

RESOLUTION NO. R-2013-027

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE THE ATTACHED INCLUSIVE LANDSCAPING MAINTENANCE MEMORANDUM OF AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) AND THE CITY OF HOLLYWOOD (CITY) TO MAINTAIN LANDSCAPE AND STREETScape IMPROVEMENTS WITHIN THE FDOT'S HIGHWAY FACILITIES WITHIN THE MEDIANS, OUTSIDE THE TRAVEL WAY AND MADE TO THE TRAVEL WAY (IF APPLICABLE) THAT WERE MADE AT THE REQUEST OF THE CITY OF HOLLYWOOD.

WHEREAS, the City Commission desires to beautify the public rights-of-way within the City of Hollywood to include State highway facilities; and

WHEREAS, the Florida Department of Transportation has jurisdiction over State Roads A1A, 5, 7, 9, 820, 824 and 848 as part of the State Highway System, as described in Exhibit A, to the attached Inclusive Landscape Maintenance Memorandum of Agreement which traverse through the corporate limits of the City of Hollywood; and

WHEREAS, it is the intent of the FDOT and the City that FDOT's highway facilities that contain landscape and/or streetscape improvements within the medians, outside the travel lane and made to the travel lane that were made at the request of the City shall be maintained by the City; and

WHEREAS, the FDOT and the City have entered into previous agreements for the City to maintain landscape and streetscape improvements on FDOT's right of way, and for simplicity and uniformity of current and future landscaping understandings, the parties intend for this inclusive agreement to replace and supersede the previous landscape agreements described within Exhibit C to this inclusive agreement designated to be superseded, except as otherwise provided in the Agreement; and

WHEREAS, as part of this inclusive agreement, the FDOT and the City seek to have the City maintain landscape and streetscape improvements on Pending Department and Permit Landscape and Streetscape Improvement Projects which are described in Exhibits B and D to this inclusive agreement; and

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.

WITNESSETH my hand and official seal of the City of Hollywood, Florida, this the

23 day of Feb 20 13

Official City Clerk City Clerk

RESOLUTION: INCLUSIVE LANDSCAPE MAINTENANCE AGREEMENT BETWEEN
FDOT AND CITY FOR FDOT RIGHT OF WAY

WHEREAS, provisions to incorporate future landscape and streetscape improvements within State Road 7 as part of this inclusive agreement have been made and can be included once plans are finalized and accepted by both parties;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That it hereby approves and authorizes the execution, by the appropriate City officials, of the attached Inclusive Landscape Maintenance Memorandum of Agreement between the Florida Department of Transportation and the City of Hollywood, together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney.

Section 2: That this resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 6 day of Feb, 2013.



PETER BOBER, MAYOR

ATTEST:




PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida only:



JEFFREY P. SHEFFEL CITY ATTORNEY

CERTIFICATION

I certify this to be a true and correct copy
of the record in my office.
WITNESSETH my hand and official seal of
the City of Hollywood, Florida, this the
22 day of Feb, 2013

City Clerk

SECTION No.(s): 86010, 86016, 86030, 86018, 86040,
860105, 86040215, 86070, 86100, 86230
S.R. No.(s): A1A, 5, 7, 9, 820, 822, 824 & 848
COUNTY: Broward

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
DISTRICT FOUR (4) INCLUSIVE LANDSCAPE MAINTENANCE
MEMORANDUM OF AGREEMENT**

THIS AGREEMENT, made and entered into this 26th day of February 2013, 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 Hollywood**, municipal corporation of the State of Florida, existing under the Laws of Florida, hereinafter called the AGENCY.

WITNESSETH:

WHEREAS, the DEPARTMENT has jurisdiction over State Roads A1A, 5, 7, 9, 820, 822, 824 and 848 as part of the State Highway System as described in Exhibit A; and

WHEREAS, the DEPARTMENT seeks to install or have installed and have maintained by the AGENCY certain landscape improvements, as defined in paragraph numbered 2, page 2, within the right of way of State Roads A1A, 5, 7, 9, 820, 822, 824 and 848 as described within Exhibit B and C; and

WHEREAS, the AGENCY has installed and maintains certain landscape improvements within the right of way of State Roads A1A, 5, 7, 9, 820, 822, 824 and 848 as described within Exhibit B, and C; and

WHEREAS, two (2) Adjacent Property owners adjacent to State Roads A1A and 5 seek to install landscape improvements described within Exhibits B and D, pursuant to a permit within the corporate limits of the AGENCY and the AGENCY seeks to maintain those landscape improvements, and

WHEREAS, the AGENCY and the DEPARTMENT have entered into previous agreements for the AGENCY to maintain landscape improvements on DEPARTMENT right of way; and

WHEREAS, as part of the continual updating of the State of Florida Highway System, the DEPARTMENT, for the purpose of safety, protection of the investment and other reasons, has constructed and does maintain the highway facilities as State Road(s) A1A, 5, 7, 9, 820, 822, 824 and 848 described further in Exhibit A attached hereto and incorporated by reference herein; and

WHEREAS, the AGENCY is of the opinion that the highway facilities within the AGENCY'S limits that contain landscape improvements shall be maintained by the AGENCY; and

WHEREAS, it is the intent of the AGENCY and the DEPARTMENT that the AGENCY shall maintain all right of way within the medians, outside the travel way and improvements made to the travel way (if applicable) that were made at the request of the AGENCY; and

WHEREAS, as designated to be superseded, the AGENCY and DEPARTMENT intend for this agreement to replace and supersede the landscape agreements described within Exhibit C designated to be superseded, except as otherwise provided in this Agreement; and

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

WHEREAS, the AGENCY by Resolution No. R-2013-027 dated Feb. 22, 2013, attached hereto and by this reference made a part hereof, desires to enter into this Agreement and authorizes its officers to do so;

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

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. **INSTALLATION OF FACILITIES BY AGENCY**

The AGENCY has installed certain *landscape improvements* described herein as: plant materials, irrigation and/or hardscape on the highway facilities substantially as specified in plans and specifications hereinafter referenced to as the Project(s) and incorporated herein as referenced in Exhibit C. *Hardscape* shall mean, but not be limited to, site furnishings, landscape accent lighting, fountain, tree grates, decorative free standing or retaining wall(s), and/or any non-standard roadway, sidewalk, median or crosswalk surfacing, such as concrete pavers, color stained stamped concrete, and/or asphalt patterned pavement, but excludes standard concrete sidewalk.

When the AGENCY is installing or will install the PROJECT, they shall comply with the following criteria.

- (a) All plant materials shall be installed and maintained in strict accordance with sound nursery practice prescribed by the International Society of Arboriculture (ISA); all plant materials installed shall be Florida #1 or better according to the most current edition of Florida Department of Agriculture, *Florida Grades and Standards for Nursery Stock*; and all trees shall meet Florida Power & Light, *Right Tree, Right Place, South Florida*.
- (b) Trees and palms within the right of way shall be installed and pruned to prevent encroachment to roadways, clear zones and sidewalks. Definition of these criteria is included in the most current editions of FDOT standards for design, construction, maintenance, and utility operations on the state highway system and the Maintenance Plan, Exhibit E .
- (c) Tree and palm pruning shall be supervised by properly trained and certified personnel and shall meet the most current standards set forth by the International Society of Arboriculture (ISA) and the American National Standard Institute (ANSI) Part A-300. Personnel shall be licensed by Broward County Environment Protection Department to perform this work.
- (d) Irrigation installation and maintenance activities shall conform to the most current standards set forth by the Florida Irrigation Society (FIS), *Standards and Specifications for Turf and Landscape Irrigation Systems*.
- (e) The AGENCY shall provide the DEPARTMENT'S local FDOT Operations Center accurate as-built plans of the irrigation system so in the future if there is a need for the DEPARTMENT to perform work in the area, the system can be accommodated as much as possible.
- (f) If it becomes necessary to provide utilities (water/electricity) to the median or side areas, it shall be the AGENCY'S responsibility to obtain a permit for such work through the local FDOT Operations Center. The AGENCY shall be responsible for all associated fees for the installation and maintenance of these utilities.
- (g) Patterned Pavement (if applicable) shall be installed and maintained as described in the plans and further described in Exhibit G and Exhibit H.

- (h) All sidewalk, crosswalk and / or median non-standard surfacing (if applicable) shall be installed and maintained in strict accordance with the most current edition of the *Florida Accessibility Code for Building Construction* and the *Interlocking Concrete Pavement Institute (ICPI)* and in accordance with the Maintenance Plan, Exhibit E.
- (i) All activities, including project installation and future maintenance operations performed on State highway right of way, must be in conformity with the most current edition of the *Manual on Uniform Traffic Control (MUTCD)* and *FDOT Design Standards*, Index 600 Series, *Traffic Control through Work Zones*.
- (j) The most current edition of *FDOT Design Standards*, Index 546 must be adhered to in all activities performed on the State Highway right of way.
- (k) Horizontal and Vertical Clearance and Clear Zone as specified in the *FDOT Plans Preparation Manual*, Volume 1, Chapters 2 and 4 and *FDOT Design Standards*, Index 700 must be adhered to in all activities performed on the State Highway right of way.
- (l) Landscape improvements shall not obstruct roadside signs, traffic signals or permitted outdoor advertising signs, (see Florida Administrative Code [F.A.C.] Rule Chapter 14-40, Part I and Part III.)
- (m) The AGENCY shall provide the local FDOT Operation Center, Broward Operations, 5548 NW 9th Avenue, Ft. Lauderdale, FL 33309 (954) 776-4300 a twenty-four (24) hour telephone number and the name of a responsible person that the DEPARTMENT may contact. The AGENCY shall notify the local FDOT Operations Center forty-eight (48) hours prior to the start of the project.
- (n) If there is a need to restrict the normal flow of traffic, it shall be done on off-peak hours (9 AM to 3 PM), and the party performing such work shall give notice to the local law enforcement agency within whose jurisdiction such road is located prior to commencing work on the project. The DEPARTMENT'S Public Information Office shall also be notified.
- (o) The AGENCY shall be responsible to clear all utilities within the landscape improvement limits before construction commences.
- (p) The AGENCY shall follow the minimum level of maintenance guidelines as set forth in FDOT Rule Chapter 14-40 *Highway Beautification and Landscape Management*, the *FDOT Guide to Roadside Mowing and Maintenance Management System*, *FDOT Maintenance Rating Program Standards* and Exhibit E, the Maintenance Plan for maintenance activities for landscape projects as well as the superseded landscape agreement's Maintenance Plan's Part II, and Exhibit H, the Patterned Pavement Maintenance.

3. INSTALLATION OF FACILITIES BY DEPARTMENT

The DEPARTMENT shall install or cause to be installed *landscape improvements* described as: plant materials, irrigation and/or hardscape on the highway facilities substantially as specified in the initial plans and specifications hereinafter referred to as the Project(s) and incorporated herein as referenced in Exhibit B and C. *Hardscape* shall mean, but not be limited to, any landscape accent lighting, fountain, tree grates, decorative free standing wall and/or any non-standard roadway, sidewalk, median or crosswalk surfacing such as, but not be limited to, concrete pavers, color stamped asphalt and/or color stamped concrete. If there are any major changes to the plan(s), the DEPARTMENT shall provide the modified plan(s) to the AGENCY and the AGENCY shall provide their approval or disapproval to the DEPARTMENT within 10 business days. The DEPARTMENT may elect to withdraw the landscape improvements if changes are not approved within the given time frame.

4. MAINTENANCE OF FACILITIES

- A. The AGENCY agrees to maintain the landscape improvements, as existing and those to be installed, within the physical limits described in Exhibit A. The landscape improvements outside the travelway shall be maintained by the AGENCY regardless if the said improvement was made by the DEPARTMENT, the AGENCY, or others by periodic mowing, fertilizing, weeding, pruning, curb and sidewalk edging, litter pickup, necessary replanting, irrigation system repair and/ or repair of any median concrete replacement associated with the non-standard surfacing (if applicable) following the DEPARTMENT'S landscape safety and maintenance guidelines, Exhibit E, the Maintenance Plan and Exhibit H the Patterned Pavement Maintenance (if applicable). The AGENCY'S responsibility for maintenance shall include all landscaped, turfed and hardscape areas within the median and areas outside the travelway to the right of way and areas within the travelway containing non-standard surfacing (if applicable). It shall be the responsibility of the AGENCY to restore an unacceptable ride condition of the roadway caused by the differential characteristics of non-standard surfacing and the associated header curb and concrete areas (if applicable) on DEPARTMENT right of way within the limits of this Agreement.
- B. Such maintenance to be provided by the AGENCY is specifically set out as follows: to maintain, which means to properly water and fertilize all plants; to keep them as free as practicable from disease and harmful insects; to properly mulch the planting beds; to keep the premises free of weeds; to mow the turf to the proper height; to properly prune all plants which at a minimum includes: (1) removing dead or diseased parts of plants, (2) pruning such parts thereof to provide clear visibility to signage and permitted outdoor advertising signs (per Florida Statute 479.106), and for those using the roadway and/or sidewalk; (3) preventing any other potential roadway hazards. Plants shall be those items which would be scientifically classified as plants and include trees, palms, shrubs, groundcover and turf. To maintain also means to remove or replace dead or diseased plants in their entirety, or to remove or replace those that fall below original project standards. Palms shall be kept fruit free year round. To maintain also means to keep the header curbs that contain the specialty surfacing treatment in optimum condition. To maintain also means to keep the hardscape areas clean, free from weeds and to repair said hardscape as is necessary to prevent a safety hazard. To maintain also means to keep litter removed from the median and areas outside the travel way to the right of way line. All plants removed for whatever reason shall be replaced by plants of the same species type, size, and grade as specified in the original plans and specifications. Any changes to the original plans shall be submitted by permit application to the DEPARTMENT for review and approval.
- C. If it becomes necessary to provide utilities (water/electricity) to the medians or areas outside the travelway for these improvements, all costs associated with the utilities associated with landscape accent lighting and/or irrigation including, but not limited to the impact and connection fees, and the on-going cost of utility usage for water and electrical, are the maintaining AGENCY'S responsibility.

(1) The AGENCY shall be directly responsible for impact and connection fees.

(2) If installed by the DEPARTMENT the AGENCY shall become responsible for the above named utility costs upon final acceptance of the construction project by the DEPARTMENT and thereafter. The construction project is accepted prior to the start of the Plant Establishment and Contractor's Warranty Period.

AND

(3) The AGENCY shall be responsible for all the improvements immediately after final acceptance of the construction project by the DEPARTMENT except for plant material which will be maintained by the Department's contractor during the Plant Establishment and Contractor's Warranty Period. The AGENCY shall be responsible for the maintenance of all improvements after the completion of the Plant Establishment and Contractor's Warranty Period. If the AGENCY installs the hardscape, the AGENCY shall be responsible for utilities as provided for in paragraph number 2. (f).

- D. The above named functions to be performed by the AGENCY may be subject to periodic inspections by the DEPARTMENT at the discretion of the DEPARTMENT. Such inspection findings will be shared with the AGENCY and shall be the basis of all decisions regarding, repayment, reworking or agreement termination. The AGENCY shall not change or deviate from said plans without written approval of the DEPARTMENT.

5. SUPERSEDED PRECEDING LANDSCAPE AGREEMENTS

This Agreement shall replace and supersede any and all preceding landscape agreements as listed in Exhibit C except as specifically excepted out. The landscape improvement plans and the associated Maintenance Plan Part II attached to the referenced agreements and project costs shall by reference become a part of this agreement as if they were attached hereto unless superseded by later plans. The AGENCY shall have the same duty to maintain those landscape improvements under this Agreement as the Agency did under the previous landscape agreements, and as more specifically detailed in this Agreement.

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 and superseded hereby except as specifically reference in Exhibit C.

6. NOTICE OF MAINTENANCE DEFICIENCIES

- A. If at any time after the AGENCY has undertaken the landscape improvement installation and/or maintenance responsibility mentioned above, it shall come to the attention of the DEPARTMENT'S District Secretary that the limits, or a part thereof, are not properly maintained pursuant to the terms of this Agreement, said District Secretary, may at his/her option, issue a written notice that a deficiency or deficiencies exist(s), by sending a certified letter to the AGENCY, to placing said AGENCY on notice thereof. Thereafter, the AGENCY shall have a period of thirty (30) calendar days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time period, the DEPARTMENT may, at its option, proceed as follows:
- (1) Complete the installation, or part thereof, with DEPARTMENT or Contractor's personnel and deduct the cost of such work from the final payment for said work or part thereof, or,
 - (2) Maintain the landscape improvements or any part thereof, with the DEPARTMENT or Contractor's personnel and invoice the AGENCY for expenses incurred, or,
 - (3) At the discretion of the DEPARTMENT terminate the Agreement in accordance with Paragraph 11, and remove, by the DEPARTMENT or private Contractor's personnel, all of the landscape improvements installed under this Agreement or any preceding Agreements except as to trees and palms and charge the AGENCY the reasonable cost of such removal.
- B. The AGENCY agrees to reimburse the DEPARTMENT all monies expended by the DEPARTMENT for the projects listed in Exhibit B, C and D in the amounts listed in those agreements should the landscape improvement areas fail to be maintained in accordance with the terms and conditions of this Agreement in the amounts listed in those agreements.

7. FUTURE DEPARTMENT IMPROVEMENTS

In the event the DEPARTMENT decides to construct additional landscape improvements or modify these improvements within the limits of the rights of way herein previously identified, the DEPARTMENT and the AGENCY shall agree in writing and require signature from the AGENCY approving the new landscape improvements and maintenance plan thereof. If the AGENCY and the DEPARTMENT are

unable to come to an agreement, the DEPARTMENT, in its sole discretion, may install sod and the agency shall be required, pursuant to this Agreement, to continue maintaining said landscape improvements. It is understood between the parties hereto that the landscape improvements covered by this Agreement may be removed, relocated, or adjusted at any time in the future, as determined to be necessary by the DEPARTMENT in order that the adjacent state road(s) be widened, altered, or otherwise changed to meet with future criteria or planning of the DEPARTMENT. The AGENCY shall be given sixty (60) calendar day's notice to remove said landscape/hardscape after which time the DEPARTMENT may remove same. All permits (including tree permits), fees, and any mitigation associated with the removal, relocation or adjustments of these improvements are the maintaining AGENCY'S responsibility.

8. FUTURE AGENCY IMPROVEMENTS

The AGENCY may construct additional landscape improvements within the limits of the rights of ways identified as a result of this document, subject to the following conditions:

- (a) Plans for any new landscape improvements shall be subject to approval by the DEPARTMENT. The AGENCY shall not change or deviate from said plans without written approval by the DEPARTMENT.
- (b) The AGENCY shall procure a permit from the DEPARTMENT.
- (c) All landscape improvements shall be developed and implemented in accordance with appropriate state safety and roadway design standards.
- (d) The AGENCY agrees to comply with the requirements of this Agreement with regard to any additional landscape improvements installed at no cost to the DEPARTMENT.
- (e) If the AGENCY'S landscape improvements include additional maintenance requirements, the AGENCY, and the DEPARTMENT shall enter into an Agreement Amendment describing the additional requirements.

9. ADJACENT PROPERTY OWNER IMPROVEMENTS

The DEPARTMENT may allow an adjacent property owner to construct additional landscape improvements within the limits of the right of way identified in Exhibit A of this document that the AGENCY shall be responsible for maintaining under this agreement subject to the following conditions:

- (a) Plans for any new landscape improvements shall be subject to approval by the DEPARTMENT and shall require a valid permit attached with a letter of consent to said plans by the AGENCY. The plans shall not be changed or deviated from without written approval by the DEPARTMENT and the AGENCY.
- (b) All landscape improvements shall be developed and implemented in accordance with appropriate state safety and roadway design standards.
- (c) The AGENCY agrees to comply with the requirements of the Agreement with regard to any additional landscape improvements installed by an adjacent owner.
- (d) If the Adjacent Property Owner's landscape improvements include additional maintenance requirements, the AGENCY, and the DEPARTMENT shall enter into an Agreement Amendment describing the additional requirements

10. PROJECT COST FOR DEPARTMENT INSTALLED PROJECT

The DEPARTMENT agrees to enter into a contract for the installation of the Project(s) for an amount not to exceed **\$125,572.00** as defined in Exhibit F. This amount may be reduced or eliminated at the sole discretion of the DEPARTMENT or due to budgetary constraints of the DEPARTMENT.

The DEPARTMENT'S participation in the Project cost, as described in Exhibit F, is limited to only those items which are directly related to these Project(s).

The AGENCY shall be invited to assist the DEPARTMENT in final inspection upon completion of the Plant Establishment and Contractor's Warranty Period.

11. AGREEMENT TERMINATION

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

- (a) By the DEPARTMENT, if the AGENCY fails to perform its duties under this Agreement, following ten (10) days written notice.
- (b) By the DEPARTMENT, for refusal by the AGENCY to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the AGENCY in conjunction with this Agreement.

12. AGREEMENT TERM

- A. The term of this Agreement commences upon execution by all parties. The term of this Agreement shall remain in effect for twenty-five (25) years.
- B. If the DEPARTMENT cancels one or all the project(s) described in Exhibit B this Agreement shall still be valid.

13. LIABILITY AND INSURANCE REQUIREMENTS

- A. With respect to any of the AGENCY'S agents, consultants, sub-consultants, contractors, and/or sub-contractors, such party in any contract for this project shall agree to indemnify, defend, save and hold harmless the DEPARTMENT from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission or commission of such agents, consultants, sub-consultants, contractors and/or subcontractors. The AGENCY shall provide to the DEPARTMENT written evidence of the foregoing upon the request of the DEPARTMENT. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the DEPARTMENT for its own negligence.
- B. In the event that AGENCY contracts with a third party to provide the services set forth herein, any contract with such third party shall include the following provisions:
 - (a) AGENCY'S contractor shall at all times during the term of this Agreement keep and maintain in full force and effect, at contractor's sole cost and expense, Comprehensive General Liability with minimum limits of \$1,000,000.00 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability and Worker's Compensation insurance with minimum limits of \$500,000.00 per Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability and Worker's Compensation policy without restrictive endorsements, as filed by the Insurance Services Office and shall name the DEPARTMENT as an additional insured.

- (b) AGENCY'S contractor shall furnish AGENCY with Certificates of Insurance of Endorsements evidencing the insurance coverage specified herein prior to the beginning performance of work under this Agreement.
- (c) Coverage is not to cease and is to remain in full force and effect (subject to cancellation notice) until all performance required of AGENCY'S contractor is completed. All policies must be endorsed to provide the DEPARTMENT with at least thirty (30) days notice of cancellation and or/or restriction. If any of the insurance coverages will expire prior to the completion of work, copies of renewal policies shall be furnished at least (30) days prior to the date of expiration.

14. E-VERIFY REQUIREMENTS

AGENCY shall utilize the U.S. Department of Homeland Security's E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of;

- (1) Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and
- (2) Shall expressly require any 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 Agency term.

15. The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, nor 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 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 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 TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year.

16. DISPUTES

The DEPARTMENT'S District Secretary shall decide all questions, difficulties, and disputes of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution or fulfillment of the service hereunder and the character, quality, amount and value thereof; and his decision upon all claims, questions, and disputes shall be final and conclusive upon the parties hereto.

17. ASSIGNMENT

This Agreement may not be assigned or transferred by the AGENCY, in whole or in part, without the prior written consent of the DEPARTMENT.

18. LAWS GOVERNING

This Agreement 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. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this agreement is decided.

19. EXCEPTION TO SUPERSEDED PRECEDING LANDSCAPE AGREEMENTS

This Agreement constitutes the complete and final expression of parties with respect to the subject matter hereof and supersedes all prior landscape agreements, understandings, or negotiations with respect thereto, with the exception of the landscape improvements plans and the associated Maintenance Plan Part II and the Agreements "Excepted Out" in Exhibit C.

20. NOTICES

Any and all notices given or required under this Agreement shall be in writing and either personally delivered with receipt acknowledgement or sent by certified mail, return receipt requested. All notices shall be sent to the following addresses:

If to the DEPARTMENT:

State of Florida Department of Transportation
3400 West Commercial Blvd.
Ft. Lauderdale, FL 33309-3421
Attention: Elisabeth A. Hassett, R.L.A.
FDOT District IV Landscape Architect

If to the AGENCY:

City of Hollywood
2600 Hollywood Boulevard
Hollywood, Florida
Attention: Jonathan Vogt, P.E.
City Engineer

21. LIST OF EXHIBITS

- Exhibit A: Landscape Improvements Limits & Maintenance Boundaries List, Table and Graphic
- Exhibit B: Department and Permit Projects Pending Landscape Agreement(s)
- Exhibit C: Preceding Landscape Agreement Description(s) and Other Agreement Descriptions
- Exhibit D: Pending Department and Permit Projects Landscape Improvement Plans
- Exhibit E: Landscape Maintenance Plan
- Exhibit F: Pending Department Project(s) Cost Estimate
- Exhibit G: Agency Patterned Pavement Installation
- Exhibit H: Patterned Pavement Maintenance

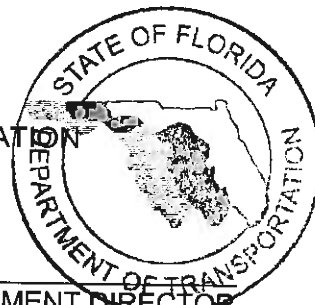
IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first above written.

CITY OF HOLLYWOOD

By: 
PETER BOBER, MAYOR

Attest:  (SEAL)
PATRICIA A. CERNY, MMC
CITY CLERK

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION



By: 
TRANSPORTATION DEVELOPMENT DIRECTOR

Attest:  (SEAL)
EXECUTIVE SECRETARY

Approval as to Form


JEFFREY P. SHEFFEL, CITY ATTORNEY

2/22/13
DATE

Approval as to Form


OFFICE OF GENERAL COUNSEL

2/26/13
DATE

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF HOLLYWOOD, FLORIDA, ONLY.

BY: 
CITY ATTORNEY