

## **AGREEMENT FOR TRAFFIC SIGNAL MAINTENANCE**

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between Keys Energy Services, a government corporation created by a special act of the legislature of the State of Florida, herein called "KEYS", acting through the Utility Board of the City of Key West and the City of Key West, Florida, a municipal corporation, herein called "CITY".

**WHEREAS**, the CITY desires that KEYS provide certain repair and replacements services for traffic signals and cross-walk lights more specifically described in Schedule "A" attached hereto; and

WHEREAS, KEYS, at the request and direction of the CITY, is willing to provide such repair and replacement services; and

WHEREAS, KEYS represents that it is professionally and technically capable of maintaining the CITY's existing traffic signals and cross-walk lights, as well as traffic signals and cross-walk lights that may be installed in the future.

**IN CONSIDERATION** of the mutual promises and covenants set forth below, the parties agree as follows:

1. KEYS shall, at the request of the CITY, provide repair and replacement services for the facilities described in Schedule "A". Repair, replacement and inventory of facilities not listed in Schedule "A" will be the responsibility of the CITY. The CITY shall maintain responsibility for the foundations associated with mast arm structures and other foundation-mounted traffic control appurtenances. KEYS shall not be responsible for the maintenance, repair, or replacement of any part of mast arm structures.
2. KEYS will maintain an adequate inventory of materials, equipment, and replacement parts to repair the facilities as described in Schedule "A". KEYS will render an invoice on a quarterly basis for materials issued from inventory or purchased from vendors to maintain, repair, or replace the facilities in Schedule "A". Such invoice will include an itemized cost of materials using the average costing method of accounting for inventory or a copy of the vendor invoice.
3. The City has entered into a maintenance and operations agreement with the Florida Department of Transportation (FDOT) that provides a level of reimbursement to the City for the maintenance, inventory, energy and liability associated with the FDOT traffic lights. For as long as the City receives reimbursement from FDOT, KEYS will be provided an annual stipend for its work on the FDOT traffic lights. The amount of the annual payment will be 50% of the annual reimbursement the City receives. The City will send KEYS a schedule of the anticipated reimbursement no later than July 15<sup>th</sup> of each year. KEYS will use this schedule as the basis for an invoice to the City and will render

same by August 1<sup>st</sup>. The payment terms will be 30 days. The CITY will pay invoice pursuant to the Local Government Prompt Payment Act FS 218.70.

4. In addition to repair and replacement services, KEYS will, when requested by the CITY, perform final connections for facilities at no additional cost.

5. Recognizing that the amount of the annual payment in Paragraph 3 does not cover the actual cost KEYS will expend in fulfilling its obligations for FDOT traffic lights nor does it cover any of the costs associated with non FDOT signals, labor associated with such repairs and replacements will be considered as an “in-kind service” at no cost to the City other than monthly energy and monthly charge pursuant to the appropriate billing tariff approved by the Utility Board and filed with the Public Service Commission or the energy billed at the 210 rate for those lights that are metered.

6. The CITY currently has a maintenance and operations agreement with the Florida Department of Transportation (FDOT). FDOT Traffic signals and pedestrian crossings under such an agreement are listed in Schedule B. The City reserves the right to amend Schedule B upon modification or termination of its agreement with FDOT.

7. For repairs and/or replacement of infrastructure as a result of 3rd party damage, KEYS will invoice the CITY for actual labor, material and transportation costs, along with applicable overhead rates.

8. For repairs and/or replacements of infrastructure resulting from a natural disaster such as a tropical storm and/or flood damage, KEYS will remove any roadway obstruction at these locations and coordinate the restoration and repair of infrastructure using a traffic signal contractor whom has a pre-storm season contract with KEYS. KEYS will invoice the CITY for actual direct labor, material and transportation costs, subject to an overhead rate of 65 percent. Sub-contractual costs associated with this restoration will be invoiced to the City at cost without mark-up. During this restoration KEYS is not responsible for costs associated with traffic control assistance from law enforcement officers and will submit any applicable invoices to the CITY for payment of this service.

9. In consideration for the “in-kind services” provided by KEYS referred to herein above, CITY herein expressly agrees to repair any damage to sidewalks within City limits resulting from KEYS repairing or replacing poles for replacement projects involving less than ten poles. When KEYS cuts or otherwise disturbs the sidewalk, KEYS shall cover or fill hole with temporary materials and immediately notify CITY’s Community Services Department that a permanent repair needs to be scheduled. When KEYS issues a contract to replace 10 poles or more within a 12 month period within the City of Key West, KEYS shall contract with qualified contractors for replacement of sidewalk and will build the replacement to CITY standards. With regard to CITY’s obligation referred to in this paragraph, and to the extent permitted by law and subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, KEYS, to the extent of the CITY’S potential liability pursuant to Section 768.28, Florida Statutes, does hereby

agree to defend, indemnify and hold CITY, its officers, agents, or employees, harmless from and against any and all liability, damages, costs or expenses (including reasonable attorneys' fees, costs, and expenses at both the trial and appellate levels) arising from the acts or omissions of KEYS in connection with this Agreement. Nothing herein is intended to waive the sovereign immunity afforded to KEYS pursuant to Florida law, including section 768.28, Florida Statutes. Nothing herein is intended to waive or restrict the rights of KEYS or CITY against each other related to obligations arising from this agreement.

10. To the extent permitted by law and subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, the CITY, to the extent of KEYS' potential liability pursuant to Section 768.28, Florida Statutes, does hereby agree to defend, indemnify and hold KEYS, its officers, agents, or employees, harmless from and against any and all liability, damages, costs or expenses arising from the negligent acts or omissions of the CITY in connection with this Agreement. Nothing herein is intended to waive the sovereign immunity afforded to CITY pursuant to Florida law, including section 768.28, Florida Statutes. Nothing herein is intended to waive the sovereign immunity afforded to KEYS pursuant to Florida law, including section 768.28, Florida Statutes.

11. CITY specifically agrees herein to provide to KEYS the proposed construction drawings for new lighting to be installed by the CITY for KEYS' input and preapproval for meter location and connection point. Once project is completed the CITY must provide final "as-built" drawing prior to KEYS final connection of traffic signals and cross-walk lights. Notwithstanding the above, KEYS has no obligation to perform a final connection to any of the above stated equipment unless and until such time as drawings are provided and deemed acceptable to KEYS.

12. KEYS and CITY agree that any requests for construction and/or maintenance of any lights that are not a facility listed in Schedule "A" will require a separate agreement and or a revision to this agreement.

13. No additional facilities may be added to the scope of this Agreement without KEYS' prior written approval, and if such approval is granted, such additional facilities shall be identified as to location, kind and type in a written schedule to be attached to Schedule "A" and dated and signed by both parties

14. KEYS responsibilities under this agreement do not include any obligation to construct new facilities, to monitor or inspect the facilities or to assume liability or responsibility for the control of traffic. Neither does KEYS have any responsibility for making decisions, judgments, or planning, regarding traffic safety, location of traffic signals and cross-walk lights, the kinds and types of such devices purchased by the CITY, computer hardware and software to operate such equipment, or any other matters that lie within the duties and obligations of the CITY, as a governmental entity to help protect the health safety and welfare of the citizens of the City of Key West and the traveling public.

15. KEYS shall provide the repair and replacement services when requested in a reasonable, prudent, and timely manner and with due regard to the fact that the CITY, and not KEYS, has exercised its judgment in the purchase of the facilities. By

undertaking the repair and replacement services hereunder KEYS shall not be deemed to have made any assessment, determination or inspection of the facilities, nor shall KEYS be deemed to have approved of the adequacy, sufficiency or appropriateness of the facilities for any purpose, including, but not limited to, safety, security and level of illumination.

16. The responsibility and obligation to provide for the monitoring, inspection and operation of the facilities lies with the CITY and the parties specifically agree that KEYS, by entering into this Agreement, shall neither assume nor be obligated to assume into this any responsibility for the monitoring, inspection, operations and control of the facilities. The CITY shall have the duty to notify KEYS, as hereinafter provided, of the necessity for any repair or replacement services.

17. The parties of this agreement stipulate that each is a governmental agency as defined by Florida Statutes and represents to the other that it has purchased suitable Public Liability, Vehicle liability, and Workers Compensation insurance, or is self-insured, in amounts adequate to respond to any of the activities governed by this agreement.

18. The term of this agreement shall commence on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_ with automatic renewals for periods of 1 year each upon the same terms and conditions unless either party notifies the other in writing no less than 60 days before the expiration of any renewal period of its intent not to renew the agreement.

19. This is the entire agreement between the parties, superseding all prior oral or written agreement or negotiations, and no alterations or modifications or amendments to this agreement shall be valid unless the same be reduced to writing and signed by the parties hereto. This agreement shall be binding on the successors and assigns of the respective parties, and shall be construed in accordance with the laws of the State of Florida, and shall be interpreted without regard to party or parties deemed to have drafted it.

IN WITNESS, THEREOF, the parties hereto have set their hands and seals the day and the year first above written above.

UTILITY BOARD OF THE CITY OF KEY WEST

By \_\_\_\_\_

Peter Batty, \_\_\_\_\_

\_\_\_\_\_  
SECRETARY: Lynne Tejada

[SEAL]

[SEAL]  
ATTEST

CITY OF KEY WEST

By \_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
Craig Cates, Mayor

**Schedule "A" - Traffic Signals**

<i>Covered</i>						
<u>TYPE</u>	<u>DESCRIPTION</u>	<u>LOCATION</u>	<u>ENERGY CHARGE OR APPLICABLE TARIFF</u>	<u>WHO MAINTAINS INVENTORY</u>	<u>WHO PAYS FOR INVENTORY</u>	<u>WHO MAINTAINS EXTERIOR OF CABINET</u>
Traffic Lights	Traffic lights at City Intersections.	Throughout City limits. Refer to attached list of traffic lights within the City limits mutually agreed upon between the CITY and KEYS.	Based on consumption estimate at 210 rate.	KEYS	CITY – billed at the weighted inventory carrying cost – which is based on the weighted average method when issued from stock.	CITY

\_\_\_\_\_  
 Lynne Tejada (date)  
 General Manager  
 Keys Energy Services

\_\_\_\_\_  
 Jim Scholl (date)  
 City Manager  
 City of Key West

**SCHEDULE A ATTACHMENT**  
**KEY WEST SIGNAL CONTROLLED INTERSECTION SUMMARY**

INTERSECTION		INTERSECTION		INTERSECTION	
STREET	STREET	STREET	STREET	STREET	STREET
DUCK AVE.	FOURTEENTH ST.	SIMONTON ST.	CAROLINE ST.	DUVAL ST.	OLIVIA
DUVAL ST.	ANGELA	SIMONTON ST.	EATON ST.	DUVAL ST.	UNITED ST.
DUVAL ST.	CAROLINE ST.	SIMONTON ST.	FLEMING ST.	FIRST ST.	FOGARTY
DUVAL ST.	EATON ST.	SIMONTON ST.	SOUTH ST.	GRINNELL ST.	CATHERINE ST.
DUVAL ST.	FLEMING ST.	SIMONTON ST.	SOUTHARD	GRINNELL ST.	SOUTH ST.
DUVAL ST.	FRONT ST.	SIMONTON ST.	TRUMAN AVE.	GRINNELL ST.	VIRGINIA
DUVAL ST.	GREENE ST.	SIMONTON ST.	UNITED ST.	HARRIS	SEVENTH ST.
DUVAL ST.	SOUTHARD	SOUTH ST.	REYNOLDS	JULIA	THOMAS
DUVAL ST.	TRUMAN AVE.	THOMAS	PETRONIA	N. ROOSEVELT	FIRE DEPARTMENT
FLAGLER AVE.	FIFTH ST.	TRUMAN AVE.	EISENHOWER	OLIVIA	FLORIDA
FLAGLER AVE.	FIRST ST.	TRUMAN AVE.	FLORIDA	OLIVIA	THOMAS
FLAGLER AVE.	KENNEDY DRIVE	TRUMAN AVE.	THOMAS	OLIVIA	WINDSOR LANE
FLAGLER AVE.	SOUTH ROOSEVELT	TRUMAN AVE.	WINDSOR LANE	SIMONTON ST.	OLIVIA
FOOTBALL FIELD	KENNEDY DRIVE	US 1	COLLEGE ROAD	SOUTHARD	FRANCES
GRINNELL ST.	EATON ST.	US 1	N. ROOSEVELT	THOMAS	AMELIA
GRINNELL ST.	FLEMING ST.	WHITE ST.	EATON ST.	THOMPSON ISLAND	SOUTH ROOSEVELT
N. ROOSEVELT	FIFTH ST.	WHITE ST.	FLAGLER AVE.	TRUMAN AVE.	ST. MARYS
N. ROOSEVELT	FIRST ST.	WHITE ST.	SOUTHARD	TRUMBO	EATON ST.
N. ROOSEVELT	KENNEDY DRIVE	WHITE ST.	TRUMAN AVE.	US 1	COW KEY BRIDGE
N. ROOSEVELT	OVERSEAS MKT.	WHITE ST.	UNITED ST.	WHITE ST.	VON PHISTER
N. ROOSEVELT	SEARSTOWN (PUBLIX)	WHITE ST.	VIRGINIA	WHITE ST.	ATLANTIC BLVD
NORTHSIDE	FOURTEENTH ST.	WHITEHEAD ST.	FLEMING ST.		
NORTHSIDE	KENNEDY DRIVE	WHITEHEAD ST.	SOUTHARD		
PALM AVE.	TRUMBO POINT	WHITEHEAD ST.	TRUMAN AVE.		
SENIOR CITIZEN	KENNEDY DRIVE	CATHERINE ST.	VARELA		

## **SCHEDULE B**

### **FLORIDA DEPARTMENT OF TRANSPORTATION TRAFFIC SIGNAL INTERSECTIONS AND TRAFFIC CONTROL BEACONS**

#### Intersection Locations

- US-1 Whitehead Street at Fleming Street
- US-1 Whitehead Street at Southard Street
- US-1 Whitehead Street at Truman Avenue
- US-1 Truman Avenue at Duval Street
- US-1 Truman Avenue at Simonton Street
- US-1 Truman Avenue at Windsor Lane
- US-1 Truman Avenue at White Street
- US-1 Truman Avenue at Florida Street (pedestrian crossing)
- US-1 Truman Avenue at Eisenhower Drive and Jose Marti Drive
- US-1 N. Roosevelt Blvd. at Fire Station (emergency signal)
- US-1 N. Roosevelt Blvd. at Palm Avenue
- US-1 N. Roosevelt Blvd. at MacMillan Street/5<sup>th</sup> Street
- US-1 N. Roosevelt Blvd. at Overseas Market
- US-1 N. Roosevelt Blvd. at Kennedy Drive
- US-1 N. Roosevelt Blvd. at Searstown
- US-1 N. Roosevelt Blvd. at S. Roosevelt Blvd.
- US-1 US-1/Overseas Hwy. at College Road