

SECTION No.: N/A
FM No. (s): 230717-2-52-01, etc.
COUNTY: Broward
S.R. No.: N/A

**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**, an agency of the State of Florida, hereinafter called the DEPARTMENT and the **CITY OF FORT LAUDERDALE**, a political subdivision, existing under the Laws of Florida, hereinafter called the CITY.

WITNESSETH:

WHEREAS, the CITY owns five (5) bridges that extend over waterways within its jurisdiction; and

WHEREAS, these bridges have been determined to be in need of rehabilitation and/or reconstruction; and

WHEREAS, these bridges are identified as:

<u>Project FM #</u>	<u>Bridge Name</u>	<u>Old Bridge #s</u>	<u>New Bridge #s</u>
230717-2-52-01	Fiesta Way	865735	865786
230718-2-52-01	Isle of Vince	865734	865785
230719-2-52-01	Royal Palm Drive	865737	865788
230720-2-52-01	Nurmi Drive	865736	865787
423469-1-52-01	Sunrise Key	865725	865784

WHEREAS, the DEPARTMENT seeks to rehabilitate and/or reconstruct the bridges referenced above and the work to be undertaken by the DEPARTMENT is identified as the "Project"; and

WHEREAS, pursuant to Florida Statutes, Sections 339.08 and **339.285** and the Statewide Bridge Replacement Program, the DEPARTMENT is authorized to undertake a project within the CITY geographical limits and the CITY is desirous of having this improvement constructed; and

WHEREAS, upon completion of the construction of the Project by the DEPARTMENT, periodic maintenance of the bridges will be required; and

WHEREAS, the CITY will maintain the rehabilitated and reconstructed bridges (Improvement), which will benefit the CITY;

WHEREAS, in accordance with Title 23, U.S. Code, Sections 116 and 144(g) and Federal Highway Administration regulations issued pursuant thereto, there must be an agreement from the CITY to maintain 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 CITY by Motion duly adopted by the City Commission at their Regular Meeting on September 5, 2012, CITY desires to enter into this Agreement and authorizes its proper public officials to execute the Highway Maintenance Memorandum of Agreement;

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 above recitals are hereby ratified and made a part hereof.
2. The DEPARTMENT has undertaken the Project and obtained the approval of Federal participation in the Project.
3. The Department shall prepare the plans and specifications for the work involved, construct the Project and perform the final inspection of the completed Project.
4. The CITY shall allow the DEPARTMENT and its contractors to enter on the CITY right of way to construct this project.
5. The CITY agrees to accept sole responsibility for perpetual maintenance of the Improvements upon "final acceptance" (as that term is described in the Standard Specifications for Roadway and Bridge Construction dated 2010) by the DEPARTMENT of the Project.
6. The CITY agrees that the bridges shall remain the property of the CITY.
7. It is also understood and agreed by the parties that upon "final acceptance" by the DEPARTMENT of the project and Notice thereof to the CITY, the CITY shall be responsible for all maintenance of said project in accordance with the following most current Federally and State accepted standards and all costs related thereto:
 - (a) FDOT Plans Preparation Manual (PPM)
 - (b) Florida Green Book
 - (c) Governing standards and specifications: FDOT Design Standards
 - (d) Standard Specifications for Roadway and Bridge Construction and
 - (e) Manual on Uniform Traffic Control Devices (MUTCD)
 - (f) Memorandum of Agreement between the U.S. Department of Transportation, Federal Highway Administration and the Florida State Historic Preservation Office regarding improvements for the Bridges of the Isles Project – concurrence by FDOT dated 11-17-10
8. ENVIRONMENTAL PERMITTING: If requested by the DEPARTMENT, the CITY shall sign as a joint applicant and be responsible for the permits related to the Project. Further the CITY shall be in compliance with all permits after the construction of the project. The CITY shall be responsible for any violation of any permits issued to the CITY or jointly to the CITY and the

DEPARTMENT after construction is complete, where the violation occurred after completion of construction and final inspection of the completed Project. The CITY shall execute all necessary documentation required by the permitting agencies in a timely manner to accept transfer of the permit.

9. DRAINAGE PERMITS / OTHER INTERESTS: The CITY shall be responsible for acquiring any interest required for drainage and all permits shall be in their name. The DEPARTMENT may assist in this matter. If the DEPARTMENT acquires any permit for drainage, the CITY shall execute all necessary documentation required by the permitting entity in a timely matter to accept transfer of the permit.

10. This document represents the understandings between the parties. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.

11. If the City participates in any work during the term of the Project, the CITY 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 Vendor/Contractor during the term of the Project; and shall expressly require any subcontractors performing work or providing services pursuant to the Project 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 Project term.

12. ALL PRIOR AGREEMENTS SUPERSEDED: This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

13. THIRD PARTY BENEFICIARIES: Neither FDOT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either FDOT or CITY.

14. WAIVER OF BREACH AND MATERIALITY: Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement.

CITY and FDOT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

15. COMPLIANCE WITH LAWS: FDOT shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

16. SEVERANCE: In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or FDOT elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the findings by the court become final.

17. JOINT PREPARATION: Preparation of this Agreement has been a joint effort of CITY and FDOT and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

18. PRIORITY OF PROVISIONS: If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1-11 of this Agreement shall prevail and be given effect.

19. APPLICABLE LAW AND VENUE: This Agreement shall be construed with and governed by the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement and for any other legal proceeding shall be in Broward County, Florida, and in the event of federal jurisdiction, in the Southern District of Florida.

20. EXHIBITS: Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits, if not physically attached, should be treated as part of this Agreement, and are incorporated herein by reference.

21. THREE ORIGINAL AGREEMENTS: This Agreement shall be executed in three (3), signed Agreements, with each one treated as an original.

22. NOTICES: Whenever either party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

CITY: City Engineer
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301
Telephone: (954) 828-5772

DEPARTMENT: Thuc H. Le, P.E.
Consultant Project Management - D4 Office
Florida Department of Transportation
3400 West Commercial Blvd.
Fort Lauderdale, FL 33309-3421

23. LIST OF EXHIBITS:

Exhibit A: Project Improvements and Scope

(This space intentionally left blank)

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

WITNESSES:

CITY OF FORT LAUDERDALE

By _____
John P. "Jack" Seiler, Mayor

[Witness type or print name]

By _____
Lee R. Feldman, City Manager

[Witness type or print name]

ATTEST:

(CORPORATE SEAL)

Jonda K. Joseph, City Clerk

Approved as to form:

Robert B. Dunckel, Asst. City Attorney

ATTEST:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

Executive Secretary

(SEAL)

By _____
Transportation Development Director

Legal Review:

District General Counsel

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SECTION No.:	N/A
FM No. (s)	230717-2-52-01, etc.
COUNTY:	Broward
S.R. No.:	N/A

EXHIBIT A

PROJECT IMPROVEMENTS AND SCOPE

Construction of Bridge Improvements on CITY's right of way pursuant to Project FM# 230717-2-52-01, 230718-2-52-01, 230719-2-52-01, 230720-2-52-01 and 423469-1-52-01.

Summary of Work:

- Replace existing structures with new bridges over the Las Olas Canal to connect Las Olas Boulevard to Fiesta Way Drive, Nurmi Drive, Royal Palm Drive and Isle of Venice Drive. Replace existing structure with new bridge over the Karen Canal to connect NE 6th Court to Sunrise Key Boulevard.
- The bridges will have sidewalks on each side of the four Las Olas Bridges, ramps and crosswalks at Las Olas Boulevard. The Sunrise Key Boulevard Bridge will have one sidewalk on the west side of the new bridge.
- On the four Las Olas Bridges, protect, relocate during construction and reuse existing historic urns and pedestals.
- Harmonize adjacent areas (driveways/grassed areas) with the new roadway.

Typical Section

- Construct 2-lane, 2-way bridges with 10' travel lanes, 1.33' shoulders, 6' sidewalks and barrier wall with pedestrian railing on each side of the four Las Olas Bridges.
- Construct 2-lane, 2-way bridge with 11' travel lanes, 1.33' shoulders, one 7' sidewalk and barrier wall with pedestrian railing on the west side and barrier wall with pedestrian railing on the east side of the Sunrise Key Boulevard Bridge.

ADA

- Construct new crosswalks, sidewalks, and ramps in compliance with ADA standards.

Lighting

- Construct bridge lighting embedded in the walls on the four Las Olas Bridges. New lighting is not proposed on the Sunrise Key Boulevard Bridge. If the existing lighting is damaged during construction of the bridge it will be replaced in kind.

Drainage

- Drainage inlets and pipes will be installed on the north side of the four Las Olas Bridges. Inlets will be placed on each side of the bridges and connected by a pipe. Pretreatment of

runoff will be provided by a Continuous Deflection Separation (CDS) unit installed on the north side of the bridges. Drainage inlets and pipes will be installed on the south side of the Sunrise Key Boulevard Bridge. Pretreatment will be provided by a Continuous Deflection Separation (CDS) unit connected to the existing system of pipes.

Utilities

- Relocate the City of Ft. Lauderdale's existing utilities (water and sewer) on the bridge.
- Private utilities (FPL, TECO, Comcast, AT&T) will be responsible for their own facility relocations.
- Relocation of utilities will be coordinated during design following standard FDOT utility accommodation guidelines

Structures

- Construct new, two lane bridges over the Las Olas Canal to connect Las Olas Boulevard with Fiesta Way Drive, Nurmi Drive, Royal Palm Drive and Isle of Venice Drive. Replace existing structure with new bridge over the Karen Canal to connect NE 6th Court to Sunrise Key Boulevard. The bridges shall have a humped profile similar the existing profiles. On the four Las Olas Bridges, the existing bridge lettering will be reused to the extent possible or replicated.

Landscape

- Landscape will consist of replacing those features that are impacted by construction. No new landscape features are proposed.
- Irrigation is not included as part of this project. Should the City of Ft. Lauderdale choose to provide and maintain irrigation, the City will be responsible for coordination with the Design/Build team for its design and installation.