

**FLORIDA DEPARTMENT OF TRANSPORTATION  
STORM WATER PUMP STATION  
MAINTENANCE MEMORANDUM OF AGREEMENT  
WITH THE  
CITY OF KEY WEST**

This **AGREEMENT**, made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the **DEPARTMENT**, and the **CITY OF KEY WEST**, a municipal corporation of and existing under the Laws of the State of Florida, hereinafter called the **CITY**.

**RECITALS:**

**WHEREAS**, the **DEPARTMENT** has jurisdiction over and maintains the **State Road (S.R.) 5/US-1/North Roosevelt Boulevard and Eisenhower Drive** corridor as part of the State of Florida Highway System; and

**WHEREAS**, the **DEPARTMENT** has drafted design plans for the installation of a storm water pump station on S.R. 5/US-1/ North Roosevelt Boulevard and Eisenhower Drive (M.P. 1.337) in accordance with DEPARTMENT Contracts # T-6232, the limits of which, hereinafter **PROJECT LIMITS**, are described in the attached Exhibit 'A', which by reference hereto shall become a part hereof; and

**WHEREAS**, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and

**WHEREAS**, the **CITY**, by Resolution No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_\_\_, attached hereto as Exhibit B, which is incorporated herein by reference, desires to enter into this Agreement and authorizes its officers to do so.

**NOW, THEREFORE**, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

## **1. DEPARTMENT RESPONSIBILITIES**

### **a. Assignment**

The **DEPARTMENT** and the **CITY** agree that, by executing this **AGREEMENT**, all maintenance responsibilities pertaining to the storm water pump station within the **PROJECT LIMITS** will be assigned to the **CITY** in perpetuity.

## **2. CITY'S MAINTENANCE RESPONSIBILITIES**

The below-named functions are to be performed by the **CITY** and may be subject to periodic inspections by the **DEPARTMENT** at its sole discretion. Such inspection findings will be shared with the **CITY** and shall be the basis of all decisions regarding repayment, reworking, or agreement termination. The **CITY** shall not change or deviate from the **PLANS AND SPECIFICATIONS**, incorporated herein by reference, without written approval of the **DEPARTMENT**.

a. The **CITY** agrees to routinely and periodically maintain and operate, as specified herein, the storm water pump station. Upon completion of the installation, the **CITY** will be responsible for the routine operations and maintenance of the storm water pump station installed by the **DEPARTMENT** within the **PROJECT LIMITS**. The **CITY** shall be responsible for the below maintenance activities for the pump station described above:

I. To maintain the storm water pump station systems (electrical, mechanical, etc.) working properly and pay for the associated costs of its operation and maintenance.

II. To remove and dispose all waste and emissions such as used coolant, oil lubricants, etc. All government regulations shall be observed during the waste removal.

III. To keep the pump station tidy and in good order at all times.

IV. Before starting maintenance work on the pump, the pump must be isolated from the power supply and

cannot be energized. This applies to the control circuit as well.

- V. To inspect the pump station at least once a year, but more frequently under severe operating conditions.
- VI. To inspect the oil levels after one week of operations when seals have been replaced.
- VII. To perform oil changes in accordance with manufactured specifications. A service log shall be maintained for all maintenance operations.
- VIII. The **CITY** shall be responsible for all costs associated with routine operations, maintenance, and minor repairs, which include: electrical power, diesel fuel, oil, filters, labor, and other incidental maintenance and operations items.
- IX. Excluded from the responsibility of the **CITY**, are all major repairs and replacement of the pump station components, such as controls, pumps and motors.
- X. As soon as it becomes immediately apparent, the **CITY** shall notify the **DEPARTMENT** of all needed major repairs for the storm water pump station. The **CITY** and the **DEPARTMENT**, as necessary, shall enter into future separate agreements to negotiate terms and commit funding for major repairs and replacement of the pump station components, such as controls, pumps, and motors. Said future agreements shall be executed in advance of the start of any major repairs and/or replacement of the pump station components.
- XI. The **DEPARTMENT** reserves the right, at its sole discretion: 1) to implement future major repairs and/or replacement of the pump station components; or 2) to negotiate and contract with the **CITY** to complete the major repairs and/or replacement of the pump station components on behalf of the **DEPARTMENT** in order to maintain the functionality of the pump station.

### **3. MAINTENANCE DEFICIENCIES**

If at any time after, while the terms of this **AGREEMENT** are in effect, it shall come to the attention of the **DEPARTMENT** that the **CITY'S** responsibility as established herein or part thereof is not being properly accomplished pursuant to the terms of this **AGREEMENT**, the **DEPARTMENT** may, at its option, issue a written notice, in care of the **CITY MANAGER**, to place the **CITY** on notice regarding its deficiencies. Thereafter, the **CITY** shall have a period of thirty (30) calendar days within which to correct the cited deficiency or deficiencies. If said deficiencies are not corrected within this time period, the **DEPARTMENT** may, at its option, proceed as follows:

- a. Maintain the pump station, or a part thereof, with **DEPARTMENT** or contractor's personnel and invoice the **CITY** for expenses incurred; or
- b. Terminate the **AGREEMENT** in accordance with Section 6 of this **AGREEMENT** and remove, by **DEPARTMENT** or contractor's personnel, the pump station installed under this **AGREEMENT** or any preceding agreements and charge the **CITY** the reasonable cost of such removal.

### **4. NOTICES**

All notices, requests, demands, consents, approvals, and other communication which are required to be served or given hereunder, shall be in writing and shall be sent by registered mail or certified U.S. mail, return receipt requested, postage prepaid, addressed to the party to receive such notices as follows:

**To the DEPARTMENT:** Florida Department of Transportation  
1000 NW 111<sup>th</sup> Avenue, Room 6205  
Miami, Florida 33172-5800  
Attn: District Maintenance Engineer

**To the CITY:** City of Key West  
525 Angela Street  
Key West, Florida 33040  
Attention: City Manager

## **5. STORM WATER PUMP STATION**

It is understood between the parties hereto that the storm water pump station covered by this **AGREEMENT** may be removed, relocated or adjusted at any time in the future, as found necessary by the **DEPARTMENT**, in order that the adjacent state road be widened, altered or otherwise changed and maintained to meet with future criteria or planning of the **DEPARTMENT**. The **CITY** shall be given sixty (60) calendar days notice that said pump station will be removed by the **DEPARTMENT**.

## **6. TERMINATION**

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

- a. By the **DEPARTMENT**, if the **CITY** fails to perform its duties under Section 2, following thirty (30) days written notice.
- b. In accordance with Section **287.058(1)(c)**, **Florida Statutes**, the **DEPARTMENT** shall reserve the right to unilaterally cancel this **AGREEMENT** if the **CITY** refuses to allow public access to any or all documents, papers, letters, or other materials made or received by the **CITY** pertinent to this **AGREEMENT** which are subject to provisions of Chapter 119, Florida Statutes.

## **7. AMENDMENT**

This **AGREEMENT** may be amended by mutual agreement of the **DEPARTMENT** and the **CITY** expressed in writing, executed and delivered by each party.

## **8. TERMS**

- a. The term of this **AGREEMENT** shall only commence upon execution by all parties. This **AGREEMENT** shall continue in perpetuity or until termination as set forth in Section 6.
- b. This writing embodies the entire **AGREEMENT** and understanding between the parties hereto and there are no other agreements and understanding, oral or written,

with reference to the subject matter hereof that are not merged herein.

- c. This **AGREEMENT** is nontransferable and nonassignable in whole or in part without the consent of the **DEPARTMENT**.
- d. This **AGREEMENT**, regardless of where executed, shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement effective the day and year first above written.

**CITY OF KEY WEST:**

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION:**

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
District Secretary

Attest: \_\_\_\_\_ (SEAL)  
City Clerk

Attest: \_\_\_\_\_ (SEAL)  
Executive Secretary

**LEGAL REVIEW:**

By: \_\_\_\_\_  
City Attorney

By: \_\_\_\_\_  
District Chief Counsel

**EXHIBIT 'A'**

**PROJECT LIMITS**

Below are the limits of the storm water pump station to be maintained under this **AGREEMENT**.

**State Road Number:** 5/US-1/North Roosevelt Boulevard  
and Eisenhower Drive

**COUNTY:** Monroe

**EXHIBIT 'B'**

**CITY OF KEY WEST RESOLUTION**

Attached hereto and incorporated herein by reference once ratified by the **CITY** Council.