

RESOLUTION NO. 2008-325

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF A MASTER AGREEMENT FOR THE MAINTENANCE OF MASTER PAINT ON TRAFFIC SIGNAL MAST ARMS BY A NAMED THIRD PARTY, AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE MASTER AGREEMENT, AND ANY OTHER ASSOCIATED DOCUMENTS ON BEHALF OF THE COUNTY

WHEREAS, St Johns County requires any private entity desiring to paint Mast Arms to also agree to accept the paint maintenance in perpetuity as part of the Development Agreement.

WHEREAS, St Johns County adopts the proposed Master Agreement (Mast Arm Paint Maintenance Agreement 3rd Party.doc) as the legal document required between St Johns County and a third party for the County to consider the installation of mast arm paint.

WHEREAS, the Florida Department of Transportation (FDOT) has recently experienced problems with paint peeling off traffic signal mast arm surfaces, within the State of Florida, and particularly within Duval County; and

WHEREAS, the FDOT has decided to discontinue the practice of installing painted signal Mast Arms on the State Highway System; and

WHEREAS, the FDOT has recently adopted a policy that establishes a galvanized finish as the standard for traffic signal Mast Arms; and

WHEREAS, the County has subsequently adopted the same policy with respect to galvanized finishes for traffic signal Mast Arms; and

WHEREAS, to the extent that the County permits paint on traffic signal Mast Arms, the County must execute an agreement with the FDOT (a copy attached and incorporated herein); and

WHEREAS, certain third parties (primarily developers and Home Owners Associations) desire to paint traffic signal Mast Arms; and

WHEREAS, the County has crafted a Master Mast Arm Paint Maintenance Agreement Template, in order to secure a commitment for on-going Mast Arm Paint Maintenance by a named third party; and

WHEREAS, the County has reviewed the terms, provisions, conditions, and requirements contained in the Master Mast Arm Paint Maintenance Agreement Template for use by named third parties; and

WHEREAS, the County has determined that approving the attached Master Mast Arm Paint Maintenance Agreement Template for use by named third parties is in the best interests of the County.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA AS FOLLOWS:

Section 1. The above recitals as hereby incorporated into the body of this Resolution and adopted as findings of fact.

Section 2. The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of the attached Master Mast Arm Paint Maintenance Agreement Template.

Section 3. The Board of County Commissioners authorizes the County Administrator, or designee, to execute, on behalf of the County, the approved Agreement Template, in substantially the form attached to this Resolution, in order to secure a commitment for on-going Mast Arm Paint Maintenance by a third party.

Section 4. The Board of County Commissioners authorizes the County Administrator, or designee, to execute on behalf of the County, any other documents associated with Mast Arm Paint Maintenance, specifically including, any Agreements required by the State or the FDOT.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 18th day of November, 2008.

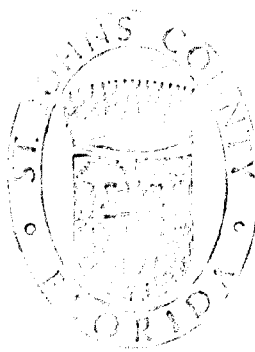
BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

Attest: Pam Halterman
Deputy Clerk

By: Cyndi Stevenson
Cyndi Stevenson, Chair

Effective Date: November 18, 2008

RENDITION DATE 11/18/08



PERMIT AND HOLD HARMLESS AGREEMENT
Mast Arm Paint Maintenance

This permit and Hold Harmless Agreement is made this ____ day of _____, _____, by and among _____ (Association), whose address is _____, and ST. JOHNS COUNTY (County), whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084 ("County").

The Mast Arms desired to be painted are located at:

Main Road: _____ Cross Street: _____

Mast Arm 1 is located in the (NE, NW, SE, SW) _____

Mast Arm 2 is located in the (NE, NW, SE, SW) _____

Mast Arm 3 is located in the (NE, NW, SE, SW) _____

Mast Arm 4 is located in the (NE, NW, SE, SW) _____

RECITALS:

- A. **WHEREAS, the Association has requested the County allow the Association to paint the Mast Arm(s) of the above-referenced traffic signal Mast Arms; and**
- B. **WHEREAS, St Johns County has agreed to allow the painting and maintain the paint on the Mast Arms at the Association's request; and**
- C. **WHEREAS, the Association shall be responsible for the full financial obligation of the mast arm paint maintenance for so long as this Agreement is effective; and**
- D. **WHEREAS, the Association acknowledges the responsibility for correcting any deficiencies related to the traffic signal paint as outlined in the current "Traffic Signal Maintenance and Compensation Agreement" and that this maintenance responsibility includes the paint. In the event that the painted mast arms are located on an FDOT facility a letter must be sent to FDOT between the County and FDOT which provides acceptance of this responsibility by St. Johns County and serves as acknowledgement that this maintenance activity is clearly the responsibility of our agency; and**
- E. **WHEREAS, the potential cost of repainting the mast arms is estimated to be approximately \$15,000.00 per pole, and upwards of \$60,000.00 or more per intersection, depending on the size and configuration of the intersection (based on 2008 dollars). Maintenance of paint may be less expensive.**

- F. Given this acknowledgement, the Association desires the mast arms located as identified above be painted.

NOW, THEREFORE, the Association and County in consideration of the premises, the legal sufficiency of which is acknowledged by each, agree as follows:

1. **The above Recitals are incorporated by reference in to the body of this Agreement, and such Recitals are adopted as Findings of Fact.**
2. **Unless terminated under the terms and/or procedure noted in this Agreement, then this Agreement shall endure and continue for so long as the Association remains responsible for maintenance, repair, and/or replacement of paint on the Mast Arm(s) noted and/or designated elsewhere in this Agreement.**
3. **With respect to the Association's periodic maintenance, repair, and/or replacement of paint on the noted/designated Mast Arm(s), it is the intent of the County to ensure through inspection, that maintenance, repair, and/or replacement of paint on the noted/designated Mast Arm(s) is conducted as the need arises.**
4. **The Association is expected to comply with, and adhere to, the following conditions associated with the maintenance, repair, and/or replacement of paint on the noted/designated Mast Arm(s):**
 - a. The cost of painting mast arms shall be solely paid by the Association or any developer who owns the tract of land on which the Mast Arm Paint is desired.
 - b. The cost of maintenance, repair or replacement of any Mast Arm Paint shall be paid by the Association. The Mast Arm Pain Maintenance Services shall be completed through St Johns County and directly reimbursed by the Association.
 - c. Prior to installation of any Mast Arm Paint Improvements within Rights of Way, the Association shall submit an Application for Right of Way Permit for review and approval from the Public Works Department of St. Johns County, Florida.
 - d. Mast Arm Painting shall be completed initially by the **Mast Arm** manufacturer during the fabrication process and shall have an initial 5-year warranty on finish to be provided to St Johns County.

5. **To the extent that there are concerns associated with the maintenance, repair, and/or replacement of paint on the noted/designated Mast Arm(s), the County shall inform, in writing, the Association of the precise nature of the concerns, and demand cure and/or correction of the concern within forty-five days of the original written notice. To the extent that the County does not grant relief to the Association, the Association will perform all necessary activities, in order to correct and/or cure the original concern of the County. Should the Association not receive relief from the County, or correct and/or cure the original concern, the County may, at its sole option correct and/or cure the original concern, and then demand payment from the Association for all costs, fees, and charges incurred by the County in correcting and/or curing the original concern.**
6. **The County shall have no liability toward the Association with regard to any activities associated with the maintenance, repair, and/or replacement of paint the noted/designated Mast Arm(s) by the Association. Specifically, the County shall be shielded from, and have no liability (administrative, legal, equitable, or otherwise) for any negligent or intentional act or omission caused or directed by the Association.**
7. Prior to acceptance of the mast arm signals and paint finish by the County, the Association shall indemnify, defend and hold the County harmless from any loss, damage, suit, judgment, action, cost or expense incurred or brought against the County, including personal injury and property damage, resulting from or arising out of the placement, construction, or existence of the Mast Arm Paint Improvements. Subsequent to acceptance of the dedication of Mast Arm Paint by the County, the Association shall indemnify, defend and hold the County harmless from any loss, damage, suit, judgment, action, cost or expense incurred or brought against the County, including personal injury and property damage resulting from the maintenance or failure to maintain the Mast Arm Paint Improvements due to the removal by Association or County, as well as any damage caused by the forces of any natural occurrence.
8. This Permit and Hold Harmless Agreement shall touch and concern the Mast Arm Paint at the location of the subject intersection, whether in existence on the date hereof or constructed in the future.
9. **If any word, phrase, sentence, part, subsection, section, or other portion of this Agreement, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, or other portion, of the proscribed application thereof, shall be severable, and the remaining portions of this Agreement, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force, and effect.**

10. **This Agreement shall be construed according to the laws of the State of Florida. Venue for any legal action arising under this Agreement shall be in St. Johns County, Florida.**

IN WITNESS WHEREOF, the parties have set their hands and/or seals, as of the _____ day of _____, 20__.

**DRAFT LETTER TO BE PLACED ON LOCAL GOVERNMENT
LETTERHEAD
(Document 3)**

Date

Florida Department of Transportation
ATTN: Jim Scott, P.E., District Two Traffic Operations Engineer
2198 Edison Avenue
Jacksonville, FL 32204

Subject: Painting Mast Arms at Intersection of SR-207/Holmes Blvd/Rolling Hills Drive

Dear Secretary Baldwin:

St. Johns County acknowledges the responsibility for correcting any deficiencies related to the traffic signal as outlined in the current "Traffic Signal Maintenance and Compensation Agreement" and that this maintenance responsibility includes the paint. This letter provides acceptance of this responsibility by St. Johns County and serves as acknowledgement that this maintenance activity is clearly the responsibility of our agency. The potential cost of repainting the mast arms is estimated to be approximately \$15,000.00 per pole, and upwards of \$60,000.00 or more per intersection, depending on the size and configuration of the intersection (based on 2008 dollars).

Given this acknowledgement, (Insert Local Governments Name) request the mast arms located as identified above to be painted.

Respectfully,

(Local Government Official's Signature and title (County Manager, City Manager, or Public Works Director)

Must be an original document on letterhead with original signature.