

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED "STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT, CONTRACT NO. ARU46"; PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the attached "State of Florida Department of Transportation Traffic Signal Maintenance and Compensation Agreement, Contract ARU46" is hereby approved.

Section 2: That the City Manager is authorized to execute the Agreement on behalf of the City of Key West, upon consent of the City Attorney.

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this
7th day of July, 2015.

Authenticated by the Presiding Officer and Clerk of the Commission
on 8th day of July, 2015.

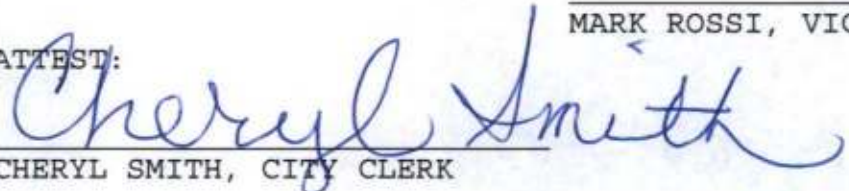
Filed with the Clerk on July 8, 2015.

| | |
|----------------------------|---------------|
| Mayor Craig Cates | <u>Absent</u> |
| Vice Mayor Mark Rossi | <u>Yes</u> |
| Commissioner Teri Johnston | <u>Yes</u> |
| Commissioner Clayton Lopez | <u>Yes</u> |
| Commissioner Billy Wardlow | <u>Yes</u> |
| Commissioner Jimmy Weekley | <u>Yes</u> |
| Commissioner Tony Yaniz | <u>Yes</u> |



MARK ROSSI, VICE MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041 (305) 809-3883

MEMORANDUM

TO: Jim Scholl, City Manager
FROM: Jim Bouquet, P.E., Director of Engineering
DATE: June 2, 2015
RE: Traffic Signal Maintenance and Compensation Agreement,
Contract No. ARU46.

ACTION STATEMENT:

The City of Key West agrees to maintain traffic signals, beacons, controls, and mast arms in accordance with a Florida Department of Transportation (FDOT) *Traffic Signal Maintenance and Compensation Agreement, Contract No. ARU46*. Authorize the City Manager to execute the agreement.

BACKGROUND:

The City of Key West has a standing Maintenance and Compensation Agreement with the FDOT, Contract No. A-Q764, executed May 6, 2011, under which the City maintains FDOT traffic signals and receives annual payment for this service. FDOT has requested that the City enter into a new Maintenance and Compensation agreement to replace the current agreement. The new agreement provides the following benefits to the City over the current agreement:

1. The new agreement includes an 'opt-out' clause allowing the City, for any reason, to terminate the agreement at the close of the FDOT's fiscal year with a minimum of two years notice. The current agreement has no provision for termination by the City.
2. The new agreement provides a higher rate of compensation.
3. Under the new agreement, the FDOT agrees to compensate the City for emergency repair and replacement costs if the City is unable to recover those costs from the responsible party(s) within 180 days.

PURPOSE AND JUSTIFICATION:

Approval of the *Traffic Signal Maintenance and Compensation Agreement* is a specific example of collaboration among community partners (government agencies) to address specific concerns for the benefit of the community (Government Goal #3). Furthermore, this agreement supports and nurtures an existing source of income for the City (Economy Goal #1).

FINANCIAL ISSUES

FDOT will compensate the City for services provided under the Agreement. The **estimated** annual compensation due the City based on the schedule of currently installed signals is:

2015-2016 **\$48,640**

2016-2017 **\$50,095**

Subsequent years' compensation shall be increased based on the Consumer Price index (CPI).

The City currently has an agreement with KEYS Energy Services, Inc. (KEYS) for maintenance and periodic inspection of traffic signals. The KEYS agreement is consistent with the new FDOT *Traffic Signal Maintenance and Compensation Agreement*. The average cost to the City for these services has historically been well below the scheduled FDOT compensation. Compensation and KEYS maintenance costs are managed under City project EN1304.

RECOMMENDATION

Staff recommends The City of Key West agree to maintain traffic signals in accordance with the Florida Department of Transportation *Traffic Signal Maintenance and Compensation Agreement, Contract No. ARU46*. Staff recommends the City Manager be authorized to execute the agreement.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT

750-010-22
TRAFFIC OPERATIONS
04/15
Page 1 of 5

CONTRACT NO. ARU46
FINANCIAL PROJECT NO. 405576-1-88-01
F.E.I.D. NO. _____

THIS TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT ("Agreement"), is entered into this 24th day of August 2015 between the Florida Department of Transportation, an agency of the State of Florida, hereinafter called the "Department", and CITY OF KEY WEST, Florida, 3140 FLAGLER AVE, KEY WEST, FLORIDA 33040 ("Maintaining Agency").

WITNESSETH:

- A. The Department is authorized under Section 335.055, Florida Statutes, to enter into this Agreement.
- B. The Maintaining Agency is authorized under Resolution 15-224 to enter into this Agreement and has authorized its undersigned representative to enter into and execute this Agreement on behalf of the Maintaining Agency.

NOW, THEREFORE, in consideration of the mutual covenants contained in the Agreement, the sufficiency of which is acknowledged, the parties mutually agree and covenant as follows:

1. The Maintaining Agency shall be responsible for the maintenance and continuous operation of the traffic signals, interconnected and monitored traffic signals (IMTS) (defined as signals that are interconnected with telecommunications and are monitored at a central location), traffic signal systems (defined as central computer, cameras, message signs, communications devices, interconnect / network, vehicle, bicycle & pedestrian detection devices, traffic signal hardware and software, preemption devices, and uninterruptible power supplies ("UPS")), control devices (defined as intersection control beacons, traffic warning beacons, illuminated street name signs, pedestrian flashing beacons (i.e., school zone flashing beacons, pedestrian crossing beacons, and Rectangular Rapid Flashing Beacons)), and emergency/fire department signals and speed activated warning displays. The Maintaining Agency shall be responsible for the payment of electricity and electrical charges incurred in connection with operation of such traffic signals and signal systems and devices upon completion of installation of each signal or device. All traffic signals and control devices mentioned in this paragraph are referred to in this Agreement as "Traffic Signals and Devices".
2. The Department agrees to pay the Maintaining Agency an annual compensation amount based on the Department's fiscal year. The compensation amount consists of the cost of the maintenance and continuous operation of the Traffic Signals and Devices as identified in Exhibit A. Payments by the Department will be made in accordance with Exhibit B. In the case of construction contracts, the Maintaining Agency shall be responsible for the payment of electricity and electrical charges incurred in connection with the operation of the Traffic Signals and Devices, and shall undertake the maintenance and continuous operation of these Traffic Signals and Devices upon final acceptance of the installation by the Department. Prior to any final acceptance of the installation by the Department, the Maintaining Agency will have the opportunity to inspect and request modifications or corrections to the installation(s) and the Department agrees to undertake those modifications or corrections prior to final acceptance so long as the modifications or corrections comply with the Agreement, signal plans, and specifications previously approved by both the Department and Maintaining Agency. Repair or replacement and other responsibilities of the installation contractor and the Department, during construction, are contained in the Department's Standard Specifications for Road and Bridge Construction.
3. The Maintaining Agency shall maintain and operate the Traffic Signals and Devices in a manner that will ensure safe and efficient movement of highway traffic and that is consistent with maintenance practices prescribed by the International Municipal Signal Association (IMSA) and operational requirements of the Manual on Uniform Traffic Control Devices (MUTCD), as amended.
4. The Maintaining Agency's maintenance responsibilities include, but are not limited to, locate, preventive maintenance (periodic inspection, service and routine repairs), restoration of services, and emergency maintenance (trouble shooting in the event of equipment malfunction, failure, or damage). Restoration of services may include temporary poles, stop signs or other methods to maintain traffic. The Maintaining Agency shall record its maintenance activities in a traffic signal maintenance log.
5. The Department intends to conduct a structural inspection of the mast arm structures and strain poles every 60 months, which inspection shall comply with the checklist included in Exhibit C, attached to and incorporated in this Agreement. The inspection report will serve as a 90-day notification to the Maintaining Agency that deficiencies exist which require preventative maintenance and periodic maintenance. Preventative maintenance includes but is not limited to: spot painting, cleaning, all wiring issues, graffiti removal, all signal related issues (lighting, signs and connections), and response to traffic impact including repair and replacement of all components damaged by the traffic impact. For any new painted mast arms installed after the date of this agreement, preventative maintenance includes all items described above and also includes repainting.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT

tightening of nuts, replacing missing or deficient bolts, replacement of missing cap covers or equivalent, replacement of missing or deficient access hole cover plates, and repairing improper grounding. Damaged mast arm structures and strain poles must be properly repaired or replaced by the Maintaining Agency. If the Maintaining Agency is not successful in recovering damage costs from responsible party(ies) within 180 days from the occurrence of damage, the Department will reimburse the Maintaining Agency for costs incurred due to traffic impacts to mast arms, which reimbursements will be processed after the Department receives a properly completed and supported invoice from the Maintaining Agency. The Department will pursue reimbursements from individuals and/or the third parties who cause damages to mast arms and are liable for replacement/repair costs. Failure to perform preventative maintenance after notification of an inspection deficiency will result in the Maintaining Agency being responsible for the corrective actions. If spot painting or any other described preventative maintenance is not carried out, there shall be a 25% retainer of the annual compensation amount for the affected signal locations until the preventative maintenance is performed. For each month subsequent to the expiration of the 90-day notice given to the Maintaining Agency that preventative maintenance deficiencies exist, 1/12th of the annual compensation amount for the affected signal locations will be forfeited up to 25% of the annual compensation amount. In the case of a total paint failure on a mast arm installed prior to the date of this Agreement, the Department will fund the cost of repainting. This does not include any mast arm that was installed with a separate mast arm painted finish agreement. The terms of that agreement will control.

6. Periodic maintenance includes but is not limited to: repair of cracks in the mast arm structure; removal and/or repair of grout peds; resetting of anchor bolts; and repair or replacement of deteriorated anchor bolts and nuts. For any new mast arm installations after the date of this Agreement, if a Maintaining Agency requests a painted mast arm, the Maintaining Agency agrees to perform all required periodic and preventative maintenance. Any periodic maintenance performed on the mast arm structure by the Maintaining Agency needs Department approval prior to commencement of work and shall be performed within 90 days unless under an emergency situation. Any and all work performed by the Maintaining Agency must conform to the current Department Standard Specifications for Road and Bridge Construction as applicable. Mast arms that the Department determines to be at the end of its useful life will be replaced by the Department so long as documented preventative maintenance and any applicable periodic maintenance was satisfactorily performed by the Maintaining Agency.

The Table below summarizes the roles of the Maintaining Agency and the Department with regard to preventative and periodic maintenance of mast arms:

| Maintaining Agency | Florida DOT |
|---|---|
| Preventative maintenance of all mast arm structures | Periodic maintenance of all mast arm structures (except for any new painted and existing painted structures with signed separate Agreement) |
| Periodic maintenance of structures (for any new painted and existing painted structures with signed separate Agreement) | |
| Damage repair or replacement of structures | Compensate Maintaining Agency for damage repair or replacement of structures |
| | Replacement at end of life cycle of the structure |

7. The Department will reimburse the Maintaining Agency for costs incurred due to traffic impacts to traffic signal controller cabinet assemblies, traffic signal battery backup, UPS cabinet assemblies, pedestrian flashing beacons, strain pole repair or replacement, and all devices shown in Exhibit A, if the Maintaining Agency is not successful in recovering damage costs from responsible parties. The Maintaining Agency will be responsible for pursuing reimbursements from individuals and/or the third parties that cause damages. However, if the Maintaining Agency is not successful in recovering damage costs from responsible party(ies) within 180 days from the occurrence of damage, the Department will pursue reimbursements from individuals and/or the third parties who cause damages and are liable for replacement/repair costs to the traffic signal controller cabinet assemblies, traffic signal battery backup, UPS cabinet assemblies, pedestrian flashing beacons, strain poles, and all devices shown in Exhibit A. Applicable reimbursements will be processed after the Department receives a properly completed and supported invoice from the Maintaining Agency.
8. The Maintaining Agency may remove any component of the installed equipment for repair or testing; however, it shall only make permanent modifications or equipment replacements and only if the equipment provided is capable of performing at minimum the same functions as the equipment being replaced. The Department shall not make any modifications or equipment replacements without prior written notice to and consultation with the Maintaining Agency.
 - a. The Maintaining Agency shall implement and maintain the timing and phasing of the traffic signals in accordance with the Department's timing and phasing plans, specifications, special provisions, Department re-timing projects, and the Department's Traffic Engineering Manual. The Maintaining Agency shall obtain prior written approval from the Department for any modification in phasing of signals and flash times (where applicable). Signal Systems timings (cycle length, split, offsets, sequence) are considered operational changes and may be changed by the Maintaining Agency to accommodate changing needs of traffic. The Maintaining Agency may make changes in the signal timing

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT

750-010-22
TRAFFIC OPERATIONS
04/16
Page 3 of 6

provided these changes are made under the direction of a qualified Professional Engineer registered in the State of Florida. The Maintaining Agency shall make available a copy of the timings to the Department upon request. The Department reserves the right to examine equipment, timing and phasing at any time and, after consultation with the Maintaining Agency, may specify modifications. If the Department specifies modification in timing or phasing, implementation of such modifications will be coordinated with, or made by, the Maintaining Agency. All signal timing and phasing records shall be retained by the Maintaining Agency for at least three (3) years, and will be made available to the Department upon request.

9. The Maintaining Agency shall note in the maintenance log any changes in timings and phasings, and keep a copy of the timings and phasings, and any approval documentation in a file. A copy of the log shall be provided to the Department upon request. Maintaining Agencies may provide this information electronically.
10. The Maintaining Agency and the Department shall update Exhibit A on an annual basis which Exhibit A is attached to and incorporated in this Agreement. Exhibit A will contain all Traffic Signals and Devices on the State Highway System which are within the jurisdiction of the Maintaining Agency, those that are maintained by the Maintaining Agency and those that are maintained but not included for compensation. No changes or modifications may be made to Exhibit A during the Department's fiscal year for compensation. New Traffic Signals and Devices added by the Department during its fiscal year must be maintained and operated by the Maintaining Agency upon the Department's final acceptance as stated in paragraph 2. The Maintaining Agency and the Department shall update Exhibit A preceding each Department's fiscal year, which will include all new Department Traffic Signals and Devices added during the Department's previous fiscal year and delete those removed. Exhibit A will need to be incorporated into this Agreement by an amendment to this Agreement each time Exhibit A is updated. The Maintaining Agency will begin receiving compensation for new Traffic Signals and Devices in the Department's fiscal year after the Traffic Signals and Devices are installed and final acceptance is given by the Department. In the event that no change has been made to the previous year's Exhibit A, a certification from the Maintaining Agency shall be provided to the Department certifying that no change has been made to Exhibit A in the Department's previous fiscal year. The annual compensation will be a lump sum payment (minus any retainage or forfeiture) as set forth in Exhibit B. Future payments will be based on the information provided in Exhibit A, in accordance with the provisions as set forth in Exhibit B, attached to and incorporated in this Agreement.
11. Payment will be made in accordance with Section 215.422, Florida Statutes.
12. There shall be no reimbursement for travel expenses under this Agreement.
13. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.
14. The Maintaining Agency should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than twenty (20) working days. The Department has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the later of the date the invoice is received or the goods or services are received, inspected and approved.
15. If a payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Maintaining Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Maintaining Agency requests payment. Invoices returned to a Maintaining Agency because of Maintaining Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.
16. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for contractors or vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516 or by calling the Division of Consumer Services at 1-877-683-5236.
17. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for three (3) years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Maintaining Agency's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.
18. In the event this contract is for services in excess of \$25,000.00 and a term for a period of more than one (1) year, the provisions of Section 339.135(6)(a), F.S., are hereby incorporated:

"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

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT

750-010-22
TRAFFIC OPERATIONS
04/15
Page 4 of 5

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 such 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 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 \$25,000.00 and which have a term for a period of more than 1 year."

19. The Department's obligation to pay is contingent upon an annual appropriation by the Florida Legislature.
20. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.
21. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.
22. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
23. The Maintaining Agency may be subject to inspections of Traffic Signals and Devices by the Department. Such findings will be shared with the Maintaining Agency and will be the basis of all decisions regarding payment reduction, reworking, Agreement termination, or renewal. If at any time the Maintaining Agency has not performed the maintenance responsibility on the locations specified in the Exhibit A, the Department has the option of (a) notifying the Maintaining Agency of the deficiency with a requirement that it be corrected within a specified time, otherwise the Department shall deduct payment for any deficient Traffic Signal(s) and Device(s) maintenance not corrected at the end of such time, or (b) take whatever action is deemed appropriate by the Department. Any suspension or termination of funds does not relieve any obligation of the Maintaining Agency under the terms and conditions of this Agreement.
24. The Department shall monitor the performance of the Maintaining Agency in the fulfillment of the agreement. The Maintaining Agency shall submit an annual Report prior to June 30 of each year detailing the following:
 - a. Critical Detection device malfunctions: Critical detection is defined as the detection on side-streets and in left turn lanes on the main streets, and all pedestrian/bicycle detection. Repairs to the side-street and main street left turn detections shall be made within sixty (60) days of discovery and repairs to the pedestrian detection shall be made within 72 hours after notification. All these events shall be logged into the annual report. If repairs cannot be performed within 60 days, the agency shall document the reasons why. Discovery of such events shall be logged into the annual report. The Maintaining Agency shall ensure that 90% of all critical detectors systemwide are operating properly at all time. Any time the level drops below 90%, the Agency would have ninety (90) days to correct the situation. A 5% retainage of the total annual compensation amount (as shown in Exhibit A) will be withheld whenever the 90% critical detection requirement is not met within the 90-day period.
 - b. Traffic signal preventative maintenance inspections: All traffic signals shall receive at least one (1) minor preventative maintenance inspection, preferably two inspections, within a twelve (12) month period. Preventative maintenance inspection shall include verification that all detection is working, the signal is cycling properly, the ventilation system is functioning and filters are clean. Basic traffic cabinet maintenance shall also verify power feed voltages, verify that the vehicle and pedestrian indications are functioning properly, test the effective functioning of pedestrian push buttons, and check hinges and door locks. At least one (1) conflict monitor test shall be performed during a twelve (12) month period. Each test is to be documented and included in the annual report to the Department. The inspection report should note the location, date of inspection and any items noted. If the traffic signals do not receive at least one (1) minor preventative maintenance inspection during a twelve (12) month period, there shall be a 20% retainage of the annual compensation amount for the affected signal locations until the preventative maintenance inspection is made. If not performed within the state's fiscal year, the 20% retainage of the annual compensation amount for the affected signal locations will be forfeited.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT

780-010-22
TRAFFIC OPERATIONS
04/15
Page 5 of 8

- c. For any traffic signals that are interconnected with telecommunications and their real-time operation is electronically monitored via software by personnel at a central location and are therefore receiving the higher compensation amount as described in Exhibit B, the name(s), title(s) of those monitoring those intersections, and the location of the central monitoring facility(s) are to be documented and contained in the annual report submitted to the Department.
 - d. In addition to the above requirements, if at least 50% of the traffic signals are not inspected and if at least half of the critical detection requirements as stated in 24a are not met, the Department will retain an additional 25% of the remaining compensation amount.
25. The Maintaining Agency may enter into agreements with other parties pertaining to Traffic Signals and Devices including, but not limited to, agreements relating to costs and expenses incurred in connection with the operation of traffic signals and devices on the State Highway System, provided that such Agreements are consistent with the mutual covenants contained in this Agreement. The Maintaining Agency shall furnish a copy of such agreements to the Department.
 26. This Agreement may not be assigned or transferred by the Maintaining Agency in whole or in part without consent of the Department.
 27. The Maintaining Agency shall allow public access to all documents, papers, letters, or other material subject to provisions of Chapter 119, Florida Statutes, and made or received by the Maintaining Agency in conjunction with this Agreement. Failure by the Maintaining Agency to grant such public access will be grounds for immediate unilateral cancellation of this Agreement by the Department.
 28. This Agreement is governed by and construed in accordance with the laws of the State of Florida. The invalidity or unenforceability of any portion of this Agreement does not affect the remaining provisions and portions hereof. Any failure to enforce or election on the part of the Department to not enforce any provision of this Agreement does not constitute a waiver of any rights of the Department to enforce its remedies hereunder or at law or in equity.
 29. This term of this Agreement is twenty (20) years; provided that either party may cancel this Agreement prior to the expiration of the term of this Agreement. A minimum notice period of two (2) years plus the remaining months of the Department's fiscal year shall be provided to the other party in writing. Should the Maintaining Agency provide its written notice of cancellation to the Department, the notice shall be endorsed by the elected body (County Commission, City Council, or local agency governing body) under which the Agency operates.
 30. Upon execution, this Agreement cancels and supersedes any and all prior Traffic Signal Maintenance Agreement(s) between the parties, except specific separate Agreements covering painted mast arm maintenance or any other aspect related to the painting of mast arms.
 31. The Department reserves the right to remove select critical corridors or critical intersections from the Maintaining Agency's obligation under this Agreement. The remaining intersections and corridors would continue to be covered under this Agreement. The Department will provide a minimum of one year notice prior to take-over of maintenance of critical corridors or critical intersections.
 32. The Department agrees that the Maintaining Agency must comply with State law regarding appropriations and budgets. This Agreement shall not be interpreted to conflict with State law applicable to the Maintaining Agency.
 33. The Maintaining Agency shall:
 - a. utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Maintaining Agency during the term of the contract; and
 - b. expressly require any contractors and subcontractors 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.
 34. Exhibits A, B, and C are attached and incorporated by reference.
 35. This Agreement contains all the terms and conditions agreed upon by the parties.

IN WITNESS WHEREOF, the parties have caused these presents to be executed, the day and year first above written.

_____, Florida
(Maintaining Agency)

By

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT

750-010-22
TRAFFIC OPERATIONS
04/15
Page 8 of 8

(Authorized Signature)

[Handwritten Signature]

(Authorized Signature)

Print/Type Name: *[Handwritten Signature]*

Print/Type Name: DEBORA M. RIVERA

Title: City Manager

Title: DIRECTOR

Attest: *[Handwritten Signature]*

Legal Review: *[Handwritten Signature]*

Attorney: _____

Date: July 8, 2015

EXHIBIT A

TRAFFIC SIGNAL INTERSECTIONS AND INTERSECTION CONTROL BEACONS MAINTAINED AND OPERATED FOR FY 2015-2016

Effective Date: July 1, 2015 To: June 30, 2016


| Intersection Locations | Traffic Signal (TS) | Traffic Signal interconnected & Monitored (IMTS) | Intersection Control Beacon (ICB) | Pedestrian Flashing Beacon (PFB) | Emergency Fire Dept. Signal (FDS) | Speed Activated Warning Displays (SAWD) or Blank Out Sign (BOS) | Traffic Warning Beacon (TWB) | Travel Time Detector | Uninterruptible Power Supplies (UPS) | Compensation Amount (using Unit Rates from Exhibit B) |
|--|---------------------|--|-----------------------------------|----------------------------------|-----------------------------------|---|------------------------------|----------------------|--------------------------------------|---|
| (US-1) Whitehead St. at Fleming St. | 1 | | | | | | | | | 3,040 |
| (US-1) Whitehead St. at Southard St. | 1 | | | | | | | | | 3,040 |
| (US-1) Whitehead St. at Truman Ave. | 1 | | | | | | | | | 3,040 |
| (US-1) Truman Ave. at Duval St. | 1 | | | | | | | | | 3,040 |
| (US-1) Truman Ave. at Simonton St. | 1 | | | | | | | | | 3,040 |
| (US-1) Truman Ave. at Windsor Lane | 1 | | | | | | | | | 3,040 |
| (US-1) Truman Ave. at White St. | 1 | | | | | | | | | 3,040 |
| (US-1) Truman Ave. at Florida St. | 1 | | | | | | | | | 3,040 |
| (US-1) Truman Ave. at Eisenhower Drive and Jose Marti Drive | 1 | | | | | | | | | 3,040 |
| (US-1) N. Roosevelt Blvd. at Fire Station Emergency Fire Department Signal (FDS) | | | | | 1 | | | | | 1,064 |
| (US-1) N. Roosevelt Blvd. at Palm Ave. | 1 | | | | | | | | | 3,040 |
| (US-1) N. Roosevelt Blvd. at MacMillan St./5th St. | 1 | | | | | | | | | 3,040 |
| (US-1) N. Roosevelt Blvd. at Overseas Market | 1 | | | | | | | | | 3,040 |
| (US-1) N. Roosevelt Blvd. at Kennedy Drive | 1 | | | | | | | | | 3,040 |
| (US-1) N. Roosevelt Blvd. at Searstown | 1 | | | | | | | | | 3,040 |
| (US-1) N. Roosevelt Blvd. at S. Roosevelt Blvd. (the "Triangle") | 1 | | | | | | | | | 3,040 |
| (US-1) US-1/Overseas Hwy. at College Rd. | 1 | | | | | | | | | 3,040 |
| (US-1) N. Roosevelt Blvd. at the Former Radtson (3820 NRB) | | | | 1 | | | | | | 608 |
| (US-1) N. Roosevelt Blvd. at Key Plaza (2900 NRB) | | | | 1 | | | | | | 608 |
| (US-1) N. Roosevelt Blvd. at 3rd St. (2000 NRB) | | | | 1 | | | | | | 608 |
| Total Lump Sum Amount* | | | | | | | | | | 51,528 |

* Amount paid shall be the Total Lump Sum minus any retainage or forfeiture.

I certify that the above traffic signals will be maintained and operated in accordance with the requirements of the Traffic Signal Maintenance and Compensation Agreement. For satisfactory completion of all services detailed in this Agreement for this time period, the Department will pay the Maintaining Agency a Total Lump Sum (minus any retainage or forfeiture) of **\$51,528.00**.


 Maintaining Agency- City of Key West

20 JULY 2015
 Date


 District Traffic Operations Engineer

8/24/15
 Date

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT

730-010-02
 TRAFFIC OPERATIONS
 6472
 Exhibit B Page 1 of 1

**EXHIBIT B
 TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT**

1.0 PURPOSE

This exhibit defines the method and limits of compensation to be made to the Maintaining Agency for the services described in this Agreement and in Exhibit A and method by which payments will be made.

2.0 COMPENSATION

For the satisfactory completion of all services detailed in this Agreement and Exhibit A of this Agreement, the Department will pay the Maintaining Agency the Total Lump Sum (minus any retainage or forfeiture) in Exhibit A. The Maintaining Agency will receive one lump sum payment (minus any retainage or forfeiture) at the end of each fiscal year for satisfactory completion of services.

Beginning in the fiscal year 2016-17, for traffic signals which are not interconnected with telecommunications and are not monitored at a central location, the compensation amount shall be \$3,131. The compensation amount for traffic signals that are interconnected with telecommunications and are monitored at a central location shall be \$4,500 per signal location. These differential compensation amounts shall be in effect beginning July 1, 2016. The Table below shows the compensation amount for the various devices for fiscal years 2015-16 and 2016-17, and beyond.

Total Lump Sum (minus any retainage or forfeiture) Amount for each fiscal year is calculated by adding all of the individual intersection amounts.

Pedestrian Flashing Beacon: Includes school zone beacons, pedestrian crossing beacons, and rectangular rapid flashing beacons (RRFB). School zones, crosswalks and warning sign locations shall be paid at a unit rate regardless of the number of individual beacons or poles.

Unit Compensation Rates per Intersection on the State Highway System

| FY | Traffic Signal s (TS) | Traffic Signal Interconnected & monitored (IMTS) | Intersection Control Beacon (ICB) | Pedestrian Flashing Beacon (PFB) | Emergency Fire Dept. Signal (FDS) | Speed Activated Warning Display (SAWD) or Blank Out Sign (BOS) | Traffic Warning Beacon (TWB) | Travel Time Detector | Uninterruptible Power Supplies (UPS) |
|----------|--|--|-----------------------------------|----------------------------------|-----------------------------------|--|------------------------------|----------------------|--------------------------------------|
| 2014-15* | \$ 2,951 | | \$738 | \$295 | \$738 | \$148 | \$148 | | |
| 2015-16 | 3,040 | | 760 | 608 | 1,064 | 304 | 304 | | |
| 2016-17 | 3,131 | 4,500 | 783 | 626 | 1,096 | 313 | 313 | 100 | 100 |
| 2017-18 | Based on the Consumer Price Index (CPI), the 2016-17 compensation amounts will be revised upwards. | | | | | | | | |
| 2018-19 | Based on the CPI, the 2017-18 compensation amounts will be revised upwards. | | | | | | | | |
| 2019-20 | Based on the CPI, the 2018-19 compensation amounts will be revised upwards. | | | | | | | | |

*Compensation pro-rata based on intersection approaches or legs on State Highway System.

Based on the Consumer Price Index (CPI), the Unit Rate for the following fiscal year will be adjusted accordingly, unless otherwise specified in an amendment to this Agreement. However, if CPI is negative, there shall be no reduction from the previous year's compensation.

3.0 PAYMENT PROCESSING

The Maintaining Agency shall invoice the Department in a format acceptable to the Department, on an annual basis for the reimbursement costs incurred by the Maintaining Agency for the previous year prior to June 30th of

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT

750-010-02
TRAFFIC OPERATIONS
04/16
Exhibit C Page 1 of 1

each year. For example, the Maintaining Agency shall submit its invoice for the previous year beginning July 1, 2015 through June 30, 2016 no later than June 30, 2016.

EXHIBIT C

TRAFFIC SIGNAL MAST ARM CHECKLIST

Traffic Signal Mast Arm Checklist

- Foundation, including condition of grout pad if present
- Anchor bolts and nuts
- Base plate
- Base plate connection to vertical member
- Hand hole and hand hole covers and inside of vertical member by removing hand hole covers
- Connections between vertical and horizontal members
- Any member splices
- Attachments
- Member caps

SCHEDULE B – Contract No. ARU46

**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
- US-1 Truman Avenue at Eisenhower Drive and Jose Marti Drive
- US-1 N. Roosevelt Blvd. at Fire Station - Emergency Fire Department Signal (FDS)
- US-1 N. Roosevelt Blvd. at Palm Avenue
- US-1 N. Roosevelt Blvd. at MacMillan Street/5th 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. (the "Triangle")
- US-1 US-1/Overseas Hwy. at College Road

Stand Alone Pedestrian Flashing Beacons

- US-1 N. Roosevelt Blvd. at the Former Radisson (3820 NRB)
- US-1 N. Roosevelt Blvd. at Capital Bank (3618 NRB)
- US-1 N. Roosevelt Blvd. at Key Plaza (2900 NRB)
- US-1 N. Roosevelt Blvd. at 7th St. (2440 NRB)
- US-1 N. Roosevelt Blvd. at 3rd St. (2000 NRB)

RESOLUTION NO. 11-005

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED "STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT"; PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the "State of Florida Department of Transportation Traffic Signal Maintenance and Compensation Agreement" is hereby approved.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 4th day of January, 2011.


Authenticated by the presiding officer and Clerk of the Commission on January 5, 2011.

Filed with the Clerk January 5, 2011.



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

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EXECUTIVE SUMMARY

TO: Jim Scholl, City Manager
FROM: Doug Bradshaw, Senior Project Manager
DATE: November 30, 2010
SUBJECT: Traffic Signal Maintenance Agreement with FDOT

ACTION STATEMENT:

This resolution will approve the Traffic Signal Maintenance Agreement with the Florida Department of Transportation (FDOT)

BACKGROUND:

The City of Key West is responsible for maintaining the traffic signals for FDOT. The maintenance includes those traffic signals on FDOT roads within the City. They are located at the following locations:

| | |
|--|---|
| US-1 (Whitehead St. @ Fleming St.) | US-1 (N. Roosevelt Blvd. @ Fire Station) – emergency signal |
| US-1 (Whitehead St. @ Southard St.) | US-1 (N. Roosevelt Blvd. @ Palm Ave.) |
| US-1 (Whitehead St. @ Truman Ave.) | US-1 (N. Roosevelt Blvd. @ MacMillan St.) |
| US-1 (Truman Ave. @ Duval St.) | US-1 (N. Roosevelt Blvd. @ Overseas Market |
| US-1 (Truman Ave. @ Simonton St.) | US-1 (N. Roosevelt Blvd. @ Kennedy Drive) |
| US-1 (Truman Ave. @ Windsor Ln.) | US-1 (N. Roosevelt Blvd. @ Sears Town |
| US-1 (Truman Ave. @ White St.) | US-1 (N. Roosevelt Blvd. @ S. Roosevelt Blvd.) |
| US-1 (Truman Ave. @ Florida St.) – Pedestrian crossing | US-1 (N. Roosevelt Blvd. @ College Rd.) |
| US-1 (Truman Ave. @ Eisenhower Dr. & Jose Marti Dr.) | |

The City currently contracts with Keys Energy to maintain the signals. Keys Energy has estimated that on average the cost to maintain these signals is \$3,045/signal/year (see attached email). The City pays approximately \$23.33/month or \$280/year in electricity cost per signal. Total cost to operate one signal on average per year is \$3,325.

Key to the Caribbean - Average yearly temperature 77° F.

FDOT has proposed entering into an official agreement with the City of Key West that provides reimbursement of a portion of the maintenance cost and electricity cost, as determined by FDOT, for fifteen (15) of those signals on FDOT roads. They will not reimburse for the signal at the fire station and pedestrian crossing. No previous agreement existed between FDOT and the City. FDOT proposes paying the City on average \$1,313/signal/year which is approximately 40% of the total cost.

PURPOSE & JUSTIFICATION:

The traffic signals need to be maintained for safe traffic flow on streets within the City. The agreement proposed by FDOT allows the City to get reimbursed by FDOT a portion of their cost to maintain traffic signals on FDOT roads.

OPTIONS:

1. Approve entering into the Agreement
2. Approve entering into the agreement with modifications
3. Do not approve entering into the agreement

FINANCIAL IMPACT:

By entering into the agreement, the City will be able to receive reimbursement for a portion of the cost to maintain the signals.

RECOMMENDATION:

City staff recommends option # 1 that the City Commission approves entering into the Traffic Signal Maintenance Agreement with the Florida Department of Transportation (FDOT).

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT

750-010-22
TRAFFIC OPERATIONS
07/09
Page 1 of 6

CONTRACT NO. _____
FINANCIAL PROJECT NO. _____
F.E.I.D. NO. _____

THIS AGREEMENT, made and entered into this _____ day of _____, _____, by and between the Florida Department of Transportation, an agency of the State of Florida, herein called the "Department", and the City of Key West, Florida, herein called the "Maintaining Agency".

WITNESSED:

WHEREAS, the Maintaining Agency has the authority to enter into this Agreement and to undertake the maintenance and operation of traffic signals or signal systems on the State Highway System, and the Department is authorized under Sections 334.044 and 335.055, Florida Statutes, to enter into this Agreement, and;

WHEREAS, the Maintaining Agency has authorized its undersigned representative to enter into and execute this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein to be undertaken by the respective parties hereto, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties mutually agree and covenant as follows:

1. The Maintaining Agency shall be responsible for the maintenance and continuous operation of the traffic signals, traffic signal systems (central computer, cameras, message signs, modems, and communications interconnect), flashing school zone traffic control devices, intersection control beacons, warning beacons, illuminated street name signs, and the payment of electricity and electrical charges incurred in connection with operation of such traffic signals and signal systems upon completion of their installation. The Department agrees to pay to the Maintaining Agency, an annual compensation based on Department's fiscal year for the cost of the maintenance and continuous operation of full traffic signal locations and intersection control beacons as identified in Exhibit A. Warning beacons, emergency signals, and flashing school zone signals are not included. Payments will be made in accordance with Exhibit B. Should the Maintaining Agency withdraw from the compensation portion of this Agreement; the Maintaining Agency will still be responsible for the maintenance and continuous operation of the above items. In the case of construction contracts, the Maintaining Agency shall be responsible for the payment of electricity and electrical charges incurred in connection with the operation of the traffic signals and signal systems, and shall undertake the maintenance and continuous operation of said traffic signals and signal systems upon final acceptance of the installation by the Department. Prior to any acceptance by the Department, the Maintaining Agency shall have the opportunity to inspect and request modifications/corrections to the installation(s) and Department agrees to undertake those prior to acceptance so long as the modifications/corrections comply with the contract and specifications previously approved by both the Department and Maintaining Agency. Repair or replacement and other responsibilities of the installation contractor and the Department, during construction, are contained in the Department's Standard Specifications for Road and Bridge Construction.
2. The Maintaining Agency shall maintain and operate the traffic signals and signal systems in a manner that will ensure safe and efficient movement of highway traffic and that is consistent with maintenance practices prescribed by the International Municipal Signal Association (IMSA) and operational requirements of the Manual on Uniform Traffic Control Devices (MUTCD), as amended. The Maintaining Agency's maintenance responsibilities shall include, but not be limited to, preventive maintenance (periodic inspection, service and routine repairs), and emergency maintenance (trouble shooting in the event of equipment malfunction, failure, or damage). The Maintaining Agency shall record its maintenance activities in a traffic signal maintenance log.
3. The Maintaining Agency may remove any component of the installed equipment for repair; however, it shall not make any permanent modifications and/or equipment replacements unless the equipment provided is capable of performing at minimum the same functions. The Department shall not make any modifications and/or equipment replacements without prior written notice to and consultation with the Maintaining Agency.
4. The Maintaining Agency shall set and maintain the timing and phasing of the traffic signals in accordance with the Department's timing and phasing plans, specifications, or special provisions. The Maintaining Agency shall obtain prior written approval from the Department for any modification in phasing of signals. Signal Systems timings (cycle length, split, offsets) are considered operational changes and may be changed by the Maintaining Agency to accommodate changing needs of traffic. The Maintaining Agency may make changes in the signal timing provided these changes are made under the direction of a qualified Professional Engineer registered in the State of Florida. The Maintaining Agency shall make available a copy of the timings to the Department upon request. The Department reserves the right to examine equipment, timing and phasing at any time and, after consultation with the Maintaining Agency, may specify modifications. If the Department specifies modification in timing and/or phasing, implementation of such modifications shall be coordinated with, or made by, the Maintaining Agency.
5. The Maintaining Agency shall note in the maintenance log any time/phasing changes and keep a copy of the timings and any approval documentation in a file.

6. The Maintaining Agency and the Department will develop annually the Exhibit A which by this reference is made a part of this Agreement as though fully set forth herein. Exhibit A shall contain all existing traffic signals and intersection control beacons on the State Highway System, applicable to the jurisdiction of the Maintaining Entity, those that are maintained by the Maintaining Agency and those that are maintained but not included for compensation. No changes or modifications will be made to Exhibit A during the year for compensation. New signals and intersection control beacons added by the Department during the fiscal year shall be maintained and operated by the Maintaining Agency upon final acceptance as stated in paragraph 1. The Maintaining Agency and the Department, preceding each fiscal year, shall develop and execute a new Exhibit A, which shall include all new Department signals and intersection control beacons added during the previous fiscal year and delete those removed. The Maintaining Agency shall begin receiving compensation for new Department's signals and intersection control beacons in the next fiscal year. In the event that no change has been made to the previous year's Exhibit A, a statement to this effect should be included. The annual compensation will be a lump sum payment detailed in Exhibit B. Future payments will be based on the information provided in Exhibit A, in accordance with the provisions as detailed in Exhibit B, attached and made a part hereof.

- a) Payment shall be made only after receipt and approval of service.
- b) Payment shall be made in accordance with Section 215.422, Florida Statutes.
- c) Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.
- d) Record of costs incurred under terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for three (3) years after final payment for the work pursuant to this Agreement is made. Copies of these documents and records shall be furnished to the Department upon request. Record of costs incurred include the Maintaining Agency's general accounting records, together with supporting documents and records of the Maintaining Agency and all subcontractors performing work, and all other records of the Maintaining Agency and subcontractors considered necessary by the Department for proper audit of costs.

7. Maintaining Agency providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has five (5) working days to inspect and approve the goods and services, unless the Agreement specifies otherwise. The Department has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

8. If a payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to Section 215.422, Florida Statutes, shall be due and payable, in addition to the invoice amount, to the Maintaining Agency. Interest penalties of less than one (1) dollar shall not be enforced unless the Maintaining Agency requests payment. Invoices returned to a Maintaining Agency because of Maintaining Agency preparation errors shall result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

9. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the State Comptroller's Hotline, 1-800-848-3792.

10. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

11. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

12. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement.

13. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

(a) 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 shall be 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 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 \$25,000 and which have a term for a period of more than one year.

14. The Maintaining Agency may be subject to inspections of traffic signals and traffic signal systems by the Department. Such findings will be shared with the Maintaining Agency and shall be the basis of all decisions regarding payment reduction, reworking, Agreement termination, or renewal. If at any time the Maintaining Agency has not performed the maintenance responsibility on the locations specified in the Exhibit A, the Department shall have the option of (a) notifying the Maintaining Agency of the deficiency with a requirement that it be corrected within a specified time, otherwise the Department shall deduct payment for any deficient traffic signal(s) or intersection control beacon(s) maintenance not corrected at the end of such time, or (b) take whatever action is deemed appropriate by the Department. Any suspension or termination of funds does not relieve any obligation of the Maintaining Agency under the terms and conditions of this Agreement.

15. The Maintaining Agency may enter into agreements with other parties pertaining to traffic signals and signal systems including, but not limited to, agreements relating to costs and expenses incurred in connection with the operation of traffic signals and signal systems on the State Highway System, provided that such Agreements are consistent with the mutual covenants contained in this Agreement. The Maintaining Agency shall furnish a copy of such agreements to the Department.

16. This Agreement may not be assigned or transferred by the Maintaining Agency in whole or in part without consent of the Department.

17. The Maintaining Agency shall allow public access to all documents, papers, letters, or other material subject to provisions of Chapter 119, Florida Statutes, and made or received by the Maintaining Agency in conjunction with this Agreement. Failure by the Maintaining Agency to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the Department.

18. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The invalidity or unenforceability of any portion of this Agreement shall not affect the remaining provisions and portions hereof. Any failure to enforce or election on the part of the Department to not enforce any provision of this Agreement shall not constitute a waiver of any rights of the Department to enforce its remedies hereunder or at law or in equity.

19. This Agreement shall remain in force during the life of the original installed equipment and/or the life of any replacement equipment installed with the mutual consent of the parties hereto.

20. Upon execution, this Agreement cancels and supersedes any and all prior Traffic Signal Maintenance Agreement(s) between the parties.

21. This Agreement contains all the terms and conditions agreed upon by the parties.

IN WITNESS WHEREOF, the parties have caused these presents to be executed, the day and year first above written.

CITY OF KEY WEST, Florida
(Maintaining Agency)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: J. K. Scholl
(Authorized Signature)

By: _____
(Authorized Signature)

Print/Type Name: Jim K. Scholl

Print/Type Name: _____

Title: City Manager

Title: _____

Attest: Cheryl Smith
(Seal if Applicable)

Attest: _____

Reviewed: [Signature]

Attorney _____ Date 1-5-11

EXHIBIT B

TRAFFIC SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT

1.0 PURPOSE

This exhibit defines the method and limits of compensation to be made to the Maintaining Agency for the services described in this Agreement and in Exhibit A and Method by which payments will be made.

2.0 COMPENSATION

For the satisfactory completion of all services detailed in this Agreement and Exhibit A of this Agreement, the Department will pay the Maintaining Agency the Total Lump Sum in Exhibit A. The Maintaining Agency will receive one lump sum payment at the end of each fiscal year for satisfactory completion of service.

Total Lump Sum Amount for each fiscal year is calculated by adding all of the individual intersection amounts. The individual intersection amounts are calculated by taking the FY Unit Rate times the percent of State Road Approaches to Total Approaches. Intersection Control Beacons are paid at 25% of the Unit Rate for full traffic signal.

Example 1: For a traffic signal intersection with 4 approaches with 2 approaches (50%) being state roads, the intersection amount for FY 10-11 will be: $\$2,622 \times (2/4) = \$1,311$

Example 2: For an intersection control beacon with 3 approaches, with 2 approaches being state roads, the intersection amount for FY 11-12 will be $\$675 \times (2/3) = \450

Unit Rates per 100% State Intersections

| Traffic Signals: | | Intersection Control Beacons: |
|------------------|---------|-------------------------------|
| FY 07-08 | \$2,400 | \$0 |
| 08-09 | \$2,472 | \$0 |
| 09-10 | \$2,546 | \$0 |
| 10-11 | \$2,622 | $0.25 \times \$2,622 = \656 |
| 11-12 | \$2,701 | $0.25 \times \$2,701 = \675 |
| 12-13 | \$2,782 | $0.25 \times \$2,782 = \696 |

Beginning with FY 07-08, the Unit Rate for each fiscal year is 3% more than the Unit Rate for the previous fiscal year, unless otherwise specified in an amendment to this Agreement.

3.0 PAYMENT PROCESSING

The Maintaining Agency shall invoice the Department yearly in a format acceptable to the Department.

Doug Bradshaw

From: Finigan, Dale [Dale.Finigan@KeysEnergy.com]
Sent: Tuesday, November 09, 2010 4:08 PM
To: Doug Bradshaw
Subject: KEYS cost to maintain Traffic lights
Attachments: 2010-2011 TRAFFIC SIGNALMAINTENANCE AGREEMENT - City of Key West.doc; traffic light summary-KW.xlsx

Hi Doug

I was able to get the figures for the maintenance of TL (Traffic lights) in the City of Key West Oct 2009—Sept 2010

Last year cost total-\$182.7

- Labor-\$110.7k
- Transportation-\$59.9
- Material-\$12.1k

Total of number of City traffic lights- 60 *Note—I considered a flasher as ½ light when I counted them up*

- Regular lights-48
- Flasher lights-23

Based on the above I calculated an average cost per TL per year.

Average cost --- \$3,045 per TL, per year

Dale Z. Finigan

Dale Z. Finigan
Director of Engineering & Control
KEYS Energy
1001 James Street
Key West Fl, 33040
305.295.1042 Direct
305.295.1044 Fax
305.304.4077 Cell
www.keysenergy.com

From: Doug Bradshaw [mailto:dbradsha@keywestcity.com]
Sent: Monday, November 01, 2010 5:16 PM
To: Finigan, Dale; Alfonso, Matthew
Subject: FW: North Roosevelt BLVD Signal Agreement

Dale/Matt,

I am preparing the executive summary for city Commission approval for maintenance of the lights. Couple of questions for you guys:

11/10/2010

1. Do you have any problems with the agreement?
2. Can you give me an average cost of what it takes to maintain these signals now (I think you told me you would continue not to charge the City for signal maintenance-but I assume anything the City gets for the lights would go directly to Keys Energy-any issues with that?)

Thanks,

Doug Bradshaw
Senior Project Manager
City of Key West
Engineering/Port
305-809-3792 office
305-797-8361 Cell

From: Ivey, Patty [mailto:Patty.Ivey@dot.state.fl.us]
Sent: Thursday, October 21, 2010 12:43 PM
To: Doug Bradshaw; Toghiani, Ali
Cc: Larry Erskine
Subject: RE: North Roosevelt BLVD Signal Agreement

Doug, the copy I handed to you during the meeting had the complete inventory of Key West traffic signals on the State Highway system listed on Exhibit A with corresponding amounts. There may have been another copy of the standard form circulating and that was forwarded to the City Attorney in error. I've attached an electronic copy...

Patty

Patricia A. Ivey
Project Administrator
Florida Department of Transportation
3100 Overseas Highway
Marathon, Florida Keys 33050
office: (305) 289-6106
fax: (305) 289-2357
Patty.Ivey@dot.state.fl.us

From: Doug Bradshaw [mailto:dbradsha@keywestcity.com]
Sent: Thursday, October 21, 2010 11:36 AM
To: Toghiani, Ali; Ivey, Patty
Cc: Larry Erskine
Subject: FW: North Roosevelt BLVD Signal Agreement

Ali/Patty,

Our legal department has reviewed FDOT's standard signal agreement. Please see Larry's comments below and the proposal of the additional language.

Thanks,

Doug Bradshaw
Senior Project Manager

11/10/2010

City of Key West
Engineering/Port
305-809-3792 office
305-797-8361 Cell

From: Larry Erskine
Sent: Thursday, October 21, 2010 11:23 AM
To: Doug Bradshaw
Cc: David Fernandez; Mark Finigan; Shawn D. Smith
Subject: RE: North Roosevelt BLVD

Hi Doug:

I reviewed this document. The locations and dollar amounts are not filled in on Exhibit A. I suspect this can't be done until the project is finished.

Section 335.055, Florida Statutes, provides that a city which performs maintenance according to the standards contained in a agreement with DOT shall be relieved from tort liability. I would like to include language from this provision in the agreement.

LRE

From: Doug Bradshaw
Sent: Friday, October 15, 2010 5:56 PM
To: Larry Erskine
Cc: David Fernandez; Mark Finigan
Subject: FW: North Roosevelt BLVD

For review

Doug Bradshaw
Senior Project Manager
City of Key West
Engineering/Port
305-809-3792 office
305-797-8361 Cell

From: Toghiani, Ali [mailto:Ali.Toghiani@dot.state.fl.us]
Sent: Wednesday, October 13, 2010 9:30 AM
To: Doug Bradshaw
Cc: Meitin, Omar; Meaux, Michelle L; Ivey, Patty; Phinizy, Charlie
Subject: FW: North Roosevelt BLVD

Doug

This is our standard signal agreement. Please let me know if you have any comments or suggestions.

11/10/2010

From: Legcevic, Evelin
Sent: Wednesday, October 13, 2010 8:58 AM
To: Meitin, Omar; Fernandez, Arnaldo
Cc: Toghiani, Ali; Ogle, Gary
Subject: RE: North Roosevelt BLVD

Hi Ali:

The standard signal maintenance agreement is the following FDOT form:

Traffic Signal Maintenance and Compensation **750-010-22**
Agreement

Also, find attached a copy of the form.

Evelin
305-470-5156

From: Meitin, Omar
Sent: Wednesday, October 13, 2010 8:43 AM
To: Fernandez, Arnaldo
Cc: Legcevic, Evelin; Toghiani, Ali; Ogle, Gary
Subject: FW: North Roosevelt BLVD

Arnie - please send Ali the signal maintenance agreement so that it can be submitted to the City of Key West

Omar M. Meitin, P.E.
District Traffic Operations Engineer
1000 NW 111th Avenue
Miami, Florida 33172
(305) 470-5335
Fax: (305) 470-5815

From: Toghiani, Ali
Sent: Wednesday, October 13, 2010 8:39 AM
To: Doug Bradshaw
Cc: Garcia, Rudy; Meitin, Omar; Ivey, Patty; Phinizy, Charlie; Meaux, Michelle L
Subject: FW: North Roosevelt BLVD

Doug

This is the MOA for landscaping along North Roosevelt BLVD. We will shortly send you two more for lighting and signalization.

Omar/Rudy

I need you to send me the MOA for signalization and lighting so we can share them with the city by the end of this week.

From: Meaux, Michelle L
Sent: Wednesday, October 13, 2010 8:09 AM
To: Toghiani, Ali
Cc: Meitin, Omar; Garcia, Rudy; Ivey, Patty; Phinizy, Charlie

11/10/2010

Subject: RE: North Roosevelt BLVD

Ali: Good morning! I only draft the Landscape MMOA and I sent that to your attention a while ago. Attached is the MMOA, please let me know if any changes are necessary.

Thanks!

Michelle Loren Meaux

JPA Coordinator
Professional Services
Rm. 6202B
Ph. (305) 470-5112
Fax (305) 470-5704

[Visit the D6 Joint Participation Agreement SharePoint Site](#)
[Visit the D6 Single Audit SharePoint Site](#)

From: Toghiani, Ali
Sent: Friday, October 08, 2010 1:34 PM
To: Meaux, Michelle L
Cc: Meitin, Omar; Garcia, Rudy; Ivey, Patty; Phinizy, Charlie
Subject: North Roosevelt BLVD

Michelle

Do we have all 3 agreements ready to go to the city. The landscaping, lighting and signalization agreements need to go to the city ASAP. I AM MEETING WITH THE CITY Manager and on the 20th and need them to take a look at these agreements before our meetings.

11/10/2010

| STREET | STREET | SIGNALS | SIZE | REMARKS | MONTHLY BILLING | |
|------------------|-----------------|---------|------|---------|-----------------|--------|
| | | | | | KWHR | \$ |
| DUCK AVE. | FOURTEENTH ST. | 8 | 12 | | 97 | 12.65 |
| DUVAL ST. | ANGELA | 8 | 8 | | 65 | 8.94 |
| DUVAL ST. | CAROLINE ST. | 8 | 8 | | 65 | 8.94 |
| DUVAL ST. | EATON ST. | 10 | 8 | | 74 | 10.18 |
| DUVAL ST. | FLEMING ST. | 9 | 8 | | 70 | 9.56 |
| DUVAL ST. | FRONT ST. | 9 | 8 | | 70 | 9.56 |
| DUVAL ST. | GREENE ST. | 9 | 8 | | 70 | 9.56 |
| DUVAL ST. | SOUTHARD | 8 | 8 | | 65 | 8.94 |
| DUVAL ST. | TRUMAN AVE. | 8 | 8 | UPS | 175 | 23.96 |
| FLAGLER AVE. | FIFTH ST. | 8 | 12 | | 92 | 12.65 |
| FLAGLER AVE. | FIRST ST. | 8 | 12 | | 92 | 12.65 |
| FLAGLER AVE. | KENNEDY DRIVE | 10 | 12 | | 108 | 14.83 |
| FLAGLER AVE. | SOUTH ROOSEVELT | 6 | 12 | UPS | 160 | 21.95 |
| FOOTBALL FIELD | KENNEDY DRIVE | 4 | 8 | | 60 | 8.22 |
| GRINNELL ST. | EATON ST. | 8 | 8 | | 65 | 8.94 |
| GRINNELL ST. | FLEMING ST. | 7 | 8 | | 61 | 8.31 |
| N. ROOSEVELT | FIFTH ST. | 6 | 12 | UPS | 147 | 20.17 |
| N. ROOSEVELT | FIRST ST. | 8 | 12 | UPS | 176 | 24.12 |
| N. ROOSEVELT | KENNEDY DRIVE | 8 | 12 | UPS | 202 | 27.68 |
| N. ROOSEVELT | OVERSEAS MKT. | 8 | 12 | UPS | 176 | 24.12 |
| NORTHSIDE | FOURTEENTH ST. | 8 | 12 | | 92 | 12.65 |
| NORTHSIDE | KENNEDY DRIVE | 8 | 8 | | 65 | 8.94 |
| PALM AVE. | TRUMBO POINT | 8 | 8 | | 65 | 8.94 |
| SENIOR CITIZEN | KENNEDY DRIVE | 4 | 12 | | 73 | 10.08 |
| SIMONTON ST. | CAROLINE ST. | 8 | 8 | | 65 | 8.94 |
| SIMONTON ST. | EATON ST. | 8 | 8 | | 65 | 8.94 |
| SIMONTON ST. | FLEMING ST. | 7 | 8 | | 61 | 8.31 |
| SIMONTON ST. | SOUTH ST. | 8 | 8 | | 65 | 8.94 |
| SIMONTON ST. | SOUTHARD | 7 | 8 | | 61 | 8.31 |
| SIMONTON ST. | TRUMAN AVE. | 8 | 8 | UPS | 175 | 23.96 |
| SIMONTON ST. | UNITED ST. | 8 | 8 | | 65 | 8.94 |
| SOUTH ST. | REYNOLDS | 8 | 8 | | 65 | 8.94 |
| THOMAS | PETRONIA | 7 | 8 | | 61 | 8.31 |
| TRUMAN AVE. | EISENHOWER | 8 | 8 | UPS | 175 | 23.96 |
| TRUMAN AVE. | FLORIDA | 4 | 12 | | 73 | 10.08 |
| TRUMAN AVE. | THOMAS | 8 | 8 | | 65 | 8.94 |
| TRUMAN AVE. | WINDSOR LANE | 8 | 8 | UPS | 175 | 23.96 |
| US 1 | COLLEGE ROAD | 6 | 12 | UPS | 147 | 20.17 |
| US 1 | N. ROOSEVELT | 8 | 12 | UPS | 141 | 19.38 |
| WHITE ST. | EATON ST. | 8 | 8 | | 65 | 8.94 |
| WHITE ST. | FLAGLER AVE. | 8 | 8 | | 65 | 8.94 |
| WHITE ST. | SOUTHARD | 7 | 8 | | 61 | 8.31 |
| WHITE ST. | TRUMAN AVE. | 8 | 12 | UPS | 202 | 27.68 |
| WHITE ST. | UNITED ST. | 8 | 12 | | 92 | 12.65 |
| WHITE ST. | VIRGINIA | 8 | 8 | | 65 | 8.94 |
| WHITEHEAD ST. | FLEMING ST. | 6 | 8 | UPS | 165 | 22.72 |
| WHITEHEAD ST. | SOUTHARD | 10 | 8 | UPS | 175 | 23.96 |
| WHITEHEAD ST. | TRUMAN AVE. | 8 | 8 | UPS | 175 | 23.96 |
| CATHERINE ST. | VARELA | 4 | 12 | | 16 | 2.17 |
| DUVAL ST. | OLIVIA | 4 | 12 | | 16 | 2.17 |
| DUVAL ST. | UNITED ST. | 4 | 12 | | 16 | 2.17 |
| FIRST ST. | FOGARTY | 4 | 12 | | 16 | 2.17 |
| GRINNELL ST. | CATHERINE ST. | 4 | 12 | | 16 | 2.17 |
| GRINNELL ST. | SOUTH ST. | 4 | 12 | | 16 | 2.17 |
| GRINNELL ST. | VIRGINIA | 4 | 12 | | 16 | 2.17 |
| HARRIS | SEVENTH ST. | 4 | 12 | | 16 | 2.17 |
| JULIA | THOMAS | 4 | 12 | | 16 | 2.17 |
| N. ROOSEVELT | FIRE DEPARTMENT | 5 | 12 | | 55 | 7.61 |
| OLIVIA | FLORIDA | 4 | 8 | | 16 | 2.17 |
| OLIVIA | THOMAS | 4 | 12 | | 16 | 2.17 |
| OLIVIA | WINDSOR LANE | 4 | 12 | | 16 | 2.17 |
| POINCIANA SCHOOL | FOURTEENTH ST. | 2 | 12 | | 8 | 1.09 |
| SIMONTON ST. | OLIVIA | 4 | 12 | | 16 | 2.17 |
| SOUTHARD | FRANCES | 3 | 12 | | 12 | 1.63 |
| THOMAS | AMELIA | 4 | 12 | | 16 | 2.17 |
| THOMPSON ISLAND | SOUTH ROOSEVELT | 1 | 12 | | 4 | 0.54 |
| TRUMAN AVE. | ST. MARYS | 2 | 12 | | 8 | 1.09 |
| TRUMBO | EATON ST. | 2 | 12 | | 8 | 1.09 |
| US 1 | COW KEY BRIDGE | 2 | 12 | | 8 | 1.09 |
| WHITE ST. | VON PHISTER | 4 | 12 | | 16 | 2.17 |
| WHITE ST. | ATLANTIC BLVD | 3 | 12 | | 12 | 1.63 |
| Total | | | | | 5252 | 721.11 |
| | | | | | Customer charge | 7.23 |
| | | | | | sub total | 728.34 |
| | | | | | GRT | 18.65 |
| | | | | | Total \$ | 746.98 |

19.38
1.09

Keys Energy Electrical Cost

EXHIBIT A

TRAFFIC SIGNAL INTERSECTIONS AND INTERSECTION CONTROL BEACONS MAINTAINED AND OPERATED FOR FY

Effective Date: _____ To: _____

Maintaining Agency: the City of Key West,

Keys Energy Cost

| Intersection Locations | Compensation (Yes or No) | Traffic Signal (TS) or Intersection Control Beacon (ICB) | FDOT FY Unit Rate (refer to Exhibit B) | Percent of State (Ex. 25, 33, 50, 75 or 100) | Total Amount (Unit Rate x Percent) |
|---|--------------------------|---|--|--|------------------------------------|
| US-1 (Whitehead St. @ Fleming St.) | YES | 22.72 | 2,622 | .50 | 1,311.00 |
| US-1 (Whitehead St. @ Southard St.) | YES | 23.96 | 2,622 | .50 | 1,311.00 |
| US-1 (Whitehead St. @ Truman Ave.) | YES | 23.96 | 2,622 | .50 | 1,311.00 |
| US-1 (Truman Ave. @ Duval St.) | YES | 23.96 | 2,622 | .50 | 1,311.00 |
| US-1 (Truman Ave. @ Simonton St.) | YES | 23.96 | 2,622 | .50 | 1,311.00 |
| US-1 (Truman Ave. @ Windsor Ln.) | YES | 23.96 | 2,622 | .50 | 1,311.00 |
| US-1 (Truman Ave. @ White St.) | YES | 27.98 | 2,622 | .50 | 1,311.00 |
| US-1 (Truman Ave. @ Florida St.) - Pedestrian crossing | NO | - | | | |
| US-1 (Truman Ave. @ Eisenhower Dr. & Jose Marti Dr.) | YES | 23.90 | 2,622 | .50 | 1,311.00 |
| US-1 (N. Roosevelt Blvd. @ Fire Station) - emergency signal | NO | - | | | |
| US-1 (N. Roosevelt Blvd. @ Palm Ave.) | YES | 24.12 | 2,622 | .50 | 1,311.00 |
| US-1 (N. Roosevelt Blvd. @ MacMillan St.) | YES | 20.17 | 2,622 | .67 | 1,756.74 |
| US-1 (N. Roosevelt Blvd. @ Overseas Market | YES | 24.12 | 2,622 | .50 | 1,311.00 |
| US-1 (N. Roosevelt Blvd. @ Kennedy Drive) | YES | 27.68 | 2,622 | .50 | 1,311.00 |
| US-1 (N. Roosevelt Blvd. @ Sears Town | YES | 20.17 | 2,622 | .67 | 1,756.74 |
| US-1 (N. Roosevelt Blvd. @ S. Roosevelt Blvd.) | YES | 20.47 | 2,622 | 100 | 2,622.00 |
| US-1 (N. Roosevelt Blvd. @ College Rd.) | YES | 20.17 | 2,622 | .67 | 1,756.74 |
| 351.30 x 12 = 4,215.60 | | | | | |
| 15 Total | | | | | |
| on avg 23.33/month | | | | | |
| 280/year | | | | | |

Vcw

RESOLUTION NO. 11-145

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED INTERLOCAL AGREEMENT BETWEEN THE CITY OF KEY WEST AND THE UTILITY BOARD OF THE CITY OF KEY WEST, FLORIDA (KEYS ENERGY SERVICES) FOR MAINTENANCE OF ESSENTIAL LIGHTING INFRASTRUCTURE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA AS FOLLOWS:

Section 1: That the attached Interlocal Agreement between the City of Key West and the Utility Board of the City of Key West (Keys Energy Services) is hereby approved; and the City Manager is hereby authorized to execute the Maintenance Agreement on behalf of the City.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 17 day of May, 2011.

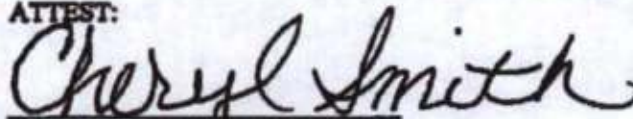
Authenticated by the Presiding Officer and Clerk of the Commission on 18 day of May, 2011.

Filed with the Clerk on May 18, 2011



CRAIG CAYES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK

AGREEMENT FOR TRAFFIC SIGNAL AND STREET LIGHT MAINTENANCE

THIS AGREEMENT is made this 1 day of June, 2011, 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 lights including traffic signals, street lights and parks and recreation area 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, street lights, parks and recreation area lights, as well as traffic signals, street lights, and parks and recreation area 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". Facilities not listed as "covered" in Schedule "A" will require metering built by the CITY and will be charged for actual energy consumed at the 210 rate. Repair, replacement and inventory of facilities not listed in Schedule "A" will be the responsibility of the CITY.
2. CITY will maintain an adequate inventory of materials, equipment, and replacement parts to repair the facilities as described in Schedule "A".
3. In addition to repair and replacement services, KEYS will, when requested by the CITY, perform final connections for facilities at no additional cost.
4. 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. Additionally, costs associated with inventory will be charged as defined in Schedule "A". In the event the CITY enters into a maintenance and operations agreement with the Florida Department of Transportation that provides reimbursement to the CITY, the City Manager representing the CITY and the General Manager representing KEYS will determine KEYS "fair share" of reimbursement for said repairs and replacements.
5. 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 (including reasonable attorneys' fees, costs, and expenses at both the trial and appellate levels) arising from the 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 or restrict the rights of KEYS or CITY against each other related to obligations arising under this agreement.

6. 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 electrical poles for replacement projects involving less than ten poles. KEYS herein expressly agrees to repair any damage to sidewalks within City limits for replacement projects involving ten or more poles. When KEYS cuts or otherwise disturbs the sidewalk, KEYS shall cover or fill holes with temporary materials and immediately notify CITY's Public Works Department that a permanent repair needs to be scheduled. Where KEYS issues a contract to replace 10 poles or more in a 12 month period within the City of Key West, KEYS shall contract and with qualified contractors for the replacement of sidewalk and will build the replacement sidewalks to City standards. With regard to KEYS'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 under this agreement.

7. 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, street lights, and parks & recreational lights. Notwithstanding the above, KEYS has not 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.

8. 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.

9. In the event an individual or entity requests shading of a City light, KEYS shall shade the light only after the CITY provides written authorization to KEYS for such alteration and the individual or entity requesting said alteration pays actual costs associated with shading the light.

10. 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. Facilities not listed as "covered" in Schedule "A" will require metering built by the CITY and will be charged for actual energy consumed at the 210 rate. Repair, replacement and inventory will be the responsibility of the CITY.

11. 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 street 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.

12. 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.

* 13. 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.

14. 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-insure, in amounts adequate to respond to any of the activities governed by this agreement.

15. The term of this agreement shall commence on the 1 day of June, 2010, and extend to the 30 day of September, 2011 with automatic one year renewals upon the same terms and conditions unless either party notifies the other in writing on or

before the October ^L day of July 1st of its intent not to renew the agreement as of

16. 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 Lou Hernandez
Lou Hernandez,

Lynne Tejeda
SECRETARY: Lynne Tejeda

[SEAL]

[SEAL]
ATTEST

By Carol Smith
City Clerk

CITY OF KEY WEST

By Craig Cates
Craig Cates, Mayor

Schedule "A"

Cover

| TYPE | DESCRIPTION | LOCATION | ENERGY CHARGE OR APPLICABLE TARIFF | WHO MAINTAINS INVENTORY | WHO PAYS FOR INVENTORY |
|-----------------------|---|--|---|-------------------------|-------------------------------|
| Traffic Lights - City | Traffic Lights at City Intersections | Throughout City Limits | Based on consumption estimate at 210 rate | KEYS | CITY - billed at actual costs |
| Street Lights | Lights used to illuminate sidewalks and streets that are in the electrical zone of a power pole | Throughout City Limits | S-1 | KEYS | KEYS - included within tariff |
| Recreational Lights | Lights at City parks or sport complexes | City Owned Parks | S-2 | CITY | CITY |
| DOT Street Lights | Lights that are designed and installed by the DOT and turned over to the City | "Triangle" North Roosevelt Blvd. | Metered using 210 rate | CITY | CITY |
| Park N Ride* | Overhead Light Fixtures | Park N Ride at James and Grinnel streets | Metered using 210 rate | CITY | CITY |

*KEYS will provide labor associated with maintaining the bulbs and ballasts in exchange for the CITY providing maintenance and cleaning of the Park N Ride Facility including the space assigned to KEYS

Not Covered

| | | | | | |
|-----------------------------|--|---|-----|-----|-----|
| Old Fashioned Street Lights | Old Fashioned Lights with estimated height of 12 - 20 feet | Duval/Whitehead/Truman/Green/Petronia/Front Streets Mallory Square Bayview Park White Street Pier AIDS Memorial Willie Ward Park Conch Harbor Ferry Terminal | N/A | N/A | N/A |
|-----------------------------|--|---|-----|-----|-----|