

**INTERLOCAL AGREEMENT FOR OWNERSHIP, OPERATION AND MAINTENANCE  
OF A DECORATIVE STREET LIGHTING SYSTEM ON CONGRESS AVENUE  
FROM 45<sup>th</sup> 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 45<sup>th</sup> 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 obtain 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, 3<sup>rd</sup> 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 \_\_\_\_\_ day of \_\_\_\_\_, 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 DeGraffenreidt 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

APPROVED AS TO TERMS  
AND CONDITIONS

\_\_\_\_\_  
Yelizaveta B. Herman  
Assistant County Attorney

\_\_\_\_\_  
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**

**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 45<sup>th</sup> 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

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**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 McKinley, Mayor

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

Approved as to form by Office of County Attorney

By: \_\_\_\_\_

Approved as to terms and conditions

By: \_\_\_\_\_

DEPARTMENT

ATTEST:

\_\_\_\_\_

Executive Secretary  
(SEAL)

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

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 45<sup>th</sup> 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.