

DISTRICT FOUR

**MAINTENANCE MEMORANDUM OF AGREEMENT
FOR
ENHANCED SOLAR POWERED HIGHLIGHTED SIGNS**

THIS AGREEMENT, made and entered into on _____ by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida hereinafter called the **DEPARTMENT**, and **CITY OF HALLANDALE**, a municipal corporation existing under the Laws of Florida, hereinafter called the **AGENCY**.

WITNESSETH

WHEREAS, the **DEPARTMENT** has jurisdiction over State Road (SR) A1A between Mile Post (M.P.) 0.000 and M.P.0.777; and

WHEREAS, as part of the continual updating of the State of Florida Highway System, the **DEPARTMENT**, for the purpose of safety, protection of the investment and other reasons, has constructed and does maintain SR A1A.

WHEREAS, the **DEPARTMENT** seeks to install enhanced highway sign assembly, solar powered, ground mount, highlighted sign including but not limited to solar-powered batteries and components hereinafter called **IMPROVEMENTS**, ahead of the pedestrian crosswalk on SR A1A /Hallandale Beach.

WHEREAS it is the intent of the **AGENCY** and the **DEPARTMENT** that the **AGENCY** shall maintain all the **IMPROVEMENTS** constructed within the project city limits under **FM No. 434711-5-52-01**, along SR A1A between Mile Post (M.P.) 0.000 and M.P.0.777, as detailed within **Exhibit A (Project Location, Description and Location Map)**, and have maintained by the **AGENCY**; and

WHEREAS, the Project involves the scope of work as described within **Exhibit A**, which will benefit the **AGENCY**; and

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

WHEREAS the **AGENCY** by Resolution Number _____ entered into this Date _____ 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. INSTALLATION OF FACILITIES

The **DEPARTMENT** shall construct under **FM No: 434711-5-52-01** the **IMPROVEMENTS** as detailed in **Exhibit A**, which will benefit the **AGENCY**. The **AGENCY** agrees to maintain the **IMPROVEMENTS**, as described within **Exhibit A**; and

- a) If there are any major changes to the plan(s), the **DEPARTMENT** shall provide the modified plan(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.
- b) The **IMPROVEMENTS** shall comply with the laws and regulations relating to the Americans with Disabilities Act of 1990 ("ADA"), as currently enacted or as may be amended from time to time.
- c) The **AGENCY** shall be invited to assist the **DEPARTMENT** in final inspection before acceptance of the job by the **DEPARTMENT**.
- d) The **AGENCY** must maintain the **IMPROVEMENTS** associated within the limits of the project.

3. MAINTENANCE OF FACILITIES

The **AGENCY** agrees to maintain the **IMPROVEMENTS** to be installed under Project Number **434711-5-52-01**. Maintenance by the **AGENCY** will include but not limited to inspection, repair, restoration, replacement, and general maintenance of all features within the limits of the **IMPROVEMENTS** as described within **Exhibit A**.

- a) The **AGENCY** agrees to maintain as 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.
- b) The above-named functions to be performed by the **AGENCY** may be subject to periodic inspections by the **DEPARTMENT** at the discretion of the **DEPARTMENT**. Such inspection findings will be shared with the **AGENCY** and shall be the basis of all decisions regarding, reworking or **AGREEMENT** termination, The **AGENCY** shall not change or deviate from the **AGENCY's** approved Maintenance Plan as referenced in **Exhibit B** (Maintenance Plan Requirements) without written approval from the **DEPARTMENT**.
- c) 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, including removal of nests as needed.
- d) The **AGENCY** shall be solely responsible for any damages to surrounding property, real estate, vehicles, pedestrians, attachments to the light poles or other assets occurring as a result of maintaining the **IMPROVEMENTS** and shall repair such damage to the satisfaction of the **DEPARTMENT** at no expense to the **DEPARTMENT**.

- e) 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 inspection, 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.
- f) The **AGENCY** shall be responsible for the **IMPROVEMENTS** as referenced in **Exhibit A** immediately after final acceptance of the construction project by the **DEPARTMENT**.
- g) All **IMPROVEMENTS** shall at all times have a notification sign posted with the name and phone number of the appropriate 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.
- h) It is understood and agreed by the parties that upon "final acceptance" (as that term is described in the Standard Specifications for Roadway and Bridge Construction, as amended by contract documents section 5-11) by the **DEPARTMENT** of the Project and Notice thereof to the **AGENCY**, the **AGENCY** shall be responsible for maintenance of the Project in accordance with the following Federally and State accepted standards (current editions at the time of execution of this **AGREEMENT** and any amendments hereafter) and all costs related thereto: (a) FDOT Design Manual (FDM), (b) Florida Green Book, (c) Standard Specifications for Roadway and Bridge Construction, (d) FDOT Standard Plans for Roadway Construction, (e) Manual on Uniform Traffic Control Devices (MUTCD), and (f) all other applicable local, state, or federal laws, rules, resolutions, or ordinances, and FDOT procedures. In the event of a conflict between documents, standards, and procedures the more stringent shall apply.
- i) Any work impacting traffic flow on SR A1A must be coordinated with the **DEPARTMENT**. Lane closures must be submitted for approval in accordance with the **DEPARTMENT** procedures and policies and will meet the goals established in the **DEPARTMENTS** Open Roads Policy.

4. NOTICE OF MAINTENANCE DEFICIENCIES

If at any time while the terms of this **AGREEMENT** are in effect it shall come to the attention of the **DEPARTMENT** that the **AGENCY's** responsibility as established herein or a part thereof is

not being properly accomplished pursuant to the terms of this **AGREEMENT**, the **DEPARTMENT** may issue a written notice, that a deficiency or deficiencies exist(s) by sending a certified letter to the **AGENCY**, in care of the **CITY OF HALLANDALE, CITY MANAGER** to place the **AGENCY** on notice regarding its maintenance deficiencies. Thereafter, the **AGENCY** shall have a period of sixty (60) days within which to correct the cited deficiency or deficiencies. If the 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.

- a) 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**.
- b) The **DEPARTMENT** may remove or replace any item or number of items with the standard **DEPARTMENT** item corrective actions will be performed with the **DEPARTMENT** and/or its independent contractor's materials equipment and personnel The actual cost for such work will be charged to the **AGENCY**.
- c) 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**.
- d) At the discretion of the **DEPARTMENT**, terminate this **AGREEMENT** in accordance with Section 7 of this **AGREEMENT** and remove within the limits of the **DEPARTMENT'S** right-of-way, by the **DEPARTMENT** or its Contractor's personnel all of the **IMPROVEMENTS** installed under this Agreement and charge the **AGENCY** the reasonable cost of such removal.

5. FUTURE DEPARTMENT IMPROVEMENTS

It is understood between the parties hereto that the **IMPROVEMENTS** covered by this Agreement may be removed, relocated, or adjusted at any time in the future as determined to be necessary by the **DEPARTMENT** in order that the state road be widened, altered, or otherwise changed to meet with future criteria or planning of the **DEPARTMENT**.

6. FUTURE AGENCY IMPROVEMENTS

The **AGENCY** may construct additional **IMPROVEMENTS** within the limits of the right of way identified as a result of this document, subject to the following conditions:

- a) Plans for any new **IMPROVEMENTS** shall be subject to approval by the **DEPARTMENT**. The **AGENCY** shall not change or deviate from said plans without written approval by the **DEPARTMENT**.
- b) The **AGENCY** shall procure a permit and/or Construction Agreement from the **DEPARTMENT**, as appropriate.

- c) All **IMPROVEMENTS** shall be developed and implemented in accordance with appropriate state safety and roadway design standards.
- d) The **AGENCY** agrees to comply with the requirements of this Agreement with regard to any additional **IMPROVEMENT(S)** installed at no cost to the **DEPARTMENT**.

7. AGREEMENT TERMINATION

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

- a) By the **DEPARTMENT**, if the **AGENCY** fails to perform its duties under this Agreement, following ten (10) days written notice. The **AGENCY** shall reimburse the **DEPARTMENT** for any expenditures for the installation of said **IMPROVEMENTS** and the cost to remove and or replace said improvement with the standard improvement or remove in its entirety.
- b) By the **DEPARTMENT**, for refusal by the **AGENCY** to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes and made or received by the **AGENCY** in conjunction with this Agreement.
- c) By the **DEPARTMENT**, within a six (6) month written notice.

8. AGREEMENT TERM

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

9. LIABILITY AND INSURANCE REQUIREMENTS

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

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

10. E-VERIFY REQUIREMENTS

The **AGENCY** shall, if applicable:

- 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.

11. ENTIRE AGREEMENT

This writing embodies the entire **AGREEMENT** and understanding between the parties hereto and there are no other Agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby except Local Funds Agreements and Project **FM No. 434711-5-52-01**.

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** 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. The **DEPARTMENT'S** decision upon all claims, questions and disputes shall be final and conclusive upon the parties hereto..

14. ASSIGNMENT

This Agreement may not be assigned or transferred by the **AGENCY** in whole or part without the consent of the **DEPARTMENT**.

15. LAWS GOVERNING

This **AGREEMENT** shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The venue for any dispute arising from this **AGREEMENT** shall be in Broward County, Florida.

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

SECTION No: 86030000
COUNTY: Broward
S.R. No: A1A
FM No: 434711-5-52-01

If to the **AGENCY:**
CITY OF HALLANDALE
Attention: City Manager
Address: 400 South Federal Highway
Hallandale Beach, FL 33009

17. LIST OF EXHIBITS

Exhibit A: Project Location, Description and Project Aerial
Exhibit B: Maintenance Plan Requirements

SECTION No: 86030000
COUNTY: Broward
S.R. No: A1A
FM No: 434711-5-52-01

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

DEPARTMENT:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

Sign: _____
Paul A. Lampley, P. E., Director of Operations

Date: _____

Approval as to Form:

Francine Steelman, General Counsel

Date: _____

EXHIBIT A

PROJECT LOCATION, DESCRIPTION, AERIAL, AND LOCATION MAP

I. Project Location

The **IMPROVEMENTS** associated with this Agreement are located within the City of Hallandale in Broward County, Florida along SR A1A between M.P. 0.000 and M.P.0.777.

II. Description

The proposed project installation consists of certain highway and pedestrian **IMPROVEMENTS**, specifically solar powered highlighted emphasis sign assemblies, and ground mount including but not limited to solar-powered batteries and components, ahead of the pedestrian crosswalk on SR-A1A/Hallandale Beach.

III. Aerial

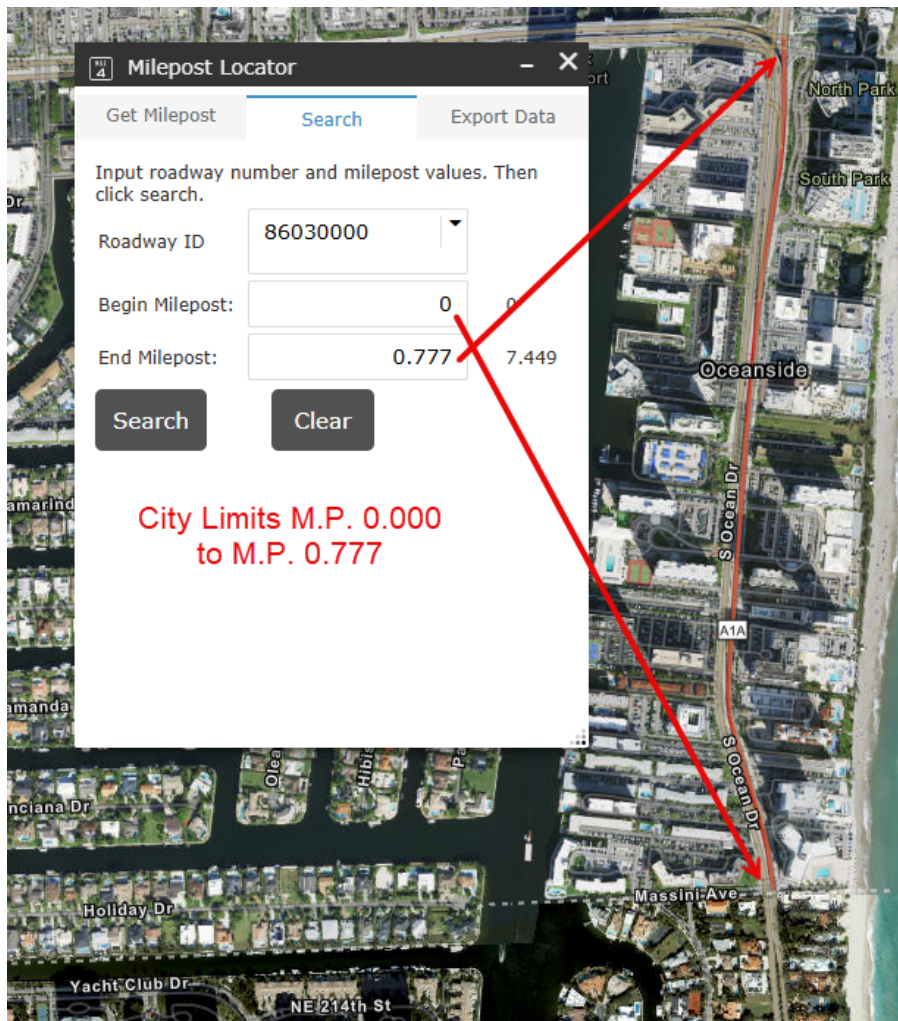


EXHIBIT B

MAINTENANCE PLAN REQUIREMENTS

The **AGENCY** shall submit to the **DEPARTMENT** a maintenance plan within the project limits, which is described in Exhibit A, detailing the means and methods for accomplishing the maintenance-related activities in accordance with all **DEPARTMENT** Standards, Procedures, and Specifications. This plan shall be submitted and approved by the **DEPARTMENT** prior to commencing any maintenance or repair activities. The **AGENCY** shall comply with the **DEPARTMENT'S** applicable Maintenance Rating Program (MRP) Standards. The plan should at minimum detail how the **AGENCY** will address the following:

1. Provide for continuous traffic control and necessary traffic control devices, as required for the safe movement of traffic of vehicular and pedestrian traffic, past the location of the structure being repaired for the duration of the repair in accordance with **DEPARTMENT** Standards, Procedures and Specifications, as well as compliance with all applicable laws including, but not limited to, the ADA.
2. How the **IMPROVEMENTS** will be kept clean, and free of trash, debris, and graffiti.
3. How the **IMPROVEMENTS** will be kept in good repair and repair/replacement of damaged, defective, or worn elements whether due to normal wear and tear, acts of God, vandalism, or accidents.
4. Protect adjacent surrounding property, real estate, vehicles, pedestrians, or other maintenance related activities.
5. Maintain the **IMPROVEMENTS** in a manner to protect against injury to any person or property.
6. Containment of debris or materials used in or resulting from the repair.
7. In the event of significant damage, the **AGENCY** shall immediately report the damage to the **DEPARTMENT**, and the **AGENCY** shall immediately take an and all steps reasonably necessary to protect injury to any person or property.

After the maintenance plan is approved, the **AGENCY** shall submit a work plan to the **DEPARTMENT** for approval prior to each repair to be performed detailing:

1. The proposed date of the repair.
2. The location of the repair.
3. The nature of the repair.
4. The materials to be used for the repair.
5. The methods to be used for the repair.