

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date:	July 10, 2018	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing

Department:	Engineering & Public Works
Submitted By:	Engineering & Public Works
Submitted For:	Traffic Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) adopt a Resolution approving a highway maintenance memorandum of agreement (HMMOA) with the Florida Department of Transportation (FDOT) for the construction of new decorative street lighting on Congress Avenue from north of 45th Street to Blue Heron Boulevard (project); and

B) approve an interlocal agreement (Agreement) with the City of Riviera Beach (City) for ownership, operation and maintenance responsibility of the project.

SUMMARY: Adoption of this Resolution to approve the HMMOA will allow the FDOT to construct the project, which will provide a decorative street lighting system with approximately 90 new lights within the City, for the City to operate and maintain. The HMMOA is required since the project is located within a Palm Beach County (County) road right-of-way. Construction will be funded by FDOT at an estimated cost of \$2,400,000 and ownership, operation and maintenance responsibility will be assigned to the City by the Agreement. The City further agrees to apply for a right-of-way permit from the County prior to construction. District 7 (LBH)

Background and Justification: Construction of the project will impact County road right-of-way. FDOT requires execution of the HMMOA to provide authority for FDOT to construct improvements in County road right-of-way. However, since the entire project lies within the City's municipal limits and County policy does not allow for maintenance of street lighting within municipalities, the City has agreed to own, operate and maintain the street lighting system. The County requires the City to enter into this agreement, and also acquire a right-of-way construction permit from the County to assure that the City will be sole and fully responsible to operate and maintain all the lighting components through perpetuity of the street lighting system including, but not limited to, relocation or removal. All expenses not covered by FDOT will be the responsibility of the City. The County will have no financial obligations for the project aside from final permit inspections of the work performed by FDOT.

Attachments:

1. Location Sketch
2. Resolution (5)
3. HMMOA with Exhibit A (5)
4. Interlocal Agreement with Exhibit A (5)

Recommended By:		6/25/2018
	Department Director	Date

Approved By:		6/26/18
	Assistant County Administrator	Date

Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures	<u>\$ -0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>\$ **</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE					
POSITIONS (Cumulative)					

Budget Account No:

Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: Alice Kovalainen

III. REVIEW COMMENTS

Robert Brewer 6/15/18
OFMB
SK 8/6/14
6/15
JMT 6/14

Dr. J. Jacoby 6/20/18
Contract Dev. and Control

J. B. Herman 6/21/2018
Assistant County Attorney

Department Director

2



LOCATION SKETCH
Congress Avenue
from 45th Street to Blue Heron Boulevard

RESOLUTION NO. R-2018-_____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, APPROVING A HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT FOR THE CONSTRUCTION OF DECORATIVE STREET LIGHTING ALONG CONGRESS AVENUE FROM NORTH OF 45TH STREET TO BLUE HERON BOULEVARD, WITHIN THE MUNICIPAL LIMITS OF THE CITY OF RIVIERA BEACH.

WHEREAS, the Florida Department of Transportation (FDOT) intends to construct a decorative street lighting system of approximately 90 new lights along Congress Avenue from north of 45th Street to Blue Heron Boulevard (Project), within the municipal limits of the City of Riviera Beach (City); and

WHEREAS, the FDOT has requested that Palm Beach County (County) enter into a Highway Maintenance Memorandum of Agreement (HMMOA), outlining the responsibilities of each party to the HMMOA with respect to the construction of the Project; and

WHEREAS, by interlocal agreement and a right-of-way construction permit from the County, the City will be fully responsible for the ownership, operation and maintenance of all lighting components through perpetuity of the street lighting system including, but not limited to, relocation or removal; and

WHEREAS, the Board of County Commissioners (BCC) has determined execution of the HMMOA furthers the public health, safety and welfare.

NOW, THEREFORE, be it resolved by the BCC that the Mayor is hereby authorized to execute the HMMOA.

1. The recitations set forth herein above are true and correct and are incorporated herein.
2. This Resolution will take effect upon its adoption.

(REMAINDER OF PAGE LEFT INTENTIONALLY BLANK)

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Commissioner Melissa McKinlay, Mayor	-
Commissioner Mack Bernard, Vice Mayor	-
Commissioner Paulette Burdick	-
Commissioner Hal R. Valeche	-
Commissioner Dave Kerner	-
Commissioner Steven L. Abrams	-
Commissioner Mary Lou Berger	-

The Mayor thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2018.

PALM BEACH COUNTY, FLORIDA BY
ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Melissa McKinlay, Mayor

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

SHARON R. BOCK, CLERK AND
COMPTROLLER

By: _____
Yelizaveta Herman
Assistant County Attorney

By: _____
Deputy Clerk

SECTION No.: 932505
FM No.: 436893-1-52-01
AGENCY: Palm Beach County
C.R. No.: 807

**DISTRICT FOUR
HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____, 20__, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the DEPARTMENT and Palm Beach County, a political subdivision of the State of Florida, or a municipal corporation existing under the Laws of Florida, hereinafter called the AGENCY.

WITNESSETH:

WHEREAS, the AGENCY has jurisdiction over Congress Avenue, as part of the County Roadway System from N of 45th Street to Blue Heron Blvd; 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 the AGENCY is desirous of having this improvement constructed; 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 Financial Project ID 436893-1, which involves decorative street lighting; hereinafter referred to as the "Project", as more particularly described in **Exhibit A**; and

WHEREAS, the DEPARTMENT may not spend state funds for Off-system projects; and

WHEREAS, upon acquisition of the necessary right-of-way, if needed, the DEPARTMENT will proceed to construct the Project; 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 Resolution on the _____ day of _____, 20__, 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**. The AGENCY is responsible for additional

Project costs determined to be Federal Aid Non-Participating. The AGENCY shall establish a contingency account for Federal Aid non-participating items, no later than the date construction activities are to commence. The DEPARTMENT shall notify the AGENCY as soon as the DEPARTMENT is made aware that an item will be Federal Aid Non-Participating. The AGENCY shall have the opportunity from the DEPARTMENT'S notice to review the Federal Aid Non-Participating scope and costs items before granting its approval. However, failure of the AGENCY to grant its approval shall not relieve the AGENCY from its obligation to pay for Federal Aid Non-Participating items. In the event the Project is delayed due to the Agency's delay in approving or not approving to pay for Federal Aid non-participating items, any and all delay costs shall be the responsibility of the Agency and shall be paid to the Department upon demand.

2. The AGENCY shall allow the DEPARTMENT and its contractors to enter onto the existing AGENCY property, including easements on property acquired by the DEPARTMENT, to construct this Project. No further permit or agreement shall be required 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. The AGENCY shall continue to be responsible for Mowing and Litter Removal during the duration 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 2017, 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 Design Manual (FDM), 2018, (b) Florida Green Book dated 2016, as amended (c) Governing standards and specifications: FDOT Design Standards dated FY 2017-18, as amended (d) Standard Specifications for Roadway and Bridge Construction dated 2018, as amended by contract documents, and (e) Manual on Uniform Traffic Control Devices (MUTCD), 2009, or as amended. Maintenance of said Project includes, but is not limited to, installation of roadway and bridge decorative lighting, and incidental sidewalk replacement. Additionally, upon final acceptance the DEPARTMENT shall convey all acquired property interests to the AGENCY. The Department shall give the AGENCY ten (10) days notice before final acceptance.
 - The AGENCY grants herein to the DEPARTMENT all rights necessary to enter and construct the Project.
5. No additional right of way is required for the PROJECT. The PROJECT can be completed within the AGENCY's public right of way.
6. Warranties: The DEPARTMENT shall transfer any applicable warranties to the AGENCY.
7. Environmental permitting: If requested by the DEPARTMENT, the AGENCY shall sign as a joint 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 and the right of way is transferred to the AGENCY. To the extent permitted by law, the AGENCY shall indemnify the DEPARTMENT for any violations by the AGENCY of any permits issued to the DEPARTMENT or jointly to the AGENCY and the DEPARTMENT after construction is complete. The AGENCY shall execute all documentation required by the permitting agencies in a timely manner to accept transfer of the Project. For various occupancy permits the AGENCY shall be the applicant.

8. 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 and proposed right of way. This shall also include having the AGENCY require the Utility to relocate or adjust if the utility is there by permit, as necessary.
 - a. AGENCY'S UTILITIES: The AGENCY shall be responsible for relocating and adjusting its own utilities including connection with utility customers.
9. Signals: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to affect signal and interconnect connections for the Project.
10. 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.
11. 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 contractor during the contract term.
12. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings as represented in the Final Proposed Construction plans. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.

13. Additional Insured: The DEPARTMENT shall include the following paragraph as part of Section 7-13.2 of the Standard Specifications for Road and Bridge Construction, Division 1, General Requirements and Covenants (July 2018), as amended, applicable to this Project:

“Cause Palm Beach County to be an additional insured party on the Contractor’s Public Liability and Property Damages Liability Insurance policies that insure the Contractor for the described work that it performs under the Contract.”

14. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

- LIST OF EXHIBITS
- **Exhibit A:** Project Scope

[This space intentionally left blank.]

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

AGENCY

ATTEST:

Palm Beach COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

By: _____

Melissa McKinlay, Mayor

_____ day of _____, 20_____

Approved as to Form by Office of County Attorney

By: _____

Yelizaveta Herman
Assistant County Attorney

Approved as to terms and conditions

By: Motase Al-Turk _____

Motase Al-Turk, PhD, P.E.
Traffic Division Director

DEPARTMENT

ATTEST:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

Executive Secretary
(SEAL)

By: _____

Transportation Development Director

_____ day of _____, 20_____

Approval :

Office of the General Counsel (Date)

SECTION No.: 932505
FM No.: 436893-1-52-01
AGENCY: Palm Beach County
C.R. No.: 807

EXHIBIT A

PROJECT SCOPE

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

Summary of Work

Installation of decorative street lighting along Congress Avenue from N of 45th Street to SR-708/Blue Heron Blvd.

Typical Section

- Congress Avenue is a 6-lane section from North of 45th St. to SR-710/Martin Luther King Jr. Blvd. and a 4-lane section from SR-710/Martin Luther King Jr. Blvd. to SR-708/Blue Heron Blvd. The travel lanes are 11-ft wide with 4-ft bike lanes in both directions. Both sections are divided urban sections with a raised median and Type F curb and gutter on both sides. The 6-lane section has 6-ft sidewalks while the 4-lane section has 5-ft sidewalks separated by a varying grass strip on both sides. There is an existing 6-lane divided bridge between 45th St. and SR-710/Martin Luther King Jr. Blvd. over the South Florida Regional Transportation Authority Railroad.

Sidewalks

- Incidental sidewalk replacement due to installation of decorative light poles.

Structures

- Decorative lighting will be installed on the existing bridge over the South Florida Regional Transportation Authority Rail corridor.

Lighting

- Decorative lighting will be installed to provide a vital link in the network as Palm Beach County seeks to expand bicycle routes throughout the urban corridor.

RESOLUTION NO. 36-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, ENTERING INTO AN INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY FOR THE OPERATION AND MAINTENANCE OF A DECORATIVE STREET LIGHTING SYSTEM ON CONGRESS AVENUE FROM 45TH STREET TO BLUE HERON BOULEVARD TO BE CONSTRUCTED BY FDOT UNDER PROJECT (FM#436893-1-52-01) AND ACCEPTING OBLIGATION FOR CONTINUED MAINTENANCE AND OPERATION EXPENSES ASSOCIATED WITH THE STREETLIGHTS ONCE INSTALLED BY FDOT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2014 the City of Riviera Beach made application through the Metropolitan Planning Organization for lighting improvements along Congress Avenue; and

WHEREAS, the City Council approved on November 1, 2018 an endorsement of FDOT project FM#436893-1-52-01 under Resolution No. 126-17 to execute agreements and permit applications; and

WHEREAS, the City of Riviera Beach desires for FDOT to make improvements to Congress Avenue to accomplish the installation of streetlights; and

WHEREAS, the Projects will be constructed completely within right-of-way owned by the Palm Beach County; and

WHEREAS, the owner of the right-of-way has indicated formal support for the projects; and

WHEREAS, following construction of the Project, the City of Riviera Beach shall appropriate such funds as may be necessary for the continued operation and maintenance of the streetlights.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA as follows:

SECTION 1. The City of Riviera Beach supports the FDOT delivery of the Projects within the County right-of-way.

RESOLUTION NO. 36-18
PAGE: 2

SECTION 2. The City of Riviera Beach hereby directs and authorizes the City Manager to execute this Interlocal Agreement and permit applications as may be required, to facilitate the streetlight installation.

SECTION 3. The City of Riviera Beach agrees to appropriate such funds as may be necessary to support the continued operation and maintenance of the Streetlights.

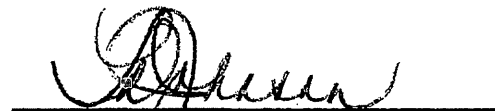
SECTION 4. That this Resolution shall take effect upon its passage and approval by City Council.

PASSED and APPROVED this 18TH day of APRIL, 2018.


RESOLUTION NO. 36-18
PAGE: 3


APPROVED:

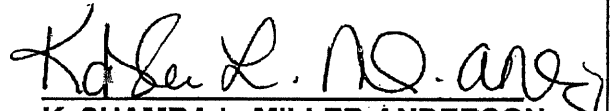

THOMAS A. MASTERS
MAYOR


TONYA DAVIS JOHNSON
CHAIRPERSON

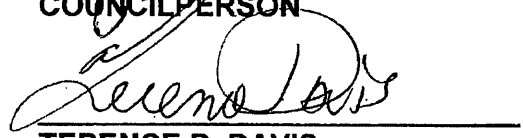
ATTEST:


CLAUDENE L. ANTHONY
CERTIFIED MUNICIPAL CLERK
CITY CLERK


LYNNE L. HUBBARD
CHAIR PRO TEM


KASHAMBA L. MILLER-ANDERSON
COUNCILPERSON


JULIA A. BOTEL
COUNCILPERSON


TERENCE D. DAVIS
COUNCILPERSON

MOTIONED BY: J. BOTEL

SECONDED BY: L. HUBBARD

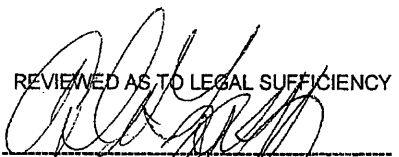
L. HUBBARD AYE

K. MILLER-ANDERSON AYE

T. DAVIS JOHNSON AYE

J. BOTEL AYE

T. DAVIS AYE


REVIEWED AS TO LEGAL SUFFICIENCY
ANDREW DEGRAFFENREIDT III
CITY ATTORNEY

DATE: 4/17/18

**INTERLOCAL AGREEMENT FOR OWNERSHIP, OPERATION AND MAINTENANCE
OF A DECORATIVE STREET LIGHTING SYSTEM ON CONGRESS AVENUE
FROM 45th STREET TO BLUE HERON BOULEVARD
BETWEEN PALM BEACH COUNTY AND THE CITY OF RIVIERA BEACH**

THIS INTERLOCAL AGREEMENT, made and entered into this _____ day of _____, 2018 and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter “**COUNTY**”, and **CITY OF RIVIERA BEACH**, a municipality organized under the laws of the State, hereinafter “**CITY**,” and together the “**PARTIES**.”

W I T N E S S E T H:

WHEREAS, **COUNTY** and **CITY** are authorized to enter into this Interlocal Agreement, hereinafter “**AGREEMENT**”, pursuant to Section 163.06 of the Florida Statutes, as amended, which allows local governmental units to make the most efficient use of their powers by enabling them to cooperate on the basis of mutual advantage; and

WHEREAS, Congress Avenue from 45th Street to Blue Heron Boulevard (“**CONGRESS AVENUE**”) is a **COUNTY** right of way; and

WHEREAS, **CONGRESS AVENUE** is within **CITY**’s municipal boundary; and

WHEREAS, the **CITY** is desirous of having the Florida Department of Transportation (“**FDOT**”), construct certain improvements, which include decorative street lighting on **CONGRESS AVENUE**, more particularly described as Financial Project ID 436893-1-52-01 (“**PROJECT**”); and

WHEREAS, **FDOT** requires the **COUNTY** to enter into a Highway Maintenance Memorandum of Agreement for the **PROJECT** (“**HMMOA**”) which is incorporated by reference herein as **Exhibit “A”**; and

WHEREAS, **FDOT** will proceed to construct the **PROJECT** pursuant to the **HMMOA**; and

WHEREAS, pursuant to this Agreement, **COUNTY** has agreed to assign and deliver to **CITY**, and **CITY** has agreed to accept and assume from **COUNTY**, the **HMMOA**, including all rights, claims, interests, and obligations with respect thereto; and

NOW THEREFORE, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, **COUNTY** and **CITY** hereby covenant and agree as follows:

SECTION 1. RECITALS. The above recitations are true and correct and incorporated herein.

SECTION 2. ASSIGNMENT AND ASSUMPTIONS. The **COUNTY** hereby conveys, transfers, and assigns all of its rights, duties and obligations in, to, and under the **HMMOA**, and the **CITY** hereby assumes all rights, duties and obligations required of **COUNTY** in, to, and under the **HMMOA**, including all required payments, and the **CITY** agrees to comply with all terms and conditions of the **HMMOA**.

SECTION 3. RIGHT OF WAY PERMIT. The **CITY** shall apply for a Right-of-Way Construction Permit from the **COUNTY** for the **PROJECT** (“**ROW PERMIT**”).

SECTION 4. ADDITIONAL COSTS. The PARTIES further agree, as follows:

- a) CITY shall be responsible for all costs associated with the PROJECT; and
- b) COUNTY, under no circumstances, shall incur any cost as a result of the PROJECT.

SECTION 5. OWNERSHIP AND MAINTENANCE. As of the issuance date of the ROW PERMIT, the CITY shall have the duty to maintain, repair, and replace all improvements related to the PROJECT in perpetuity. In the event CITY fails to maintain, repair or replace any PROJECT improvements, COUNTY shall have the right to remove or request CITY to remove, any PROJECT improvements, and CITY shall be responsible for all costs related to the removal.

SECTION 6. AMENDMENTS. This AGREEMENT may be amended in writing by the mutual consent of the PARTIES to this AGREEMENT and executed with the same formality as the original AGREEMENT.

SECTION 7. NOTICES. All notices and inquiries regarding or allowed by this AGREEMENT shall be delivered in person or mailed by Certified Mail, Returned Receipt Requested, with sufficient postage affixed, to the party to whom such notice is to be given. Notices are to be sent to the following locations:

As to the activities of the COUNTY and CITY:

PALM BEACH COUNTY: Tanya N. McConnell, P.E.
Deputy County Engineer
Palm Beach County
Engineering and Public Works Department
2300 North Jog Road, 3rd Floor
West Palm Beach, FL 33411
(561)684-4030

With a copy to: Yelizaveta B. Herman
Assistant County Attorney
Palm Beach County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401
(561)355-2225

CITY: Terrence N. Bailey, P.E.
Director of Public Works
City of Riviera Beach
600 Blue Heron Boulevard
Riviera Beach, FL 33404
(561) 845-4000

SECTION 8. SEVERABILITY. In the event that any provision of this AGREEMENT shall, for any reason, be determined invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the other provisions of this AGREEMENT shall remain in full force and effect.

SECTION 9. ENTIRE AGREEMENT. This AGREEMENT and ROW PERMIT constitute the entire AGREEMENT between the PARTIES pertaining to the subject matter hereof and may not be modified orally or otherwise except by written amendment executed by CITY and COUNTY.

SECTION 10. BINDING EFFECT. The obligations and covenants of this AGREEMENT shall bind and benefit the successors and permitted assigns of the PARTIES hereto.

SECTION 11. APPLICABLE LAW. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of Florida.

SECTION 12. EFFECTIVE DATE. This AGREEMENT shall become effective on the date the last party hereto executes this Agreement.

SECTION 13. INTERPRETATION. Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations. The term "herein," "hereby," "thereby," "whereof," and any similar terms, shall refer to this AGREEMENT. This AGREEMENT shall not be construed more strongly against either party regardless that such party, or its counsel, drafted this AGREEMENT.

SECTION 14. JURY TRIAL WAIVER. The PARTIES waive any trial by jury in connection with any lawsuit arising out of this AGREEMENT.

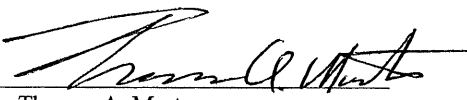
SECTION 15. DISPUTE RESOLUTION. The PARTIES agree to comply with the provisions of the Florida Governmental Conflict Resolution Act, Ch. 164 Fl. St. as amended from time to time, in resolving disputes.

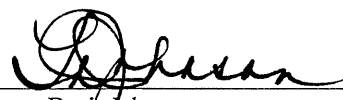
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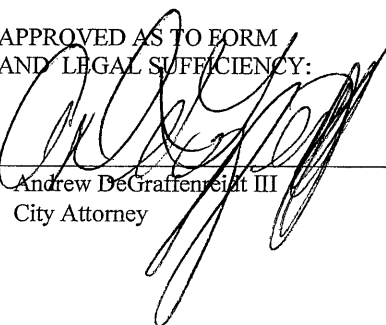
EXECUTED by CITY this 18th day of APRIL, 2018.

(City Seal)

ATTEST:
CITY OF RIVIERA BEACH, FLORIDA


Thomas A. Masters
Mayor


Tonya Davis Johnson
Chair

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Andrew DeGraffenreid III
City Attorney

EXECUTED by COUNTY this _____ day of _____, 2018.

(County Seal)

ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

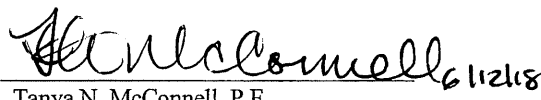
Deputy Clerk

Melissa McKinlay, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Yelizaveta B. Herman
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS


Tanya N. McConnell, P.E.
Deputy County Engineer

SECTION No.: 932505
FM No.: 436893-1-52-01
AGENCY: Palm Beach County
C.R. No.: 807

DISTRICT FOUR
HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT

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WITNESSETH:

WHEREAS, the **AGENCY** has jurisdiction over Congress Avenue, as part of the County Roadway System from N of 45th Street to Blue Heron Blvd; 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 the **AGENCY** is desirous of having this improvement constructed; 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 Financial Project ID 436893-1, which involves decorative street lighting; hereinafter referred to as the "Project", as more particularly described in **Exhibit A**; and

WHEREAS, the **DEPARTMENT** may not spend state funds for Off-system projects; and

WHEREAS, upon acquisition of the necessary right-of-way, if needed, the **DEPARTMENT** will proceed to construct the Project; 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 Resolution on the _____ day of _____, 20__, 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**. The **AGENCY** is responsible for additional

Project costs determined to be Federal Aid Non-Participating. The AGENCY shall establish a contingency account for Federal Aid non-participating items, no later than the date construction activities are to commence. The DEPARTMENT shall notify the AGENCY as soon as the DEPARTMENT is made aware that an item will be Federal Aid Non-Participating. The AGENCY shall have the opportunity from the DEPARTMENT'S notice to review the Federal Aid Non-Participating scope and costs items before granting its approval. However, failure of the AGENCY to grant its approval shall not relieve the AGENCY from its obligation to pay for Federal Aid Non-Participating items. In the event the Project is delayed due to the Agency's delay in approving or not approving to pay for Federal Aid non-participating items, any and all delay costs shall be the responsibility of the Agency and shall be paid to the Department upon demand.

2. The AGENCY shall allow the DEPARTMENT and its contractors to enter onto the existing AGENCY property, including easements on property acquired by the DEPARTMENT, to construct this Project. No further permit or agreement shall be required 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. The AGENCY shall continue to be responsible for Mowing and Litter Removal during the duration 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 2017, 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 Design Manual (FDM), 2018, (b) Florida Green Book dated 2016, as amended (c) Governing standards and specifications: FDOT Design Standards dated FY 2017-18, as amended (d) Standard Specifications for Roadway and Bridge Construction dated 2018, as amended by contract documents, and (e) Manual on Uniform Traffic Control Devices (MUTCD), 2009, or as amended. Maintenance of said Project includes, but is not limited to, installation of roadway and bridge decorative lighting, and incidental sidewalk replacement. Additionally, upon final acceptance the DEPARTMENT shall convey all acquired property interests to the AGENCY. The Department shall give the AGENCY ten (10) days notice before final acceptance.
 - The AGENCY grants herein to the DEPARTMENT all rights necessary to enter and construct the Project.
5. No additional right of way is required for the PROJECT. The PROJECT can be completed within the AGENCY's public right of way.
6. Warranties: The DEPARTMENT shall transfer any applicable warranties to the AGENCY.
7. Environmental permitting: If requested by the DEPARTMENT, the AGENCY shall sign as a joint 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 and the right of way is transferred to the AGENCY. To the extent permitted by law, the AGENCY shall indemnify the DEPARTMENT for any violations by the AGENCY of any permits issued to the DEPARTMENT or jointly to the AGENCY and the DEPARTMENT after construction is complete. The AGENCY shall execute all documentation required by the permitting agencies in a timely manner to accept transfer of the Project. For various occupancy permits the AGENCY shall be the applicant.

8. 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 and proposed right of way. This shall also include having the AGENCY require the Utility to relocate or adjust if the utility is there by permit, as necessary.
 - a. AGENCY'S UTILITIES: The AGENCY shall be responsible for relocating and adjusting its own utilities including connection with utility customers.
9. Signals: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to affect signal and interconnect connections for the Project.
10. 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.
11. 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 contractor during the contract term.
12. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings as represented in the Final Proposed Construction plans. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.
13. Additional Insured: The DEPARTMENT shall include the following paragraph as part of Section 7-13.2 of the Standard Specifications for Road and Bridge Construction, Division 1, General Requirements and Covenants (January 2018), as amended, applicable to this Project:

“Cause Palm Beach County to be an additional insured party on the Contractor’s Public Liability and Property Damages Liability Insurance policies that insure the Contractor for the described work that it performs under the Contract.”

14. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

15. LIST OF EXHIBITS

- **Exhibit A:** Project Scope

[This space intentionally left blank.]

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

AGENCY

ATTEST:

Palm Beach COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

By: _____

Melissa McKinlay, Mayor

_____ day of _____, 20_____

Approved as to Form by Office of County Attorney

By: _____

Yelizaveta Herman
Assistant County Attorney

Approved as to terms and conditions

By: _____

Motasem Al-Turk, PhD, P.E.
Traffic Division Director

DEPARTMENT

ATTEST:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

Executive Secretary
(SEAL)

By: _____

Transportation Development Director

_____ day of _____, 20_____

Approval :

Office of the General Counsel (Date)

SECTION No.: 932505
FM No.: 436893-1-52-01
AGENCY: Palm Beach County
C.R. No.: 807

EXHIBIT A

PROJECT SCOPE

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

Summary of Work

Installation of decorative street and pedestrian lighting along Congress Avenue from N of 45th Street (Entrance of Columbia Medical Plaza) to Blue Heron Blvd.

Typical Section

- Congress Avenue is a 6-lane section from North of 45th St. to SR-710/Martin Luther King Jr. Blvd. and a 4-lane section from SR-710/Martin Luther King Jr. Blvd. to SR-708/Blue Heron Blvd. The travel lanes are 11-ft wide with 4-ft bike lanes in both directions. Both sections are divided sections with a raised median and Type F curb and gutter on both sides. The 6-lane section is an urban section with 6-ft sidewalks and the 4-lane is a suburban section with 5-ft sidewalks separated by a varying grass strip on both sides. There is an existing 6-lane divided bridge between 45th St. and SR-710/Martin Luther King Jr. Blvd. over the South Florida Regional Transportation Authority (SFRA) Railroad.

Sidewalks

- Incidental sidewalk replacement due to installation of decorative light poles.

Structures

- Decorative lighting will be installed on the existing bridge over the South Florida Regional Transportation Authority Rail corridor.

Lighting

- Decorative lighting will be installed to provide a vital link in the network as Palm Beach County seeks to expand bicycle routes throughout the urban corridor.