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**INTERLOCAL AGENCY AGREEMENT**

**BETWEEN**

**MIAMI-DADE COUNTY**

**AND**

**CITY OF CORAL GABLES**

**FOR THE USE OF THE METRORAIL SOUTH CORRIDOR**

**FOR**

**CONSTRUCTION OF TWO DRIVEWAYS**

**AND**

**INSTALLATION OF A FORCE MAIN AND ELECTRICAL SERVICE**

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## INTERLOCAL AGENCY AND LICENSE AGREEMENT

**This Interlocal Agency and License Agreement** (the "AGREEMENT") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_ 2019 by and between Miami-Dade County, a political subdivision of the State of Florida, by and through the Department of Transportation and Public Works (DTPW), (the "COUNTY") whose mailing address is 701 NW 1<sup>st</sup> Court, 17<sup>th</sup> Floor, Miami, Florida 33136, and City of Coral Gables, a municipality of the State of Florida, (the "CITY"), whose mailing address is 405 Biltmore Way, Coral Gables, Florida 33134.

### WITNESSETH

**WHEREAS**, COUNTY is the owner of that certain right of way corridor (the "Land") situated in Miami-Dade County of the State of Florida, identified as Metrorail South Corridor on the attached Sketch of Survey in Exhibit "A" and Exhibit "B"; and

**WHEREAS**, CITY is the owner of those abutting roads, Ponce de Leon Boulevard, Riviera Drive and Rosario Avenue, located in the same county, and state, which lie adjacent to and abutting the Metrorail South Corridor; and

**WHEREAS**, CITY proposes improvements of the Coral Gables Fire Station No. 2 which lies westerly of US 1 between Riviera Avenue and Rosario Avenue in which two driveways are to be constructed across the Metrorail South Corridor as ingress and egress for the fire station operations along with the installation of a force main and electrical service as upgrades to the general community and for the fire station to connect to the force main along Ponce de Leon Boulevard, and the electrical service to connect to existing distribution lines to the Northwest of the property located in the same county, and state, which lie adjacent to and abutting the Metrorail South Corridor, being the Coral Gables Fire and Trolley Station Project, (the "Project"); and

**WHEREAS**, the CITY has requested from the COUNTY, and COUNTY is desirous of granting to CITY, a non-exclusive license, privilege, and right for the construction of the driveways and of a three-inch force main and electrical service within the space within the COUNTY's Land (including but not limited to construction and maintenance or upgrade, of said driveways force main and electrical service, along with other incidental improvements) over, under and across that portion of the Land identified on and more fully described on Exhibit "A" and Exhibit "B" (the "License Area(s)") being the area desired for the Project.

**NOW THEREFORE**, in consideration of ten dollars (\$10.00) and other good and valuable consideration, COUNTY does hereby grant to CITY a non-exclusive license, privilege and right for the construction of the two driveway or improvements thereof and installation of the force main and electrical service over, under across the License Area, subject to the following terms and conditions to which the parties hereto do hereby agree:

#### **1. Grant of License Agreement and Use of License Area.**

(a) COUNTY hereby grants to CITY a non-exclusive License, privilege and right for the construction/installation over, under and across the License Area(s). The rights granted hereby may

be used non-exclusively by, and are limited to, City and its employees directly associated with the operation of the Fire and Trolley Station. Nothing herein shall be construed to limit or restrict ingress or egress associated with COUNTY's Land or any part thereof. City shall not be allowed to use the License Area(s) for any other purpose. Upon termination of this license use, City shall provide a release and extinguishment of all its rights granted hereunder in recordable form.

(b) COUNTY further grants reasonable rights to CITY to enter upon abutting property of the COUNTY other than the License Area(s) solely for the purpose of constructing the Project with the License Area(s) and for the purpose of tying-in or harmonizing with the finished grade of the construction, where reasonable and necessary. It is understood by the parties that said entry will be required by the Party of the Second Part or CITY, or its agent, from time to time. CITY agrees to provide at least ten (10) days written to COUNTY prior to any such entrance. The terms of this right shall also govern any such entrance described in this paragraph.

## **2. Restrictions**

CITY covenants that the License Area(s) will only be used for the ingress/egress as identified solely for the fire station operations and only for the installation of the force main and electrical service mentioned above and rights specified herein.

## **3. Construction**

City shall be responsible, at its sole cost and expense, to install and construct all improvements in the License Area for the uses specified herein, including but not limited to the force main and electrical service, roadways, drives, curbs, sidewalks and drainage to be located on the License Area in substantial compliance with the plans attached hereto as Exhibit "C". City may not make any additional alterations, additions, or improvements in or to the License Area without prior written consent of the Grantor.

## **4. Maintenance**

(a) CITY shall be solely responsible for all cost and expense associated with the maintenance and repair of the License Area(s) and improvements constructed thereon. CITY shall restore the surface of the License Area(s) so that there shall be safe, free and unobstructed use thereof, subject to the rights of CITY herein provided. CITY will make no unreasonable interference with such use of the surface of said lands by COUNTY, its successors and assigns, except as otherwise allowed herein. CITY may, at any time, reconstruct, change, modify or upgrade the size of the driveways or force main and electrical service as it determines in its sole and absolute discretion from time to time as long as the changes do not interfere with the COUNTY's facilities, and provided CITY does not expand its uses beyond the License Areas' boundaries as described above. Further, CITY shall not negligently and permanently damage property of the COUNTY lying adjacent or abutting the License Area(s).

(b) If, in an emergency, it shall become necessary for COUNTY to promptly make any repairs that otherwise would have been the responsibility of CITY, or if CITY shall fail to adequately maintain the License Area(s) as provided herein, then COUNTY, at COUNTY's sole option, but COUNTY is not obligated, may proceed forthwith to have the repairs made and pay the cost thereof, and to receive reimbursement therefor from CITY within thirty (30) days after a written request for same, provided COUNTY submitted detailed documentation of all expenses paid. In such instances, COUNTY

shall provide CITY with notification of its intention to nature and extent of the emergency. Additionally, COUNTY shall provide CITY with written notification at the earliest practical time, if the extent of emergency allows.

(c) CITY agrees that any operable utility line lying in the License Area(s) that is in conflict with the Project and under the ownership and control of the COUNTY shall, at the CITY's option, either be encased in order to protect the lines or be relocated to a mutually agreed location under the ownership and control of COUNTY. The CITY shall be responsible for the physical cost associated to encased or relocate such utility or utilities.

(d) If it is necessary for CITY to remove trees or any other type of landscaping, it shall relocate same adjacent to the License Area(s) or in a location acceptable to COUNTY under the COUNTY's ownership and control. Such landscaping shall come with a one (1) year replacement warranty in the event that the trees do not survive such relocation.

(e) Prior to the construction of the Project, CITY shall furnish COUNTY with signed and sealed plans of the Project. The City or its contractor shall request DTPW spotter services when working in close proximity of the Metrorail Guideway System and adhere to the requirements as specified in the DTPW Adjacent Construction Safety Manual. All cost associated with the DTPW spotter services shall be paid by the City or its contractor. The hourly existing rate for the DTPW spotter services is \$23.53 and payment shall include one additional hour for the spotter's travel time to and from the job site daily.

#### **5. Damage to License Area, or Other Improvements**

If, in the process of developing the License Area, CITY damages, breaks, destroys, or in any way impairs the License Area, or any other improvements of COUNTY or some other third party, COUNTY in its sole discretion, may require CITY to either: (i) restore at CITY's sole cost and expense the License Area, or COUNTY's improvements, to their original quality and condition; or (ii) COUNTY may restore the License Area(s), or improvements, and invoice CITY for COUNTY's costs incurred restoring the damaged License Area(s), or improvements; whereupon CITY agrees to reimburse COUNTY within thirty (30) days of receipt of an invoice for such expenses. COUNTY shall submit reasonable documentation for all expenses incurred. COUNTY, in the event requires any part of the License Areas (s) for its own use, reserves the right to request the CITY to relocate the License Area(s) in whole or in part to another location within the COUNTY Land.

#### **6. Indemnification**

CITY shall indemnify and hold harmless Miami-Dade County and all affiliates and subsidiaries thereto, and all officers, directors, employees and agents thereof (collectively the "County Entities"), from any damages or liability to persons or property that might arise from the use of the License Area(s) by CITY, County Entities' customers, suppliers, employees, and tenants or anyone else using the License Area(s) to the extent allowed by law. However, nothing herein shall be deemed to indemnify the County Entities from any liability or claim arising out of the negligent performance or failure of performance of the DTPW, County Entities, or any unrelated third party.

#### **7. Insurance**

CITY agrees that it:

- i. Expressly understands and agrees that any insurance protection required by this AGREEMENT or otherwise provided by its contractor shall in no way limit the

responsibility to indemnify, keep and save harmless and defend the COUNTY or its representatives, officers, employees, agents and instrumentalities as herein provided.

- ii. CITY or its contractors shall obtain insurance prior to commencement of operations and maintain required coverages during the construction and by adding the COUNTY as an additional insured party.
- iii. CITY or its Contractors shall submit properly executed Certificates of Insurance as evidence of required coverages.
- iv. CITY or its Contractors shall have the Certificates signed by its authorized representative and furnish Certificates to DTPW, 701 N.W. 1<sup>st</sup> Court, Suite 1700, Miami, Florida 33136.
- v. CITY or its Contractors shall submit required limits of coverage of insurance not less than the following:
  - a. General Liability on a comprehensive basis, including Explosion, Collapse and Underground Liability coverage in an amount not less than \$10,000,000 combined single limit per occurrence for bodily injury and property damage. The County must be shown as additional insured with respect to this coverage.
  - b. Automobile Liability covering all owned, non-owned and hired automobiles used in connection with the permit, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
  - c. All insurance policies shall be from responsible companies duly authorized to do business under the laws of the State of Florida with the following qualifications:
    - (1) The company must be rated no less than “B” as to management, and no less than “Class V” as to financial strength by the latest edition of Best’s Insurance Guide, published by A.M. Best Company, Oldwich, New Jersey or its equivalent, subject to the approval of the County’s Internal Services Department (ISD)/Risk Management Division.
    - (2) Certificates will indicate no modification or change in insurance without thirty (30) days written advance notice to the County’s ISD/Risk Management Division.
    - (3) Thirty (30) days advanced written notice by registered or certified mail to the County’s ISD/Risk Management must be given for any cancellation, modification or change in insurance, intent not to renew or reduction in the policy coverage. Notice to be sent to Miami-Dade County, ISD/Risk Management Division, 111 NW 1<sup>st</sup> Street, Suite 2340, Miami, FL 33128.

NOTE: Modification or waiver of any aforementioned requirements is subject to approval by ISD Risk Management Division. CITY may provide a surety bond in lieu of the insurance certificate.

## **8. Compliance**

CITY in exercising its rights under this Agreement shall have its contractor(s) comply fully with any applicable federal, state or local laws, regulations, ordinances, permits or other authorizations. CITY shall comply fully with any applicable federal, state or local laws, regulations, ordinances, permits or other authorizations or approvals or other requirements relating to storm water discharges or the control of erosion or sediment discharges from construction projects, including but not limited to the Clean Water Act, 33 U.S.C. § 1251 et seq., and the Storm Water General Permit for Discharges Associated with Construction Activities (collectively the "Storm Water Requirements") (including without limitation preparing a Storm Water Pollution Prevention Plan (if applicable) to avoid negatively impacting any erosion or sediment controls during earth-disturbing activities, if any) in exercising any rights or privileges under this Agreement. CITY agrees to comply with all applicable laws and regulations in constructing and operating driveways and force main and electrical service expansion. CITY recognizes and affirms that COUNTY would not enter into this AGREEMENT without these representations.

## **9. Payment & Notices**

Any reimbursable due under this AGREEMENT (payment reimbursing for an expenditure made on behalf of CITY) or DTPW Spotter fees should be sent to either of the following addresses:

(Regular Mail)  
Miami-Dade Department of Transportation and Public Works  
Finance Receivable – General Accounting Office  
P.O. Box 1010791  
Miami, Florida 33128

Or

(Overnight Mail)  
Miami-Dade Department of Transportation and Public Works  
Finance Receivable – General Accounting Office  
701 NW 1<sup>st</sup> Court, 13<sup>th</sup> Floor  
Miami, Florida 33136

Any notice to be sent pursuant to this AGREEMENT shall be sent by certified mail, or by any commercially recognized delivery service that offers delivery verification to the addresses below. Such notices shall be deemed received upon delivery or refusal of delivery.

### **To DEPARTMENT:**

(Notices and Mails)

Miami-Dade Department of Transportation and Public Works  
Attn: The Director  
70 I NW 1<sup>st</sup> Court, 17<sup>th</sup> Floor  
Miami, Florida 33136-3924  
Tel. 786-469-5206

Or

(Notices and Mails)  
Miami-Dade Department of Transportation and Public Works  
Attn: Chief, Right-of-Way, Utilities & Property Management  
70 I NW 1<sup>st</sup> Court, 15<sup>th</sup> Floor  
Miami, Florida 33136-3924  
Tel. 786-469-5244

**To CITY:**

City of Coral Gables  
Attn: City Manager or Designee  
Assistant City Manager for Operations and Infrastructure  
405 Biltmore Way, Coral Gables, Florida 33134  
Tel. 305-460-5201

**10. Term**

The term of this Agreement and the licenses created hereby shall be for a term of thirty (30) years from the Effective Date, with two automatic renewal term of 15 years each, unless otherwise terminated by written agreement of the parties or terminated in accordance with paragraphs 10 or 12 herein.

**11. Termination**

The Grantor issues this License to the Grantee, which may be revoked at any time by the Grantor, upon providing ninety (90) days written notice to the City that the License Area is needed by County or for any transportation related purpose. All personal property, additions, Access Improvements (as defined herein), and/or any other improvements shall be demolished and removed at the expiration or early termination of this Agreement by Grantee at its sole expense, unless expressly permitted by Grantor in writing, in which case said personal property, additions, Access Improvements, and/or other improvements shall be and remain part of the License Area and/or ownership of Grantor.

**12. Permits and Licenses**

Grantee shall secure, maintain and comply with all required licenses, permits and certificates relating to, or otherwise necessary or appropriate for, the construction, installation, repair, replacement and maintenance of Grantee's improvements. Grantee shall comply with any and all applicable federal, state and local laws, rules, regulations, statutes, codes, orders and ordinances, including, but not limited to, those governing the prevention, abatement and elimination of pollution and/or protection of the environment and the employment of its workers. Grantee acknowledges that it is Grantee's sole responsibility to obtain any necessary governmental permits to perform any

required maintenance checks, and to abide by any governmental regulations associated with the use, construction, patrolling, replacement and maintenance of Grantee's improvements, as applicable.

**13. Default by Grantee**

If CITY or its contractor(s) default in the performance of any provision contained in this AGREEMENT, COUNTY may terminate this AGREEMENT following written notice and a fifteen-(15) day period during which CITY shall have the opportunity to cure such default to DTPW's satisfaction, in COUNTY's reasonable discretion.

**14. Effective Date**

This AGREEMENT shall become effective on the date first written above.

**15. No Property Rights**

This Agreement does not grant City any right to County property, or property rights, except as expressly provided herein.

**16. Headings**

The headings of the paragraphs contained herein are intended for reference purposes only and shall not be used to interpret the agreements contained herein or the rights granted hereby.

**17. Counterparts**

This document, and any modifications, may be executed in one or more counterparts, including by facsimile, all parties need not be signatories to the same documents, and all counterpart signed documents shall be deemed to be an original and one (1) instrument.

**18. Venue & Law**

Any litigation regarding this action shall have a venue in Miami-Dade County, Florida, and Florida law shall apply. This License Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, without application of its conflict of law principles.

**19. Entire Agreement**

This AGREEMENT embodies and constitutes the entire understanding between Miami-Dade County, a political subdivision of the State of Florida, and the City of Coral Gables, a municipality of the State of Florida concerning the rights granted herein and all prior contemporaneous agreements, understandings, representations, and statements, oral or written, with respect thereto are merged herein.

**20. Recordation**

This document shall be recorded in the Public Records of Miami-Dade County, Florida by CITY at CITY'S expense.



[Signature Pages Follow]

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

Party of the First Part:

**MIAMI-DADE COUNTY**, a political subdivision of the State of Florida

ATTEST:

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Party of the Second Part:

**City of Coral Gables**, a municipality of the State of Florida

ATTEST:

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Legal Sufficiency:

\_\_\_\_\_  
Bruce Libhaber, Assistant Attorney, CAO

**EXHIBIT "A"**