

DOCUMENT ROUTING FORM

f 3 ✓ *10/1/14* *D*

NAME OF DOCUMENT: Motion to approve an Interlocal Agreement with the Broward County Metropolitan Planning Organization authorizing the City Manager to approve Task Orders for City's Transportation Initiatives

Approved Comm. Mtg. on **SEP 3, 2014** **CAM# 14-0861** **ITEM: CM-13**

Routing Origin: CAO Also attached: copy of CAR copy of document

On 9/10/14, C. Foster forwarded to: Denise DiPalo, Transportation & Mobility

1.) Approved as to Content: *[Signature]*
Department Director 9/10/14

Capital Improvements defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, fixtures) that add value and/or extend useful life, inc. major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, real.

Please Check the proper box: CIP FUNDED YES NO
Capital Improvement Projects

2.) Approved as to Funds Available: by _____ Date: _____
Finance Director

Amount Required by Contract/Agreement \$ No Fiscal Impact Funding Source: _____

Dept./Div. _____ Index/Sub-object _____ Project # _____

3.) City Attorney's Office: Approved as to Form: *[Signature]*
Cole J. Copertino

4.) Approved as to content: Assistant City Manager:
By: _____ By: _____
Stanley Hawthorne, Assistant City Manager Susanne Torriente, Assistant City Manager

5.) City Manager: Please sign as indicated and forward *3 originals to clerk*

6.) To City Clerk for attestation and City seal.

INSTRUCTIONS TO CLERK'S OFFICE

7.) City Clerk: forwards **3** originals document to **DENISE DIPALO, TRANSPORTATION & MOBILITY**

Original Route form to Carla Foster, CAO

9/30

AGREEMENT
BETWEEN THE
BROWARD METROPOLITAN PLANNING ORGANIZATION
AND
CITY OF FORT LAUDERDALE

For
TRANSPORTATION PLANNING SERVICES

This Agreement ("Agreement") is made and entered into the 9th day of October, 2014, by and between the **Broward Metropolitan Planning Organization**, ("BMPO"), and the **City of Fort Lauderdale**, a municipal corporation organized under the laws of the State of Florida ("City") for Transportation Planning Services ("Services").

WITNESSETH:

WHEREAS, it is the purpose and intent of this Agreement, to permit the City and the BMPO to make the most efficient use of their respective powers, resources and capabilities by enabling them to cooperate on the basis of mutual advantage and provide a means by which the parties may exercise their respective powers, privileges and authorities that they share in common and that each might exercise separately; and

WHEREAS, the BMPO has expertise in transportation planning, experience performing transit studies, submitting for/obtaining transportation/transit related grants and the associated grant administration; and

WHEREAS, due to the multiple jurisdictions and other technical requirements reasonably necessary to perform the Services, the City desires to enlist the assistance of the BMPO in providing these Services as may be required from time to time by the City; and

WHEREAS, the City and the BMPO will mutually agree to and subsequently approve the Scope of Services as specified herein, to perform the Services as may be requested by the City from time to time as outlined herein in this Agreement; and

WHEREAS, the designated representative(s) from the City agree to reimburse the BMPO for services rendered on behalf and at the request of the City; and

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WHEREAS, on September 9th, 2014, the City Commission authorized the appropriate City officials to execute this Agreement with the BMPO to perform these Services as may be subsequently outlined from time to time; and

WHEREAS, on September 11th, 2014, the BMPO Board authorized the appropriate BMPO officials to execute this Agreement with the City to perform these Services as may be subsequently outlined from time to time; and

WHEREAS, the BMPO and the City desire to enter into an Agreement whereby the duties and obligations of each party to the other are set forth therein.

IN CONSIDERATION of the mutual terms, conditions, promises and covenants herein expressed and the faithful performance of all such covenants and conditions, the BMPO and City agree as follows:

SECTION 1, DEFINITIONS AND IDENTIFICATIONS

For purposes of this Agreement, reference to one gender shall include the other, use of the plural shall include the singular, and use of the singular shall include the plural. The following definitions apply unless the context in which the work or phrase is used requires a different definition:

- 1.1 Agreement -- means this document, Sections 1 through 8, inclusive. Other terms and conditions are included in the exhibits and documents that are expressly incorporated by reference.
- 1.2 BMPO -- The Broward Metropolitan Planning Organization is the federally designated transportation policy making board for Broward County, Florida.
- 1.3 Board -- The Broward Metropolitan Planning Organization governing Board.
- 1.4 City -- The City of Fort Lauderdale, Florida, a political subdivision of the State of Florida.
- 1.5 Contract Administrator -- The Broward Metropolitan Planning Organization Executive Director or designee. The primary responsibilities of the Contract Administrator are to coordinate and communicate with the City and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Agreement as set forth herein. In the administration of this Agreement, as contracted with matters of policy, all parties may rely on the instructions or determination made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.

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

SECTION 2 PURPOSE AND SCOPE

- 2.1 The purpose of this Agreement is to set out the terms and conditions applicable to the BMPO's acceptance of providing BMPO staff and support on behalf of the City for Transportation and/or related Planning services in compliance with State and Federal Regulations.

2.1.1 General

The BMPO to provide support for transportation and/or related planning activities and services as may be requested from time to time by the City and accepted by the BMPO (the "Services"). The BMPO shall be reimbursed by the City for Services rendered. The Services include, but are not limited to, providing assistance to City staff on a work assignment basis in a variety of administrative, technical, graphical, public involvement and product review activities. The BMPO may assist City staff by providing additional resources to accomplish assignments authorized by the City. This Scope of Services outlines tasks that may be assigned to the BMPO under one or more general planning contracts and/or work authorizations. The BMPO receives grant funding from the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Florida Department of Transportation (FDOT) and the State of Florida Commission for the Transportation Disadvantaged (CTD). The Major Type(s) of Work to be performed include, but are not limited to, implementation of the following activities ("Services"):

Major Type(s) Of Transportation Planning Activities

- Section 1.0 - Administration
 - 1.1 Administration and Planning Management
 - 1.2 Support for the Transportation Disadvantaged
 - 1.3 Transportation Disadvantage Planning Options
 - 1.4 Public Participation and Education

- Section 2.0 - Data Collection and Analysis
 - 2.1 Highway, Traffic and Safety Data
 - 2.2 Transit Surveillance and Development

- Section 3.0 - Program and Plan Development
 - 3.1 Long Range Transportation Planning
 - 3.2 Regional Transportation Planning

- 3.3 Livability Planning
- 3.4 Transportation Improvement Program
- 3.5 Congestion Management Process and Corridor Planning
- 3.6 Freight and Goods Management / Intermodal Planning
- 3.7 Airport Planning
- 3.8 Seaport Planning
- 3.9 Mobility Options and Transportation Enhancements

2.1.2. COMPENSATION

2.1.2.1 The amount of compensation payable by the City to the BMPO shall be based upon the rates and schedules as set forth in Exhibit "A", attached hereto and made a part hereof, which amount shall be accepted by BMPO as full compensation for all such work performed under this Agreement.

2.1.2.2 BMPO may submit an invoice for compensation, developed and agreed upon by the City and the BMPO, no more often than on a monthly basis, but only after the services for which the invoices are submitted have been completed. Invoices shall designate the nature of the services performed and shall also show a summary of fees with accrual of the total and credits for portions paid previously.

2.1.2.3 City shall pay the BMPO in accordance with the Florida Prompt Payment Act.

2.1.2.4 Payment shall be made to BMPO at the address provided in the Notice Section as contained herein.

2.1.2.5 BMPO agrees to keep such records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged for which BMPO receives reimbursement for a period of at least three (3) years after completion of the work provided for in this Agreement. Such books and records shall be available at all reasonable times for examination and audit by City.

2.1.2.6 As it should become necessary for the City to request the BMPO to render any Services as described herein or to perform additional work, such work shall be performed only if set forth in one or more general planning contracts and/or work authorizations as mutually agreed and accepted by both the City and the BMPO. Any such additional work agreed to by both parties shall be performed at the same rate in the schedule of fees included in Exhibit "A".

2.2 This Agreement shall be conditioned upon the BMPO's prior receipt and deposit of the total agreed funds from City as necessary to pay the BMPO for the services as

outlined and approved by the general planning contract(s) and/or work authorizations for related services.

SECTION 3 CITY RESPONSIBILITIES

- 3.1 The City agrees, through its City Manager to assign the monies necessary to pay the BMPO for the services as outlined and approved by each general planning contract and/or work authorization for related services. The City shall not be responsible for the payment any additional monies.
- 3.2 The City agrees to furnish the BMPO any documents required to satisfy and complete the agreed Services as outlined and approved by each general planning contract and/or work authorization for related services.
- 3.3 The City agrees that it shall take no actions that would impede or prevent the BMPO from complying with the terms of this Agreement or any mutually agreed and accepted general planning contract(s) and/or work authorization(s).

SECTION 4 BMPO RESPONSIBILITIES

- 4.1 The BMPO shall be responsible for assuring that the Services comply with all applicable Federal, State and local laws, rules, regulation, guidelines and standards. The BMPO shall also be responsible for the administration and overall coordination required for these Services.
- 4.2 BMPO will manage the funds provided by the City for these Services and in accordance with the terms of this Agreement and by each general planning contract, work authorization for related services and/or Grant Agreement.
- 4.3 BMPO shall timely fulfill, or cause to be fulfilled, all of the conditions expressed in this Agreement and as outlined and approved by each general planning contract and/or work authorization.
- 4.4 The BMPO shall perform various activities/tasks related to the Services, as detailed in each subsequent general planning contract and/or work authorization for related services.
- 4.5 The BMPO shall have no obligation to independently fund the costs of the Services.

**SECTION 5
TERM**

- 5.1 This Agreement shall be effective upon approval by both the City and BMPO and shall continue in full force and effect until BMPO performs all obligations and responsibilities, with respect to the one or more general planning contracts, work authorizations, and/or related services accepted by the BMPO or December 31, 2020, whichever occurs first.
- 5.2 The parties hereto may extend this Agreement by mutual consent, in writing prior to the expiration of the Term. This provision in no way limits either party's right to terminate this Agreement at any time during the Term.

**SECTION 6
BOOKS AND RECORDS**

- 6.1 Each party shall retain all records related to this Agreement and any Services funded hereunder in proper order for at least five (5) years following expiration of this Agreement. Each party shall have access to such records, for the purposes of inspection and audit, during this five (5) year period.
- 6.2 Section 6.1 shall survive the expiration or termination of this Agreement.

**SECTION 7
GENERAL PROVISIONS**

- 7.1 *Assignment.* This Agreement and any interest herein shall not be assigned or transferred without the prior written consent of both parties.
- 7.2 *Notices.* Any notices required by this Agreement shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, or alternatively, may be sent by U.S. certified mail, return receipt requested. Notices shall be provided to the following:

As to the City:

City of Fort Lauderdale
Attention: City Manager
100 North Andrews Avenue
Fort Lauderdale, FL 33301

With a copy to:

City of Fort Lauderdale Attorney's Office
100 North Andrews Avenue
Fort Lauderdale, FL 33301

As to the BMPO:

Broward Metropolitan Planning Organization
Trade Centre South
100 West Cypress Creek Road, Suite 850
Fort Lauderdale, FL 33390-2112

With a copy to:

Alan L. Gabriel, Esq.
BMPO General Counsel
Weiss Serota Helfman
Pastoriza Cole & Boniske, P.L.
200 E. Broward Blvd., Suite 1900
Fort Lauderdale, Florida 33301

- 7.3 *Litigation; Venue; Waiver of Jury.* This Agreement shall be construed and interpreted, and the rights of the parties hereto determined, in accordance with Florida law. The parties submit to the jurisdiction of Florida courts. The parties agree that proper venue for any suit concerning this Agreement shall be Broward County, Florida. In any litigation arising under this Agreement, each party shall bear its own costs and attorney fees. To ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.
- 7.4 *Waiver.* It is hereby agreed to by the parties that no waiver of breach or any of the covenants or provisions of this Agreement shall be construed to be a waiver of any succeeding breach of the same or any covenant.
- 7.5 *Entire Agreement.* This Agreement expresses the entire agreement of the parties, and no party shall be bound by any promises or representations, verbal or written, made prior to the date hereof which are not incorporated herein. Any subsequently general planning contract and/or work authorization accepted by the B<PO and the City shall be subject to the general terms and conditions of this Agreement.
- 7.6 *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be an original, but together such counterparts shall constitute only one instrument.
- 7.7 *Failure to Perform.* Should any party involuntarily fail to perform any of their respective obligations pursuant to this Agreement, this Agreement may be terminated.
- 7.8 *Severability.* If any section, sentence, clause or phrase of this Agreement is found to be invalid or unconstitutional by any court of competent jurisdiction, then said

holding shall in no way affect the validity of the remaining portions of this Agreement.

- 7.9 *Termination.* This Agreement may be terminated by action of the BMPO Board or the City if either has not performed any covenants or conditions specified herein, or upon not less than sixty (60) day's written notice from one party to the other. Notice of termination shall be provided in accordance with the "Notices" section of this Agreement.
- 7.10 *Joint Preparation.* The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligation herein and that the preparation of this Agreement has been their joint effort. The language agreed to express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.
- 7.11 *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, requirements, or provision of this Agreement, the term, statement, requirement, or provision contained in Sections 1 through 8 of this Agreement shall prevail and be given effect.

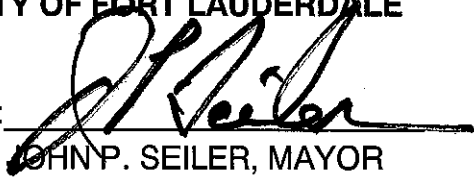
SECTION 8 INDEMNIFICATION

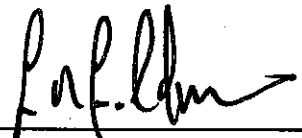
To the fullest extent permitted by law, the City and BMPO agree to indemnify and hold the other harmless, and its officials, employees and agents, from liabilities, damages, losses and costs including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the other, and other persons employed or utilized by that party in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: BMPO, signing by and through its Chair and Executive Director, attested to and duly authorized to execute same, and CITY, signing by and through its Mayor, attested to and duly authorized to execute same.

"CITY"

CITY OF FORT LAUDERDALE

By: 
JOHN P. SEILER, MAYOR

By: 
LEE FELDMAN, CITY MANAGER

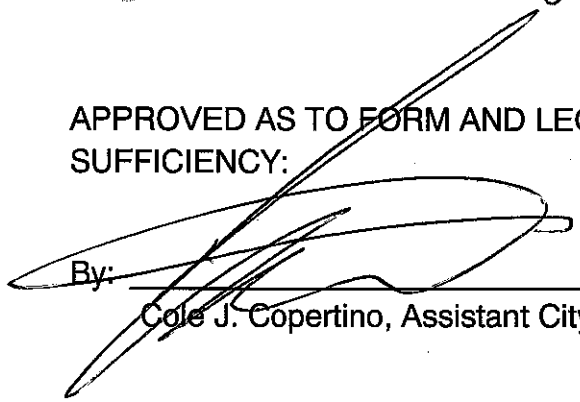
This 19TH day of SEPTEMBER, 2014.

Attest:

By: 
JONDA K. JOSEPH, CITY CLERK

(SEAL)

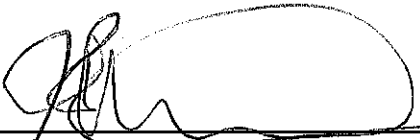
APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: 
Cole J. Copertino, Assistant City Attorney

**AGREEMENT BETWEEN THE BMPO AND CITY OF FORT LAUDERALE FOR
TRANSPORTATION PLANNING SERVICES**

BMPO

BROWARD METROPOLITAN
PLANNING ORGANIZATION


By: 
Gregory Stuart, Executive Director

This 9th day of October, 2014.

By: 
Richard Blattner, Chair

This 9th day of October, 2014.

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE USE OF AND
RELIANCE BY THE BMPO ONLY:

By: 
Alan L. Gabriel, BMPO General Counsel
Weiss Serota Helfman Pastoriza
Cole & Boniske, P.L.