

AGREEMENT

between

BROWARD COUNTY

and

CITY OF COOPER CITY

for

DESIGN, CONSTRUCTION, AND MAINTENANCE OF BUS STOP IMPROVEMENTS

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DESIGN, CONSTRUCTION, AND MAINTENANCE OF BUS STOP IMPROVEMENTS

THIS IS AN AGREEMENT made and entered into by and between BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY,"

and

CITY OF COOPER CITY, a municipal corporation located in Broward County, Florida, organized and existing under the laws of the state of Florida, hereinafter referred to as "MUNICIPALITY," collectively referred to as the "Parties."

WHEREAS, the Parties desire to increase the amenities at bus stops to improve the comfort of the traveling public; and

WHEREAS, MUNICIPALITY has determined that it is cost effective to have COUNTY design and construct Bus Stop Improvements within the jurisdictional limits of MUNICIPALITY; and

WHEREAS, COUNTY is willing to undertake the design and construction of the Bus Stop Improvements provided that MUNICIPALITY maintains the improvements upon installation; and

WHEREAS, this Agreement serves a public purpose and benefits residents and visitors of COUNTY and MUNICIPALITY; NOW THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, and covenants hereinafter set forth, the Parties agree as follows:

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

The following definitions apply unless the context in which the word or phrase is

used requires a different definition:

- 1.1 Agreement - The Agreement includes Articles 1 through 8, the exhibits, and documents expressly incorporated by reference.
- 1.2 Board - The Board of County Commissioners of Broward County, Florida.
- 1.3 Bus Stop Improvements - The design and construction of bus stop pads, bus shelters pads, the installation of bus shelters and trash receptacles, and the repair of existing sidewalks and connections to bus stops as authorized by this Agreement and exhibits.
- 1.4 Contract Administrator - The Broward County or City of Cooper City Administrator, the Director of the Transportation Department or the Director of the Transit Division. The primary responsibilities of the Contract Administrator are to coordinate and communicate with MUNICIPALITY/COUNTY and to manage and supervise execution and completion of the terms and conditions of this Agreement as set forth herein. In the administration of this Agreement, as contrasted with matters of policy, all Parties may rely on the instructions or determinations made by the Contract Administrator, provided, however, that such instructions and determinations do not change the Scope of Participation.
- 1.5 County Administrator - The administrative head of COUNTY appointed by the Board.
- 1.6 County Attorney - The chief legal counsel for COUNTY appointed by the Board.
- 1.7 Department - The Broward County Transportation Department.
- 1.8 Division – Broward County Transit Division.
- 1.9 Plans - The construction documents and specifications depicting and defining the Project including but not limited to the materials to be installed within the Property as described in the exhibits.
- 1.10 Project - The participation described in Article 2.
- 1.11 Property - The locations described in Exhibit "A".

ARTICLE 2 SCOPE OF PARTICIPATION

COUNTY and MUNICIPALITY shall participate in Bus Stop Improvements in the manner set forth in this Agreement.

- 2.1 COUNTY shall:

- 2.1.1 Prepare, or cause to be prepared, plans for Bus Stop Improvements for the Property. Such plans shall be reviewed and approved by MUNICIPALITY's Contract Administrator.
- 2.1.2 Make application for any and all necessary permits or cause application to be made for any and all permits, for the installation of the Bus Stop Improvements set forth in the Plans approved by MUNICIPALITY. Installation of the Bus Stop Improvements authorized by this Agreement shall not proceed until the necessary permits have been issued and permit conditions for commencement of construction have been satisfied.
- 2.1.3 Once conditions for commencement of construction have been satisfied and construction has commenced, COUNTY shall complete to the satisfaction of the Contract Administrator, all construction in accordance with this Agreement, applicable provisions of the Broward County Minimum Standards and the permit(s).
- 2.1.4 Provide signed and sealed certified as-built drawings detailing the pertinent information regarding the installation, per the Plans, prior to requesting a final inspection from Contract Administrator.

2.2 MUNICIPALITY shall:

- 2.2.1 Upon receipt from COUNTY of a completed application for permit and the approved Plans, Contract Administrator shall review the application for completeness and either reject the application or process the application for issuance of the permit.
- 2.2.2 After receiving the signed and sealed certified as-built drawings detailing the pertinent information regarding the installation per the Plans and request for a final inspection, Contract Administrator and other interested parties shall perform a final inspection and advise COUNTY, in writing, of any issues regarding the installation.
- 2.2.3 Provide COUNTY with written notice of the MUNICIPALITY's acceptance of the Bus Stop Improvements.
- 2.2.4 Reimburse COUNTY for Project costs as set forth in Article 3 below, which includes all materials and labor required for the installation of the Bus Stop Improvements.
- 2.2.5 Upon acceptance of the Bus Stop Improvements, MUNICIPALITY shall maintain, at its sole cost and expense, the Bus Stop Improvements in compliance with any and all applicable laws. MUNICIPALITY's maintenance obligation extends beyond the term of this Agreement through the useful life

of the Bus Stop Improvements.

- 2.3 All improvements placed upon the Property shall remain the property of MUNICIPALITY and shall be placed upon the Property at the risk of MUNICIPALITY.
- 2.4 The Parties acknowledge that this Agreement does not change the COUNTY road functional classification.

ARTICLE 3 COMPENSATION

- 3.1 MUNICIPALITY shall reimburse COUNTY, in the manner specified in Section 3.2, up to the total amount of One Hundred Twenty Thousand Dollars (\$120,000) for work actually performed and completed pursuant to this Agreement, which amount shall be accepted by COUNTY as full compensation for all such work.

3.2 METHOD OF BILLING AND PAYMENT

3.2.1 COUNTY shall submit written requests for reimbursement, which requests shall include proper invoices and supporting documentation every thirty (30) days until the Project is completed.

3.2.2 MUNICIPALITY shall pay COUNTY within thirty (30) calendar days of receipt of COUNTY's proper invoices. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by Contract Administrator.

- 3.3 Payment shall be made to COUNTY and mailed to:

Director, Broward County Transportation Department
One North University, Suite 3100A
Plantation, FL 33324

ARTICLE 4 TERM AND TERMINATION

- 4.1 The term of this Agreement shall begin on the date it is fully executed by both Parties and shall end on December 31, 2015. It is contemplated that construction of the Bus Stop Improvements shall take approximately three (3) months, commencing on or about May 1, 2015 and culminating on or about July 31, 2015. COUNTY's Contract Administrator, in its sole discretion, may extend the term of this Agreement if necessary to complete the work.

- 4.2 This Agreement may be terminated for cause by either Party, if the Party in breach has not corrected the breach within thirty (30) days of written notice setting forth the breach. If Party corrects the breach within thirty (30) days after written notice of same, to the sole satisfaction of Party that provided the notice, the Agreement shall remain in full force and effect. If such breach is not corrected and improved within thirty (30) days of receipt of notice of breach, the Party may terminate the Agreement.
- 4.3 This Agreement may be terminated for convenience by COUNTY upon thirty (30) days' written notice given by COUNTY to MUNICIPALITY. This Agreement may also be terminated by the County Administrator upon such notice as County Administrator deems appropriate in the event that the County Administrator determines that termination is necessary to protect the public health, safety, or welfare. In the event that COUNTY has to terminate this Agreement for convenience, COUNTY will use its best efforts to complete the work on any bus shelters for which construction has begun.
- 4.4 In the event this Agreement is terminated for convenience, upon being notified of election to terminate, the parties shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. MUNICIPALITY acknowledges and agrees that Ten Dollars (\$10.00), the adequacy of which is hereby acknowledged by MUNICIPALITY, is given as specific consideration to MUNICIPALITY for COUNTY's right to terminate this Agreement for convenience.
- 4.5 Notice of termination shall be provided in accordance with the Article 6, "NOTICES," except that notice of termination by County Administrator which County Administrator deems necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with Article 6, "NOTICES."

ARTICLE 5 CHANGES IN SCOPE OF PARTICIPATION

Any change to the Scope of Participation must be accomplished by a written amendment, executed by the Parties in accordance with Section 8.8 below.

ARTICLE 6 NOTICES

Whenever either Party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, addressed to the Party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following:

FOR BROWARD COUNTY:

Director, Broward County Transportation Department
One North University, Suite 3100A
Plantation, FL 33324

FOR MUNICIPALITY:

City Manager
9090 SW 50th Place
Cooper City, FL 33329

ARTICLE 7
INDEMNIFICATION

The Parties are state agencies or political subdivisions as defined in Section 768.28, Florida Statutes and shall be fully responsible for acts and omissions of their agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any Party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the state of Florida to be sued by third parties in any matter arising out of this Agreement or any other contract.

ARTICLE 8
MISCELLANEOUS

8.1 THIRD PARTY BENEFICIARIES.

Neither MUNICIPALITY nor COUNTY intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

8.2 MATERIALITY AND WAIVER OF BREACH.

Each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term hereof.

COUNTY's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

8.3 COMPLIANCE WITH LAWS.

The Parties shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

8.4 SEVERANCE.

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless COUNTY or MUNICIPALITY elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days of final court action, including all available appeals.

8.5 JOINT PREPARATION.

The Parties and their counsel have participated fully in the drafting of this Agreement and acknowledge 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. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any Party.

8.6 PRIORITY OF PROVISIONS.

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 8 of this Agreement shall prevail and be given effect.

8.7 LAW, JURISDICTION, VENUE, WAIVER OF JURY TRIAL.

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All Parties acknowledge and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either Party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, MUNICIPALITY AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO**

WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

8.8 AMENDMENTS.

The Parties may amend this Agreement to conform to changes in federal, state, or local laws, regulations, directives, and objectives. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by COUNTY and MUNICIPALITY or others delegated authority to or otherwise authorized to execute same on their behalf.

8.9 PRIOR AGREEMENTS.

This document represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. There is no commitment, agreement or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

8.10 INCORPORATION BY REFERENCE.

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the Parties. The attached exhibits are incorporated into and made a part of this Agreement.

8.11 MULTIPLE ORIGINALS.


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.

(REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the Parties have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice Mayor, authorized to execute same by Board action on the 7th day of April, 2015, and CITY OF COOPER CITY, signing by and through its City Manager duly authorized to execute same.

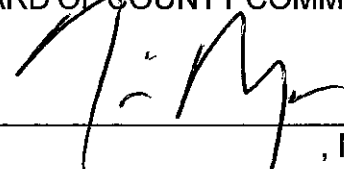
COUNTY:

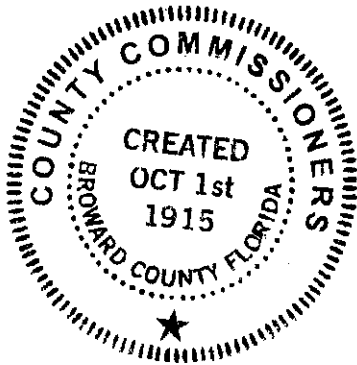
ATTEST:



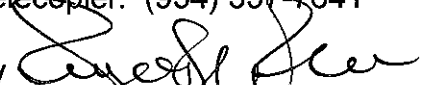
County Administrator and
Ex-Officio Clerk of the
Board of County Commissioners
of Broward County, Florida

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

By  _____, Mayor
7th day of April, 2015



Approved as to form by
Joni Armstrong Coffey
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By  3/13/15
Angela J. Wallace (Date)
Deputy County Attorney

AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF COOPER CITY FOR
DESIGN, CONSTRUCTION, AND MAINTENANCE OF BUS STOP IMPROVEMENTS

MUNICIPALITY:

CITY OF COOPER CITY

ATTEST:



Susan Poling, City Clerk

By 

Bruce D. Loucks, City Manager

(SEAL)

10th day of February, 2015.

APPROVED AS TO FORM:

By 

David M. Wolpin, City Attorney

AJW:wp
01/21/15
CooperCity/LA-BusStopDesignConstructionMaintenance
14-114

EXHIBIT "A"

PROJECT IMPROVEMENT AND SCOPE

Summary of Work

Install bus shelters and associated amenities at 6 separate locations throughout the City of Cooper City, in accordance with the attached list of locations (see table below). The shelters shall be manufactured and installed in accordance with the manufacturer's specifications.

STOPID	MAIN_STREET	CROSS_STREET	DIRECTION	LOCATION	SHELTERTYPE	BENCH	TRASHBIN	BIKERACK	ROW	MUNICIPALITY
4692	STIRLING ROAD	FLAMINGO ROAD	EB	FAR-SIDE	SMALL	Y	Y	Y	LOCAL	COOPER CITY
4694	STIRLING ROAD	HIATUS ROAD	EB	FAR-SIDE	MEDIUM	Y	Y	Y	LOCAL	COOPER CITY
4699	STIRLING ROAD	SW 90 TH AVENUE	WB	FAR-SIDE	SMALL	Y	Y	N	COUNTY	COOPER CITY
4700	STIRLING ROAD	SW 90 TH AVENUE	EB	FAR-SIDE	SMALL	Y	Y	N	COUNTY	COOPER CITY
6006	STIRLING ROAD	EMBASSY DRIVE	EB	FAR-SIDE	MEDIUM	Y	Y	Y	LOCAL	COOPER CITY
6007	STIRLING ROAD	DARLINGTON PLACE	EB	FAR-SIDE	SMALL	Y	Y	Y	COUNTY	COOPER CITY

EXHIBIT "A"
LEGAL DESCRIPTION OF RIGHT-OF-WAY TO BE IMPROVED

STOP # 4700

Improvements for Stop ID #4700 are to be located within the southerly right-of-way of Stirling Road and lying easterly of NW 90th Avenue, of DIAMOND HEAD PLAT, according to the plat thereof as recorded in Plat Book 155, Page 24, of the Public Records of Broward County, Florida, Bounded as follows:

Bounded on the West by a line 100 feet easterly of the existing east right-of-way line of said NW 90th Avenue and bounded on the East by a line 114 feet easterly of said east right-of-way line of NW 90th Avenue, all as measured along the existing southerly right-of-way line of Stirling Road.

Said lands lying in Cooper City, Broward County, Florida.

STOP # 4699

Improvements for Stop ID #4699 are to be located within the northerly right-of-way of Stirling Road and lying westerly of NW 90th Avenue, of COOPER CITY CHURCH OF GOD PLAT, according to the plat thereof as recorded in Plat Book 152, Page 35, of the Public Records of Broward County, Florida. Site address: 9191 Stirling Road, Cooper City Florida, 33331, according to Property Appraiser's office. Bounded as follows:

Bounded on the East by a line 120 feet westerly of the existing west right-of-way line of said NW 90th Avenue and bounded on the West by a line 134 feet westerly of said west right-of-way line of NW 90th Avenue, all as measured along the existing northerly right-of-way line of Stirling Road.

Said lands lying in the Cooper City, Broward County, Florida.

STOP #4692

Improvements for Stop ID #4692 are to be located within the southerly right-of-way of Stirling Road and lying easterly of Flamingo Road, of STONEBRIDGE PHASE 1, according to the plat thereof as recorded in Plat Book 91, Page 9, of the Public Records of Broward County, Florida. Bounded as follows:

Bounded on the West by a line 115 feet easterly of the existing east right-of-way line of said Flamingo Road and bounded on the East by a line 129 feet easterly of said east right-of-way line of Flamingo Road, all as measured along the existing southerly right-of-way line of Stirling Road.

Said lands lying in the Cooper City, Broward County, Florida.

STOP #4694

Improvements for Stop ID #4694 are to be located within the southerly right-of-way of Stirling Road and lying easterly of Hiatus Road, of EMBASSY LAKES PHASE II, according to the plat thereof as recorded in Plat Book 141, Page 4, of the Public Records of Broward County, Florida. Bounded as follows:

Bounded on the West by a line 185 feet easterly of the existing east right-of-way line of said Hiatus Road and bounded on the East by a line 199 feet easterly of said east right-of-way line of Hiatus Road, all as measured along the existing southerly right-of-way line of Stirling Road.

Said lands lying in the Cooper City, Broward County, Florida.