

SECTION No.: 93024501/93010500  
FM No.: 438389-1-52-01  
AGENCY: City of Delray Beach  
C.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**, a component agency of the State of Florida, hereinafter called the DEPARTMENT and the **CITY OF DELRAY BEACH**, a political subdivision of the State of Florida, or a municipal corporation existing under the Laws of Florida, hereinafter called the AGENCY collectively referred to as Parties.

**WITNESSETH:**

**WHEREAS**, the AGENCY has jurisdiction over SWINTON AVENUE, as part of the CITY OF DELRAY BEACH Roadway System from **SOUTH 10<sup>TH</sup> STREET. TO NORTH 4<sup>TH</sup> ST.**; 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 438389-1; 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 \_\_\_\_\_, 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 recitals set forth above are true and correct and are deemed to be restated herein.

2. 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.
3. 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.
4. 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.
5. 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 2019, 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) Florida Green Book dated 2016, as amended (b) Governing standards and specifications: FDOT Design Standards dated FY 2017-18, as amended (c) Standard Specifications for Roadway and Bridge Construction dated 2019, as amended by contract documents, and (d) Manual on Uniform Traffic Control Devices (MUTCD), current edition, or as amended. Maintenance of said Project includes, but is not limited to, flexible pavement, sidewalks, drainage system, ADA curb ramps, signalization loops, and signing and pavement markings. 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.
6. No additional right of way is required for the PROJECT. The PROJECT can be completed within the AGENCY’s public right of way.
7. Warranties: The DEPARTMENT shall transfer any applicable warranties to the AGENCY.
8. 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.

9. 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.
10. Signals: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to affect signal and interconnect connections for the Project.
11. Drainage: The proposed design will maintain existing drainage patterns. Add exfiltration trenches and/or regrade swales to mitigate storage loss resulting from the proposed sidewalk.
12. 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.
13. 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.
14. 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.
15. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.
16. LIST OF EXHIBITS
  - **Exhibit A:** Project Scope

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

AGENCY

ATTEST:

CITY OF DELRAY BEACH, through its  
BOARD OF CITY COMMISSIONERS

\_\_\_\_\_

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

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

Approved as to form by Office of City Attorney

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

DEPARTMENT

ATTEST:

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

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

By: \_\_\_\_\_  
Transportation Development Director

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

Approval :

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

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## **EXHIBIT A**

### **PROJECT SCOPE**

All of the improvements are to be completed by DEPARTMENT within the AGENCY's existing Swinton Avenue right-of-way.

#### **Typical Section**

- Roadway:
  - Mill and resurface the existing pavement to provide shared-lane markings (sharrows) along the segment, from S 10<sup>th</sup> Street to N 4<sup>th</sup> Street.
- Sidewalks:
  - Construction of new 5-foot concrete sidewalks from S 10th Street to S 3rd Street to improve pedestrian connectivity and address sidewalk gaps, within public right-of-way and without impacting trees.

#### **Signing and Pavement Markings**

- New signing and pavement markings along Swinton Avenue from S 10<sup>th</sup> Street to N 4<sup>th</sup> Street to conform with MUTCD standards.

#### **Signalization**

- Replace loop assemblies affected by the milling and resurfacing operations.

#### **Drainage**

- Add exfiltration trenches and/or regrade swales to mitigate storage loss as a result of the proposed sidewalk.

#### **Permits**

- The FDOT will acquire in the AGENCY's name.