

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

|                       |                            |                                    |   |
|-----------------------|----------------------------|------------------------------------|---|
| <b>Meeting Date:</b>  | April 5, 2022              | <input type="checkbox"/> Consent   | <input checked="" type="checkbox"/> Regular |
|                       |                            | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Public Hearing     |
| <hr/>                 |                            |                                    |   |
| <b>Department:</b>    | Engineering & Public Works |                                    |   |
| <b>Submitted By:</b>  | Engineering & Public Works |                                    |   |
| <b>Submitted For:</b> | Traffic Division           |                                    |   |

---

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to:

- A) **adopt** a Resolution approving a Special Lighting Maintenance Memorandum of Agreement (SLMMOA) with the Florida Department of Transportation (FDOT) for the maintenance of a new conventional roadway lighting system, approximately 1,000 lights, along State Road 80 / Southern Boulevard from State Road 15 to County Road 880 (Project); and
- B) **approve** the SLMMOA with the FDOT for the Project.

**SUMMARY:** Adoption of this Resolution and approval of the SLMMOA will support the FDOT’s construction of the Project, and require Palm Beach County (County) to maintain the Project. FDOT will compensate the County for the maintenance of the Project lights at the same rate included in the existing State Highway Lighting Maintenance and Compensation Agreement (R2004-0439) (SHLMCA). In the event the County terminates the SHLMCA without replacement, the County would be obligated to fund the Project maintenance without reimbursement. The annual costs the County may not be compensated for is estimated at \$236,801.40, based on the current Florida Power and Light (FP&L) tariff. Also, the SLMMOA does not include typical language relieving the County of its obligations if the relevant annual appropriation budget is not provided by the Board of County Commissioners, which omission deviates from CW-F-049 regarding annual appropriations contract provision. The Project will be installed by FP&L within FDOT rights-of-way. Project design and construction shall be funded by the Palm Beach Transportation Planning Agency at an estimated cost of \$14,637,000. The County will have no financial obligations for design and construction of the Project. District 6 (YBH)

**Background and Policy Issues:** Pursuant to the SHLMCA between FDOT and the County, the County currently operates and maintains street lights along State roads, within unincorporated County limits. The SHLMCA requires an annual work order to be agreed upon by FDOT and the County for the reimbursement of funds to the County for work performed under the SHLMCA. Per the SLMMOA, if the FDOT and the County cannot agree on a reimbursement amount, the County is to continue the maintenance of the Project without compensation.

**Attachments:**

1. Location Sketch
2. Resolution (5)
3. SLMMOA with Exhibit A (5)

---

|                        |                                |                  |
|------------------------|--------------------------------|------------------|
| <b>Recommended By:</b> | <i>ma David Zheid</i>          | <i>3/14/2022</i> |
|                        | YBH/TEL County Engineer        | Date             |
| <b>Approved By:</b>    | <i>Par</i>                     | <i>3/22/22</i>   |
|                        | Assistant County Administrator | Date             |

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

| Fiscal Years            | 2022   | 2023 | 2024 | 2025 | 2026 |
|-------------------------|--------|------|------|------|------|
| Capital Expenditures    | \$ -0- | -0-  | -0-  | -0-  | -0-  |
| Operating Costs         | -0-    | -0-  | -0-  | -0-  | -0-  |
| External Revenues       | -0-    | -0-  | -0-  | -0-  | -0-  |
| Program Income (County) | -0-    | -0-  | -0-  | -0-  | -0-  |
| In-Kind Match (County)  | -0-    | -0-  | -0-  | -0-  | -0-  |
| NET FISCAL IMPACT       | \$ **  | -0-  | -0-  | -0-  | -0-  |
| # ADDITIONAL FTE        |        |      |      |      |      |
| POSITIONS (Cumulative)  |        |      |      |      |      |

Is Item Included in Current Budget? Yes No X  
Does this item include the use of federal funds? Yes No X

### Budget Account No:

Fund Dept Unit Object

### Recommended Sources of Funds/Summary of Fiscal Impact:

This item has no immediate fiscal impact. FDOT is responsible for all design and construction cost for the project. The County will be responsible for maintaining the project and all cost associated with maintenance. The County will be reimbursed by FDOT to maintain the project upon completion of the project. Subsequent year amounts are subject to BCC approval of future budgets.

### C. Departmental Fiscal Review:

## III. REVIEW COMMENTS

### A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Robert Raus 3/14/22  
OFMB LM 3/14

Ann L. Jaworski 3/21/22  
Contract Dev. and Control

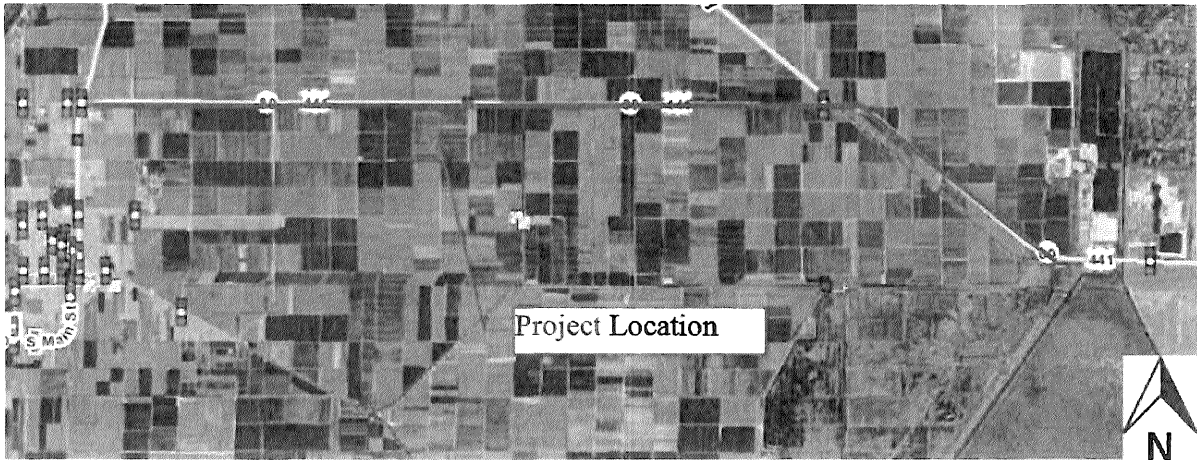
### B. Approved as to Form and Legal Sufficiency:

JP Hemen 3/22/22  
Assistant County Attorney

### C. Other Department Review:

\_\_\_\_\_  
Department Director

This summary is not to be used as a basis for payment.



**RESOLUTION NO. R2022-\_\_\_\_\_**

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF  
PALM BEACH COUNTY, FLORIDA, APPROVING THE SPECIAL  
LIGHTING MAINTENANCE MEMORANDUM OF AGREEMENT  
WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION, FOR  
THE MAINTENANCE OF A NEW CONVENTIONAL ROADWAY  
LIGHTING SYSTEM ALONG STATE ROAD 80/SOUTHERN  
BOULEVARD FROM STATE ROAD 15 TO COUNTY ROAD 880.**

**WHEREAS**, pursuant to that certain State Highway Lighting, Maintenance, and Compensation Agreement (R2004-0435) (SHLMCA) between Palm Beach County (COUNTY) and the Florida Department of Transportation (FDOT), the COUNTY currently operates and maintains street lights along State roads, within unincorporated COUNTY limits; and

**WHEREAS**, the FDOT intends to design and have installed a new conventional roadway lighting system along State Road 80 from State Road 15 to County Road 880 (PROJECT), within unincorporated COUNTY; and

**WHEREAS**, the FDOT requires the COUNTY to enter into a Special Lighting Maintenance Memorandum of Agreement (SLMMOA) outlining the responsibilities of the COUNTY and the FDOT with respect to the PROJECT; and

**WHEREAS**, the Palm Beach Transportation Planning Agency (TPA) is responsible for all design and construction costs for the PROJECT; and

**WHEREAS**, the COUNTY is responsible to maintain the PROJECT and all costs associated with maintenance upon final acceptance; and

**WHEREAS**, the COUNTY will be reimbursed by the FDOT to maintain the PROJECT pursuant to the SLMMOA upon completion of the PROJECT; and

**WHEREAS**, COUNTY Policy and Procedures Manual CW-F-049 provides, in relevant part, that contracts extending beyond the fiscal year in which it is executed should include an annual appropriation clause wherein the contract may be terminated should funds not be appropriated for that purpose in any subsequent fiscal year; and

**WHEREAS**, the SLMMOA does not include language relieving the COUNTY of its obligations if the relevant annual appropriation budget is not provided by the Board of County Commissioners (BCC), and thus deviates from the PPM regarding annual appropriations contract provision; and

**WHEREAS**, the SLMMOA requires the COUNTY to continue maintenance of the PROJECT in perpetuity without compensation if the FDOT and the COUNTY cannot agree on a reimbursement amount; and

**WHEREAS**, the COUNTY and Florida Power and Light (FPL) will enter into a separate agreement for FPL to operate and maintain the PROJECT; and

**WHEREAS**, the BCC has determined the execution of the SLMMOA is in the best interest of the citizens and residents of the COUNTY.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The foregoing recitals are true, accurate and correct and are incorporated herein.
2. The BCC hereby supports the FDOT's construction of the PROJECT.
3. The TPA shall be responsible for the design and construction of the PROJECT and related costs.
4. The COUNTY shall maintain the PROJECT after construction in perpetuity.
5. The FDOT shall reimburse the COUNTY for maintenance of the PROJECT per the terms of the SLMMOA.
6. This Resolution shall take effect upon its adoption.

(Intentionally Left Blank)

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

- Commissioner Robert S. Weinroth, Mayor -
- Commissioner Gregg K. Weiss, Vice Mayor -
- Commissioner Maria G. Marino -
- Commissioner Dave Kerner -
- Commissioner Maria Sachs -
- Commissioner Melissa McKinlay -
- Commissioner Mack Bernard -


The Mayor thereupon declared the Resolution duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

PALM BEACH COUNTY, FLORIDA  
BY AND THROUGH ITS BOARD OF  
COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
Robert S. Weinroth, Mayor

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY

JOSEPH ABRUZZO, CLERK OF THE  
CIRCUIT COURT AND COMPTROLLER

BY:  \_\_\_\_\_  
Yelzaveta B. Herman  
Assistant County Attorney

BY: \_\_\_\_\_  
Deputy Clerk

**DISTRICT FOUR  
SPECIAL LIGHTING MAINTENANCE MEMORANDUM OF AGREEMENT**

**THIS AGREEMENT**, made and entered into this date \_\_\_\_\_, 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, existing under the Laws of Florida, hereinafter called the **AGENCY**.

**WITNESSETH:**

**WHEREAS**, the **DEPARTMENT** has jurisdiction over SR 80 from SR 15 (MP 0.000) to CR 880 (MP 18.210), Palm Beach County; and

**WHEREAS**, the **AGENCY** will be signing an agreement for 10 years with Florida Power and Light for the installation and maintenance of lighting that will be installed on **DEPARTMENT** property.

**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 SR 80 / Southern Boulevard (within the limits of the **AGENCY**); and

**WHEREAS**, it is the intent of the **AGENCY** and the **DEPARTMENT** that the **AGENCY** shall maintain the specific elements designed under **Project Number 441756-1-56-01** to include conventional roadway lighting along SR 80 from SR 15 (MP 0.000) to CR 880 (MP 18.210) hereinafter called **IMPROVEMENTS**; and

**WHEREAS**, the parties have also entered into a State Highway Lighting, Maintenance, and Compensation Agreement executed on April 19, 2004 or subsequent latest version concerning lighting on the State Highway System; and

**WHEREAS**, the Project involves the scope of work as described within **Exhibit A (Project Location, Description and Project Aerial)**, which will benefit the **AGENCY**; 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 Number \_\_\_\_\_ entered into this date \_\_\_\_\_, 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. RECITALS**

The recitals set forth above are true and correct and are deemed incorporated herein.

**2. 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 hereof that are not merged herein and superseded hereby except the State Highway Lighting Maintenance and Compensation Agreement(s) signed between the parties, as amended, as to all other improvements not specifically mentioned in this **AGREEMENT**. The roadway lights installed under this project will be compensated as roadway lights under the State Highway Lighting Maintenance and Compensation Agreement. If the **DEPARTMENT** and **AGENCY** fail to agree on the annual lump sum amount to be paid under the State Highway Lighting Maintenance and Compensation Agreement, this **AGREEMENT** shall supersede that Agreement and the **AGENCY** agrees to maintain the lights solely under this **AGREEMENT** without compensation.

**3. DESIGN OF IMPROVEMENTS**

- A. The **DEPARTMENT** shall design, under **Project Number 441756-1-56-01**, the **IMPROVEMENTS** as detailed in **Exhibit A** that will benefit the **AGENCY**.
- B. If there are any major changes to the plans(s), the **DEPARTMENT** shall provide the modified plans(s) to the **AGENCY** and the **AGENCY** shall provide their approval or disapproval to the **DEPARTMENT** within ten (10) business days. The **DEPARTMENT** may elect to withdraw the **IMPROVEMENTS** if changes are not approved within the given time frame.
- C. The design of installation of **IMPROVEMENTS** of the plans shall be approved by the county engineer or county manager.
- D. The **DEPARTMENT** shall obtain approval of the plans for the proposed **IMPROVEMENTS**. **AGENCY** shall enter the agreement with FPL (currently designated as LT-1) based on the approved plans for roadway lighting improvements under **Project Number 441756-1-56-1**.

**4. OPERATION AND MAINTENANCE OF IMPROVEMENTS**

- A. The **AGENCY** agrees to maintain the **IMPROVEMENTS** to be designed under **Project Number 441756-1-56-01** within the limits of construction. Maintenance by the **AGENCY** will include repair, restoration, replacement and general maintenance of the installed **IMPROVEMENTS**.
  - 1) The **DEPARTMENT** shall only be liable to pay design costs and costs for the install of CIAC (contribution in aid of construction) improvements. All other fees associated with **IMPROVEMENTS** shall be the sole responsibility of the **AGENCY**.
  - 2) The **AGENCY** agrees to maintain, at its sole cost and expense, the **IMPROVEMENTS** set forth in **Exhibit A** in compliance with any and all applicable



laws which shall include, but not be limited to, laws and regulations relating to the Americans with Disabilities Act ("ADA") of 1990, as currently enacted or as may be amended from time to time.

- 3) The **IMPROVEMENTS** shall be kept clean and free from trash and debris. The **IMPROVEMENTS** shall be kept free of graffiti. The **IMPROVEMENTS** shall be free of pests such as stinging insects, rodents, and vermin. Maintenance shall include removal of nests as needed.
- 4) As part of the maintenance responsibility, the **AGENCY** shall keep in good repair and replace, defective or worn-out parts of the **IMPROVEMENTS**. The **AGENCY's** responsibility to keep the **IMPROVEMENTS** in good repair shall include all necessary maintenance, repair and replacement of any type or nature, including, but not limited to, maintenance, repair and replacement due to normal wear and tear, named storm event, acts of God, vandalism and accidents. The **AGENCY** shall take all necessary steps to maintain the **IMPROVEMENTS** in a manner to protect against injury to any person or property.
- 5) The **AGENCY** shall perform all activities necessary to keep the **IMPROVEMENTS** fully operating, properly functioning, with a minimum of 90% of the lights burning for any lighting type or roadway system at all times in accordance with the original design thereof, whether necessitated by normal wear and tear, accidental or intentional damage, or acts of nature. Said maintenance shall include, but shall not be limited to, providing electrical power and paying all charges associated therewith, routine inspection and testing, preventative maintenance, emergency maintenance, replacement of any component parts of the **IMPROVEMENTS** (including the poles and any and all other component parts installed as part of the **IMPROVEMENTS**), and locating (both vertically and horizontally) the **IMPROVEMENTS**, as may be necessary. All repairs or replacement will be in kind unless a variance is approved in writing by the **DEPARTMENT**.
- 6) Lighting assemblies and systems shall be maintained in such a manner as to prolong the life of the lighting fixture and prevent potential safety hazards.
- 7) 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 relating to the maintenance obligation / function or **AGREEMENT** termination. The **AGENCY** shall not deviate from said plans for roadway lighting improvements under **Project Number 441756-1-56-1** without written approval of the **DEPARTMENT**.
- 8) The **AGENCY** shall be solely responsible for any damages to surrounding property, real estate, vehicles, pedestrians, or other assets occurring as a result of maintenance and operation of the **IMPROVEMENTS** and shall repair such damage to the satisfaction of the **DEPARTMENT** at no expense to the **DEPARTMENT**.
- 9) The **AGENCY** shall be responsible to maintain the light pole structures and electrical components. The **AGENCY** shall replace the structure if destroyed in an accident by third parties. The **DEPARTMENT** expressly assigns its rights, interests and

privileges pertaining to said **IMPROVEMENTS'** damage to the **AGENCY**, so **AGENCY** can pursue all claims and causes of actions against the third parties responsible for the damage. The **DEPARTMENT** will assist the **AGENCY** as necessary and will confirm **AGENCY'S** authorization to pursue recovery. The **AGENCY** will be responsible for all attorneys' fees and costs incurred in its recovery activities. The **AGENCY** shall not file suit in the name of the **DEPARTMENT**.

- B. For work associated with the maintenance and operation of the **IMPROVEMENTS**, the **AGENCY** shall comply with all ADA Laws existing and as may be amended. Adjacent sidewalk areas shall be accessible at all times. If sidewalk closures are needed, alternate routes shall be clearly identified, and missing sidewalk shall be restored either with permanent or temporary materials at the end of each work day.
- C. All **IMPROVEMENTS** shall at all times have a notification sign posted with the name and phone number of the department within the **AGENCY** responsible for maintenance of the **IMPROVEMENTS** so that members of the public may contact the **AGENCY** regarding problems with the **IMPROVEMENTS**. The **AGENCY** shall promptly respond and correct all complaints regarding maintenance. The **IMPROVEMENTS** to be constructed with this project shall not contain advertising. Nor shall advertising be placed upon them by any party in the future.
- D. 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 and procedures (current editions at the time of execution of this **AGREEMENT** and any amendments hereafter) and all costs related thereto: (a) FDOT Design Manual (FDM), (b) Florida Green Book, (c) FDOT Standard Specifications for Road and Bridge Construction, (d) FDOT Standard Plans and (e) Manual on Uniform Traffic Control Devices (MUTCD), FDOT Procedure 850-000-015 Roadway and Roadside Maintenance. In the event of a conflict between standards and procedures the more stringent shall apply.
- E. If it becomes necessary to provide utilities (electricity) to these **IMPROVEMENTS**, all costs associated with the utilities including, but not limited to the impact fees, and the on-going cost of utility usage for electrical, are the maintaining **AGENCY's** responsibility.

1) The **DEPARTMENT** shall only be liable to pay design costs and costs for the install of CIAC(contribution in aid of construction) improvements. All other fees associated with **IMPROVEMENTS** shall be the sole responsibility of the **AGENCY**.

AND

2) The **AGENCY** shall become responsible for the above-named **IMPROVEMENTS** and ongoing utility costs upon final acceptance of the construction project by the **DEPARTMENT** and thereafter.

- F. Any work impacting traffic flow along SR 80 / Southern Boulevard 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.

## 5. 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** 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 cited 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) 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**, **FPL** and/or its independent contractor's materials, equipment and personnel. The actual cost for such work will be charged to the **AGENCY**.
  - 3) If there is no standard equivalent item or if in the **DEPARTMENT's** discretion the item is not necessary for the operations of the roadway, the **DEPARTMENT** may remove the item in its entirety and restore the area to a condition acceptable to the **DEPARTMENT**. 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 8 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.

## 6. 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 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**.

## 7. 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:

- 1) 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**.
- 2) The **AGENCY** shall procure a permit and/or Construction Agreement from the **DEPARTMENT**, as appropriate.
- 3) All **IMPROVEMENTS** shall be developed and implemented in accordance with appropriate state safety and roadway design standards.
- 4) The **AGENCY** agrees to comply with the requirements of this **AGREEMENT** with regard to any additional **IMPROVEMENTS** installed at no cost to the **DEPARTMENT**.

#### 8. **AGREEMENT TERMINATION**

This **AGREEMENT** may be terminated under any one (1) of the following conditions:

- 1) 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 design of said **IMPROVEMENTS**. The **AGENCY** shall reimburse the **DEPARTMENT** for the cost to remove the **IMPROVEMENTS**. If removal is by the **AGENCY**, removal of said **IMPROVEMENTS** will require a permit from the **DEPARTMENT**.
- 2) 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**.
- 3) By the **DEPARTMENT** with a six (6) month written notice.
- 4) By the **DEPARTMENT** if for any reason the installation of the lights is cancelled.
- 5) By the **AGENCY**, after the removal of said **IMPROVEMENTS** and, if termination is within 10 years of the installation of the **IMPROVEMENTS**, any costs borne by the **DEPARTMENT** for the design and installation of the **IMPROVEMENTS** must be reimbursed to the **DEPARTMENT**. Removal of said **IMPROVEMENTS** will require a permit from the **DEPARTMENT**.

#### 9. **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.

#### 10. **LIABILITY REQUIREMENTS**

In the event that the **AGENCY** breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided in this Agreement, **DEPARTMENT** may exercise one or more of the following options, provided that at no time may **DEPARTMENT** be entitled to receive double recovery of damages:

- a. Pursue a claim for damages suffered by **DEPARTMENT** or the public.
- b. Pursue any other remedies legally available.

#### 11. E-VERIFY REQUIREMENTS

The **AGENCY** shall:

- 1) 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
- 2) 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.

#### 12. EXPENDITURE OF MONEY

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 TWENTY-FIVE 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

Section No.: 93110  
County: Palm Beach / State Road: SR 80 - Southern Blvd  
FM: 441756-1-56-01

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 venue for any dispute arising from this **AGREEMENT** shall be selected by the **DEPARTMENT**.

**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**:

Palm Beach County, Department of Engineering & Public Works  
Attention: Motasem A. Al-Turk, Ph.D., P.E.  
Traffic Division Director  
P.O. Box 21229  
West Palm Beach, FL 33416

With a copy to:  
Palm Beach County Attorney's Office  
Attn: Yelizaveta B. Herman  
Assistant County Attorney  
P.O. Box 1989  
West Palm Beach, FL 33416

**17. LIST OF EXHIBIT**

Exhibit A: Project Location, Description and Project Aerial

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

EXECUTE by COUNTY this \_\_\_\_\_ day of \_\_\_\_\_ of 20\_\_\_\_\_

(County Seal)

ATTEST:

Joseph Abruzzo, Clerk of the Circuit  
Court and Comptroller

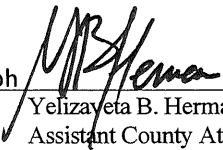
Palm Beach County, A POLITICAL  
SUBDIVISION OF THE STATE OF FLORIDA, by  
and through its BOARD OF COUNTY  
COMMISSIONERS

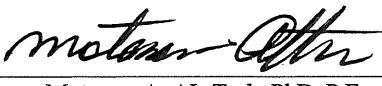
By: \_\_\_\_\_  
Deputy Clerk

BY \_\_\_\_\_  
Robert Weinroth Mayor

APPROVED AS TO FORM  
AND LEGAL SUFFICIENTCY

APPROVED AS TO TERMS  
AND CONDITIONS

By: ybh   
Yelizaveta B. Herman  
Assistant County Attorney

By:   
Motasem A. AL-Turk, PhD, P.E.  
Traffic Division Director

ATTEST:

DEPARTMENT

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
Executive Secretary  
(SEAL)

BY: \_\_\_\_\_  
Director of Operations

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Approval:

\_\_\_\_\_  
Office of the General Counsel (Date)

Section No.: 93110  
County: Palm Beach / State Road: SR 80 - Southern Blvd  
FM: 441756-1-56-01

EXHIBIT A  
PROJECT LOCATION, DESCRIPTION, AND PROJECT AERIAL

Location:

The **IMPROVEMENTS** associated with this **AGREEMENT** are located within the Palm Beach County, Florida along SR 80 from SR 15 (MP 0.000) to CR 880 (MP 18.210).

Description:

Design of conventional roadway lighting per Department standards installed on FPL poles along SR-80 from SR-15 to CR-880

Project Aerial:

