

SECOND AMENDMENT
to
TRAFFIC ENGINEERING AGREEMENT
Between
BROWARD COUNTY
and
CITY OF FORT LAUDERDALE

SECOND AMENDMENT

to

TRAFFIC ENGINEERING AGREEMENT

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BROWARD COUNTY

and

CITY OF FORT LAUDERDALE

This is a Second Amendment to the Traffic Engineering Agreement ("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 FORT LAUDERDALE, a municipal corporation existing under the laws of the State of Florida, hereinafter referred to as "CITY", collectively referred to as "the Parties."

WHEREAS, the COUNTY performs certain traffic engineering functions for CITY pursuant to a written Traffic Engineering Agreement executed on November 27, 1984; and

WHEREAS, on December 19, 1995, the COUNTY entered into a First Amendment to amend the Agreement related to the functions and duties retained by CITY; and

WHEREAS, CITY seeks to exclude the intersection of NE 3rd Street and NE 9th Avenue from the subject matter of this Agreement, thus retaining the responsibility and duty for the planning, installation, operation, and maintenance of traffic control devices at the above named intersection; and

WHEREAS, the COUNTY and the CITY desire to amend the Agreement related to the functions and duties transferred by CITY to reflect the exclusion of the above named intersection; NOW, THEREFORE,

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

1. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the Parties and the recitals contained in the "Whereas" clauses are incorporated herein.

2. Section 1, titled "Transfer of Functions and Duties," of the Agreement is hereby amended to read as follows:

1. TRANSFER OF FUNCTIONS AND DUTIES.

CITY agrees to transfer to COUNTY, and the COUNTY agrees to accept and perform the following functions and duties in order to protect the welfare of the public, which functions and duties were formerly performed by CITY, subject to the limitations and exclusions contained in Section 14:

* * *

3. Section 12, titled "Indemnification," of the Agreement is hereby amended to read as follows (original underlining omitted):

12. INDEMNIFICATION.

COUNTY shall indemnify, hold harmless and defend CITY for all claims and damages incurred as a result of work performed by COUNTY, its agents or employees pursuant to the terms of this Agreement, to the extent allowed by law. It is specifically understood and agreed that COUNTY does not indemnify CITY for the negligent acts or omissions of CITY's agents or employees or the neglect or omission of CITY to notify COUNTY promptly when CITY receives actual notice of any and all defects, imperfections, malfunctions, or failings of the traffic regulation equipment, signs or signals or any required repairs, replacement or maintenance of the traffic regulation equipment, signs or signals provided under the terms of this Agreement.

CITY shall indemnify, hold harmless and defend COUNTY for claims and damages incurred as a result of or related to the Exclusions provided in Section 14 of this Agreement, to the extent allowed by law. However, nothing in this Agreement shall be construed to require either party to indemnify the other party or insure the other party for that party's negligence or to assume any liability for the other party's negligence. Further, any provision in this Agreement that requires either party to indemnify, hold harmless or defend the other party from liability shall not alter the indemnifying party's waiver of sovereign immunity or extend that party's liability beyond the limits established in section 768.28, Florida Statutes, as amended.

4. Section 14, titled "Exclusions," is hereby added as a new section to the Agreement to read as follows:

14. EXCLUSIONS.

The following streets and intersections are excluded from the subject matter of this Agreement, with CITY retaining all functions, authority, powers, responsibilities and duties pertaining to the planning, installation, operation and maintenance of traffic control devices:

(a) Intersection of NE 3rd Street and NE 9th Avenue.

5. Preparation of this Second Amendment has been a joint effort of COUNTY and CITY, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.
6. Except to the extent modified herein, the Agreement shall remain in full force and effect. In the event of a conflict between the terms and conditions of this Second Amendment and the terms and conditions set forth in the Agreement, the Parties hereby agree that this document shall control.
7. This Second Amendment to the Agreement shall be effective upon execution by the Parties, and may be fully executed in multiple copies by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

[The Remainder of This Page is Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties have made and executed this Second Amendment to the 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 _____ day of _____, 20____, and CITY OF FORT LAUDERDALE, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

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

By _____
Mayor
____ day of _____, 20_____.

Insurance requirements
approved by Broward County
Risk Management Division

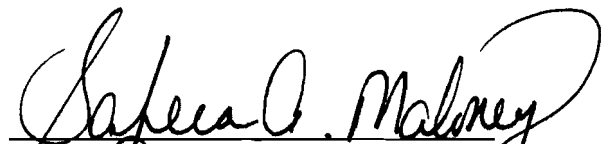
Approved as to form by
Office of the County Attorney
for Broward County, Florida
JEFFREY J. NEWTON, County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By _____
(Date)

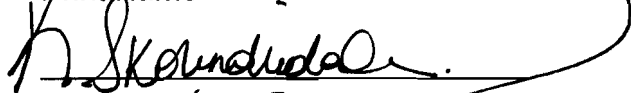
By _____
Al A. DiCalvo (Date)
Assistant County Attorney

SECOND AMENDMENT TO TRAFFIC ENGINEERING AGREEMENT BETWEEN
BROWARD COUNTY AND CITY OF FORT LAUDERDALE

WITNESSES:



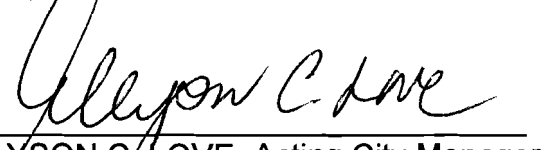
Sufeya A. Maloney
Print Name



Katerina Skourlidaki
Print Name


CITY OF FORT LAUDERDALE,
a municipal corporation

By 
JOHN P. "JACK" SEILER, Mayor


By 
ALLYSON C. LOVE, Acting City Manager

(SEAL)

ATTEST:


for JONDA K. JOSEPH, City Clerk CITY CLERK

Approved as to form:


CARRIE L. SARVER
Assistant City Attorney