

AGREEMENT  
RELOCATION OF 8 inch WATER MAIN

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between AT&T Corp. and the City of Hollywood, Florida (the “Parties”).

WHEREAS, the Florida Department of Transportation (“FDOT”) is engaged in a project for road improvements on Hollywood Boulevard (the “Project”); and

WHEREAS, the project includes installation of a new drainage system; and

WHEREAS, to install the new drainage system, FDOT must either relocate the AT&T ductbank or the City’s 8 inch water main between Presidential Circle and N. 35<sup>th</sup> Avenue; and

WHEREAS, FDOT, AT&T and the City have reached an understanding that the best solution is to include the relocation of the City’s 8 inch water main in the Project; and

WHEREAS, the full understanding among FDOT, AT&T and the City will be embodied in two separate agreements - a Utility Work by Highway Contractor agreement between FDOT and the City (the “Other Agreement”) and this Agreement; and

WHEREAS, in the Other Agreement, FDOT will agree to include the relocation of the City’s 8” water main in the Project and the City will agree to pay FDOT for the cost of the relocation of the City’s 8 inch water main; and

WHEREAS, the parties have determined that the construction cost of the relocation of the City’s 8 inch water main and the cost of the design, permit application, bid services, construction management, project inspection and certification for the relocation of the City’s 8 inch water main will be approximately equal; and

WHEREAS, in an effort to split the total cost of the relocation of the City’s 8 inch water main equally, AT&T shall pay the construction cost, as provided below, and the City shall contribute the various services mentioned in the preceding paragraph.

NOW, THEREFORE, in consideration of the promises and other good and valuable consideration, it is agreed:

1. The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are incorporated in this Agreement.
2. The Parties understand that (i) FDOT will solicit bids for the Project, (ii) the invitation for bids will require the bidders to include, as a part of the total bid for the

Project but also separately stated, a bid for that portion of the total bid that is attributable to the relocation of the City's 8 inch water main.

3. AT&T shall pay to the City the cost of the relocation of the City's 8 inch water main in the amount paid by the City to FDOT pursuant to the Other Agreement.

4. The parties estimate that the cost of the relocation of the City's 8 inch water main will be \$72,000.00, and AT&T shall pay that amount to the City prior to the date of issuance by FDOT of the invitation for bids for the Project. The City shall notify AT&T of that date as soon as reasonable practicable after the City receives notice of same from FDOT.

5. Should the bid price for the relocation of the City's 8 inch water main exceed \$72,000.00, AT&T shall pay the excess within 30 days of the date the City invoices AT&T for the excess.

6. It is understood and agreed by and between the two parties that if any condition or provision contained in this Agreement is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other condition or provision herein contained, however, that the invalidity of any such condition or provision does not materially prejudice either party in its respective rights and obligations contained in the remaining valid conditions or provision of this Agreement.

7. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.

8. Whenever either party desires to give notice to the other, such notice must be in writing and sent by United States mail, return receipt requested, by courier, evidenced by a delivery receipt, or by an overnight express delivery service, addressed to the party for whom it is intended at the place last specified; and the place for giving notice will remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice. Notice shall be effective upon delivery.

FOR AT&T Corp:

Otis Keeve  
MGR OSP PLNG & ENGRG DESIGN – AT&T Florida  
8601 W Sunrise Blvd  
Plantation, FL 33322  
Phone: 305-428-0510

FOR Hollywood:

Jeff Jiang, P.E.  
Department of Public Utilities – ECSD  
1621 N. 14<sup>th</sup> Ave  
Hollywood, FL 33022

Phone: 954-921-3930

9. The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

10. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted only to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

11. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than AT&T or the City.

12. This Agreement shall inure to and be binding upon the authorized successors and assigns of the parties.

13. Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

14. This Agreement incorporates and includes all prior negotiations, correspondence, agreements and understandings applicable to the matters contained herein, and there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this Agreement. Accordingly, no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

15. No amendment, alteration, modification or change in the terms and conditions contained herein will be effective unless contained in a written document executed with the same formality and of equal dignity herewith by the parties.

16. The parties are independent contractors under this Agreement. This Agreement will not constitute or make the parties a partnership or joint venture.

IN WITNESS THEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature.

CITY OF HOLLYWOOD, FLORIDA,  
a Florida municipal corporation

ATTEST:

BY: \_\_\_\_\_  
JOSH LEVY, MAYOR

\_\_\_\_\_  
PATRICIA A. CERNY, MMC  
CITY CLERK

DATED: \_\_\_\_\_, 2018.

APPROVED AS TO FORM & LEGAL SUFFICIENCY  
FOR THE USE AND RELIANCE OF THE  
CITY OF HOLLYWOOD, FLORIDA

\_\_\_\_\_  
DOUGLAS R. GONZALES  
CITY ATTORNEY

AT&T CORP, a New York corporation

BY: \_\_\_\_\_  
Print name and title: \_\_\_\_\_

DATED: \_\_\_\_\_, 2018

Attest:

\_\_\_\_\_  
Corporate Secretary  
(Affix Corporate Seal)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness