page for Letter.
[The remainder of this page intentionally left blank.]

PUBLIC WORKS DEPARTMENT
TRAFFIC ENGINEERING DIVISION
2300 W. Commercial Boulevard • Fort Lauderdale, Florida 33309 • 954-847-2600

February 23, 2018
Mr. Mark Plass, P.E.
District Traffic Operations Engineer
Florida Department of Transportation, District Four
3400 W. Commercial Blvd
Fort Lauderdale, Fl 33309
Subject: SR A1A and NE 2 Street, New Signal in Pompano Beach Mast-Arm Painting Maintenance by City of Pompano Beach

Dear Mark,
Broward County has no objection to the City of Pompano Beach painting and/or maintaining the paint finish on the traffic signal mast-arms and related structures at the intersection of SR A1A and NE 2 Street. The County does not object to the City of Pompano Beach and the Department entering into a maintenance agreement to perform and/or maintain the mast-arm painting in accordance with the District's mast-arm painting procedures and any other applicable paint-over-galvanized steel structure standards and specifications. County staff would appreciate at least seven (7) calendar days notification of any scheduled paint finish maintenance work to avoid any conflicts with any signal equipment maintenance to be performed by our agency.

If you have any questions, please feel free to contact me at (954) 847-2600.
Sincerely,


Scott Brunner, P.E.
Director, Traffic Engineering Division

cc: Tony Hui, Deputy Director, Public Works Department<br>Andrew Sebo, Assistant Director, Traffic Engineering Division Yves d'Anjou, Engineering Unit Supervisor, Traffic Engineering Division SR A1A at NE 2 Street Intersection File

## Florida Department of Transportation Legal Review

To:
From:
Date:

Lary Wallace
Dawn Raduano
May 14, 2018

Extension: 4208
Extension:


Maintenance MOA
Division:
Entity:
SR:
Type:

Transportation Operations
Pompano Beach
A1A and NE 2nd
mast arms

In accordance with your request my comments are as follows:
Approved.

Thank you. Please do not hesitate to contact me if you have any questions.
INDEX OF SIGNALIZATION PLANS
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THESE PLANS HAVE BLEA PREPAREO IN ACCOROANCE WIH
THE FOLOMNG. MANUAL ON UNIFORNT TRAFFIC CONIROL
THE GOL LOWNG. MANUAL ON UNIFOFW TRAFFIC CONFROL
OEMCES (MUICD); FOOT STANOARO SPECAICATDON FOR
RDAO AND BRIOGE CONSTAUCTION-201Q (STAADPARD
SPECIFICATIONS) FDOT STANDARD PLANS SOR ROAD






 For southbound traffic:


