

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
LOCALLY FUNDED AGREEMENT**

THIS Locally Funded Agreement ("Agreement"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and the City of Fort Lauderdale located at 100 N. Andrews Avenue, Fort Lauderdale, FL 33301, hereinafter called the PARTICIPANT.

WITNESSETH

WHEREAS, the PARTICIPANT is providing the DEPARTMENT with financial assistance for certain improvements in connection with the DEPARTMENT's bike and pedestrian work along Old Dixie Highway from NE 13<sup>th</sup> Street to south end of Bridge over Middle River in Broward County, Florida. (Financial Management (FM) Number 432949-1-52-01, Funded in Fiscal Year 2016/2017); and

WHEREAS, the PARTICIPANT has requested that the DEPARTMENT perform the following additional work: Construction (installation) of two neighborhood monument signs and landscaping (Financial Management (FM) Number 432949-1-52-02, Funded in Fiscal Year 2016/2017) as set forth in **Exhibit A** attached hereto and made a part hereof and hereinafter referred to as the Project; and

WHEREAS, the improvements are in the interest of both the PARTICIPANT and the DEPARTMENT and it would be more practical, expeditious, and economical for the DEPARTMENT to perform such activities; and

WHEREAS, the PARTICIPANT by Resolution No. \_\_\_\_\_ adopted on \_\_\_\_\_, 20\_\_\_\_, a copy of which is attached hereto and made a part hereof, authorizes the proper officials to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the parties agree to the following:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The DEPARTMENT shall be responsible for assuring that the Project complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards.
3. The PARTICIPANT agrees to make all previous studies, maps, drawings, surveys and other data and information pertaining to the Project available to the DEPARTMENT at no extra cost.

4. The total cost for the Project and the DEPARTMENT's work is estimated to be TWO MILLION EIGHT HUNDRED NINETY SIX THOUSAND FIVE HUNDRED SEVENTY TWO DOLLARS AND NO CENTS (\$2,896,572.00). The PARTICIPANT'S share for the Project is estimated at EIGHTY SEVEN THOUSAND FOUR HUNDRED FIFTY DOLLARS AND NO CENTS (\$87,450.00), which sum shall be paid to the DEPARTMENT. In the event the actual cost of the Project is less than the PARTICIPANT's payment, the difference shall be refunded to the PARTICIPANT. In the event the actual cost of the Project, without modifications, results in a sum greater than that paid by the PARTICIPANT, then any additional cost shall be the sole responsibility of the PARTICIPANT and shall be paid to the DEPARTMENT.

A. The PARTICIPANT agrees that it will, within thirty (30) days of execution of this Agreement, furnish the DEPARTMENT with a check in the amount of EIGHTY SEVEN THOUSAND FOUR HUNDRED FIFTY DOLLARS AND NO CENTS (\$87,450.00) towards the Project Costs.

In the event payment is not received by the DEPARTMENT within thirty (30) days of execution of this Agreement, the DEPARTMENT reserves the right to terminate this Agreement and remove the two monument signs and landscaping.

Remittance shall be made payable to the Department of Financial Services, Revenue Processing. Payment shall be clearly marked to indicate that it is to be applied to FM No. 432949-1-52-02. The DEPARTMENT shall utilize this amount towards costs of Project No. 432949-1-52-02.

Payment shall be mailed to:  
Florida Department of Transportation  
Program Management, Attention: Leos A. Kennedy, Jr.  
3400 W. Commercial Boulevard  
Fort Lauderdale, Florida 33309-3421

B. The PARTICIPANT's share of the accepted bid for the Project (hereinafter referred to as "Accepted Bid") and the Department's work plus allowances is hereinafter defined as the "Total Accepted Bid". If the PARTICIPANT's share of the accepted bid plus allowances is in excess of the advance deposit amount, the PARTICIPANT will provide an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT or prior to posting of the accepted bid, whichever is earlier, so that the total deposit is equal to the bid amount plus allowances. The DEPARTMENT will notify the PARTICIPANT as soon as it becomes apparent the accepted bid amount plus allowances are in excess of the advance deposit amount; however, failure of the DEPARTMENT to so notify the PARTICIPANT shall not relieve the PARTICIPANT from its obligation to pay for its full participation. If the PARTICIPANT cannot provide the additional deposit within fourteen (14) calendar days, a letter must be submitted to and approved by the DEPARTMENT's Project Manager indicating

when the deposit will be made and the DEPARTMENT's written consent to the payment of the additional deposit and said date. The PARTICIPANT understands the request and approval of the additional time could delay the Project, and additional costs may be incurred due to delay of the Project. In the event of non-payment, the DEPARTMENT reserves the right to terminate this Agreement and remove the Project and the DEPARTMENT's roadway work from the Department's Work Program.

- C. If the PARTICIPANT's payment for the accepted bid amount plus allowances is less than the advance deposit amount, the DEPARTMENT will refund the amount that the advance deposit exceeds the PARTICIPANT's payment for the accepted bid amount plus allowances if such refund is requested by the PARTICIPANT in writing.
- D. Should Project modifications occur that increase the PARTICIPANT's payment for the Project, the PARTICIPANT will be notified by the DEPARTMENT. The PARTICIPANT agrees to provide, without delay, in advance of the additional work being performed, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the Project. The DEPARTMENT shall notify the PARTICIPANT as soon as it becomes apparent the actual costs will overrun the award amount; however, failure of the DEPARTMENT to so notify the PARTICIPANT shall not relieve the PARTICIPANT from its obligation to pay for its full participation. Funds due from the PARTICIPANT, for the Project, not paid within forty (40) calendar days from the date of the invoice are subject to an interest charge at a rate established pursuant to *Section 55.03, F.S.*
- E. The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty (360) days of final payment to the Contractor. The DEPARTMENT considers the Project and the resurfacing work complete when the final payment has been made to the Contractor, not when the construction work is complete. All Project & construction cost records and accounts shall be subject to audit by a representative of the PARTICIPANT for a period of three (3) years after final close out of the Project and the resurfacing work. The PARTICIPANT will be notified of the final cost. Both parties agree that in the event the final accounting of total Project costs pursuant to the terms of this Agreement is less than the total deposits to date, a refund of the excess will be made by the DEPARTMENT to the PARTICIPANT. If the final accounting is not performed within three hundred sixty (360) days, the PARTICIPANT is not relieved from its obligation to pay.
- F. In the event the final accounting of total Project costs indicate that the Project costs are greater than the total deposits to date, the PARTICIPANT will pay the additional amount within forty (40) calendar days from the date of the invoice from the DEPARTMENT. The PARTICIPANT agrees to pay interest at a rate as

established pursuant to *Section 55.03, F.S.*, on any invoice not paid within forty (40) calendar days until the invoice is paid.

5. Upon completion of the Project, the PARTICIPANT will comply with the provisions set forth in the Highway Maintenance Memorandum of Agreement (HMMOA) which is attached hereto and made a part hereof as **Exhibit B**. The PARTICIPANT shall agree to maintain the Project in accordance with the terms of the **Exhibit B**. The terms of this paragraph shall survive the termination of this Agreement.
6. In the event it becomes necessary for either party to institute suit for the enforcement of the provisions of this Agreement, each party shall be responsible to pay their own attorney fees and court costs. Venue with respect to any such litigation shall be in Broward County.
7. The PARTICIPANT / Vendor/ Contractor:
  - (A) 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 PARTICIPANT/ Vendor/Contractor during the term of the contract; and
  - (B) 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 contract term.
8. This Agreement and any interest herein shall not be assigned, transferred or otherwise encumbered by the PARTICIPANT under any circumstances without the prior written consent of the DEPARTMENT. However, this Agreement shall run to the DEPARTMENT and its successors.
9. Except as otherwise set forth herein, this Agreement shall continue in effect and be binding to both the PARTICIPANT and the DEPARTMENT until the Project and the roadway work is completed as evidenced by the written acceptance of the DEPARTMENT, or June 30, 2019, whichever occurs first.
10. The PARTICIPANT warrants that it has not employed or obtained any company or person, other than bona fide employees of the PARTICIPANT, to solicit or secure this Agreement, and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee employed by the PARTICIPANT. For breach or violation of this provision, the DEPARTMENT shall have the right to terminate the Agreement without liability.
11. This Agreement is governed by and construed in accordance with the laws of the State of Florida.
12. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings

concerning the subject matter of this agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

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

If to the DEPARTMENT:

Florida Department of Transportation - District Four  
3400 West Commercial Blvd.  
Fort Lauderdale, Florida 33309-3421  
Attn: Leos A. Kennedy, Jr.  
With a copy to: Brent Lee Shue Ling  
A second copy to: Office of the General Counsel

If to the PARTICIPANT:

City of Fort Lauderdale  
290 NE 3<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301  
Attn: Karen Mendrala  
With a copy to: City Attorney

A second copy to: Diana Alarcon  
City of Fort Lauderdale  
100 N. Andrews Avenue  
Fort Lauderdale, Florida 33301

\*\*\*\*\*

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IN WITNESS WHEREOF, this Agreement is to be executed by the parties below for the purposes specified herein. [Authorization has been given to enter into and execute this Agreement by Resolution No \_\_\_\_\_, hereto attached.]

AGENCY  
CITY OF FORT LAUDERDALE, through its  
CITY COMMISSION

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
NAME: John "Jack" P. Seiler  
TITLE: Mayor  
\_\_\_\_\_ day of \_\_\_\_\_, 2016

BY: \_\_\_\_\_  
STACY L. MILLER, P.E.  
DIRECTOR OF TRANSPORTATION DEVELOPMENT

ATTEST:

LEGAL REVIEW:

\_\_\_\_\_  
Jeffrey A. Modarelli, City Clerk

BY: \_\_\_\_\_  
OFFICE OF THE GENERAL COUNSEL

(SEAL)

APPROVED:

\_\_\_\_\_  
Lee R. Feldman, City Manager

BY: \_\_\_\_\_  
DISTRICT PROGRAM MANAGEMENT ADMINISTRATOR

Approved as to form by Office of City Attorney:

BY: \_\_\_\_\_  
Cole J. Copertino, Assistant City Attorney

**Exhibit A**  
**Scope of Services**  
**FM# 432949-1-52-02**

The scope of services for the Project includes but is not limited to the following:

- Construction (installation) of two monument signs
- Construction (installation) of landscaping

## **EXHIBIT B**

# **HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE CITY OF FORT LAUDERDALE**



SECTION No.: 86000164/86000264  
FM No.: 432949-1  
AGENCY: City of Ft. Lauderdale

**DISTRICT FOUR  
HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the DEPARTMENT and City of Fort Lauderdale a municipal corporation existing under the Laws of Florida, hereinafter called the AGENCY.

**WITNESSETH:**

**WHEREAS**, the AGENCY has jurisdiction over Old Dixie Highway , as part of the City of Fort Lauderdale Roadway System from NE 13<sup>th</sup> Street to S End of Bridge Over Middle River; and

**WHEREAS**, pursuant to Sections 339.07, 339.08 and 339.12, Florida Statutes and Federal funding provisions the DEPARTMENT is authorized to undertake projects within the AGENCY geographical limits and the AGENCY is desirous of having this improvement constructed; and

**WHEREAS**, in accordance with Title 23, U.S. Code, Section 116 and Federal Highway Administration regulations issued pursuant thereto, there must be an agreement from the AGENCY to maintain the project; and

**WHEREAS**, pursuant to such authority, the DEPARTMENT and the AGENCY are desirous of having the DEPARTMENT construct certain improvements more particularly described as Financial Project ID 432949-1, which involves widening the roadway to accommodate 10 foot lanes with 4 foot bike lanes, a new 5 foot sidewalk on the east side of the street, swales for drainage, tabled intersections, pedestrian lighting, new crosswalks, and landscape, hereinafter referred to as the "Project", as more particularly described in **Exhibit A**.

**WHEREAS**, a Local Funding Agreements between the AGENCY and the DEPARTMENT will be executed on or about the same time as this agreement

**WHEREAS**, upon acquisition of the necessary right-of-way, if needed, the DEPARTMENT will proceed to construct the Project; 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 Action/Resolution on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, a copy of which is 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 DEPARTMENT has undertaken and obtained the approval of Federal participation for the Project, as more particularly described in **Exhibit A**.
2. The AGENCY shall allow the DEPARTMENT and its contractors to enter onto the existing AGENCY property, including easements on property acquired by the DEPARTMENT, to construct this Project. No further permit or agreement shall be required to construct this project.
3. The AGENCY shall continue to maintain the existing roadway and any property owned by AGENCY until the DEPARTMENT begins construction of the Project.
4. It is understood and agreed by the parties that upon "final acceptance" by the DEPARTMENT of the Project, (as that term is described in the Standard Specifications for Roadway and Bridge Construction dated 2015, as amended by contract documents), and Notice thereof to the AGENCY, the AGENCY shall be responsible for maintenance of said Project, at its own cost, in accordance with the following Federally and State accepted standards and all costs related thereto: (a) FDOT Plans Preparation Manual (PPM), current edition, (b) Florida Green Book dated 2011, as amended (c) Governing standards and specifications: FDOT Design Standards dated 2015, as amended (d) Standard Specifications for Roadway and Bridge Construction dated 2015, as amended by contract documents, and (e) Manual on Uniform Traffic Control Devices (MUTCD), current edition, or as amended. Maintenance of said Project includes, but is not limited to, roadway, bike lanes, sidewalk, drainage, swales, lighting, landscape, and pavement markings and signing. The Department shall give the AGENCY ten (10) days notice before final acceptance.
  - The AGENCY grants herein to the DEPARTMENT all rights necessary to enter and construct the Project.
5. The AGENCY shall execute "Local Government Right of Way Certification Statement", attached as **Exhibit B**, indicating that the PROJECT can be completed within the public right of way, and/or that no additional right of way is required.
6. Warranties: The DEPARTMENT shall transfer any applicable warranties to the AGENCY.
7. Environmental permitting: If requested by the DEPARTMENT, the AGENCY shall sign as a joint applicant and be responsible for the permits related to the Project. Further the AGENCY shall be in compliance with all permits after the construction is complete and the right of way is transferred to the AGENCY. To the extent permitted by law, the AGENCY shall indemnify the DEPARTMENT for any violations by the AGENCY of any permits issued to the Department or jointly to the AGENCY and the DEPARTMENT after construction is complete. The AGENCY shall execute all documentation required

by the permitting agencies in a timely manner to accept transfer of the Project. For various occupancy permits the AGENCY shall be the applicant.

8. Utilities: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to accomplish utility relocations for this Project. This shall include, but not be limited to, entering into utility subordination agreements with the affected utility owners, thereby assuming liability for future utility relocations within the AGENCY right of way and proposed right of way. This shall also include having the AGENCY require the Utility to relocate or adjust if the utility is there by permit, as necessary.
9. Signals: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to affect signal and interconnect connections for the Project.
10. Drainage: The AGENCY shall cooperate with the DEPARTMENT to implement a working drainage system connected to the AGENCY'S existing system, as appropriate.
11. Unforeseen issues: If unforeseen issues shall arise, the AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, in order to construct the Project including but not limited to executing documents, allowing the DEPARTMENT or its contractor to enter into any real property owned, possessed and controlled by the AGENCY or any other Occupancy right the AGENCY may have.
12. E-verify requirements: The AGENCY:
  - 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
  - shall expressly require any contractors 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 contractor during the contract term.
13. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings as represented in the Final Proposed Construction plans. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.
14. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.
15. LIST OF EXHIBITS
  - **Exhibit A:** Project Improvements and Scope
  - **Exhibit B:** Local Government Right-Of-Way Certification Statement

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year provided below.

AGENCY

ATTEST:

CITY OF FORT LAUDERDALE, through its  
CITY COMMISSIONERS

\_\_\_\_\_  
Jeffrey A. Modarelli, City Clerk

By: \_\_\_\_\_  
John "Jack" P. Seiler, Mayor

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Lee R. Feldman, City Manager

Approved as to form by Office of City Attorney

By: \_\_\_\_\_  
Cole Copertino, Assistance City Attorney

DEPARTMENT

ATTEST:

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
Executive Secretary  
(SEAL)

By: \_\_\_\_\_  
Transportation Development Director

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Approval:

\_\_\_\_\_  
Office of the General Counsel (Date)

**SECTION No.: 8600164/86000264**

**FM No.: 432949-1**

**AGENCY: City of Ft Lauderdale**

**EXHIBIT A**  
**PROJECT SCOPE**

All of the improvements are to be completed by DEPARTMENT within the AGENCY's existing Old Dixie Highway right-of-way.

**Typical Section**

Widen road as needed to provide 10' travel lanes and 4' bike lanes in each direction

Construct 5' sidewalk on east side

Construct sidewalk as necessary on the west side to repair or fill in existing sidewalk gaps

**Roadway Improvements**

Construct raised table intersections

Stamped asphalt in crosswalks and tabled intersections

**Signing and Pavement Markings**

Create crosswalks at sidestreets along the corridor

**Drainage**

Regrade swales as needed to restore drainage and create bio swales

**Lighting**

Construct pedestrian lighting

**Structural**

Construct neighborhood monument signs

**Landscape**

Provide landscape in swales as space permits

# LOCAL GOVERNMENT RIGHT-OF-WAY CERTIFICATION STATEMENT

## No Additional Right of Way Required

LOCAL AGENCY: City of Fort Lauderdale STATE ROAD: Old Dixie Highway

R/W ITEM/SEGMENT NO.: N/A DESCRIPTION: NE 13<sup>th</sup> Street to S End of Bridge Over Middle River

CONST. ITEM SEGMENT NO.: 432949-1

F.A.P. NO.: 8886-481-A LETTING DATE: 10/26/2016

I, the signature below certify and represent that the following interests in land (Right of Way) will NOT be required for the construction of this project:

- Fee Title – land on which a permanent improvement is to be placed and maintained.
- Perpetual Easement – may be used when permanent improvement is to be constructed and maintained on a parcel for which acquisition of fee title is impractical.
- Temporary Easement – used when it is necessary to temporarily occupy a parcel. No improvement that is a permanent part of the transportation facility or that requires maintenance beyond the term of the easement will be constructed on the temporary easement.

The right of way maps/sketches have been compared to the construction plans and the right of way, as shown, will accommodate the planned construction. The construction activities will be performed in the existing right of way. The contractor will not be required to temporarily enter upon property not owned by the local government executing this statement for the purpose of restoration and harmonization. There are no encroachments within existing right of way that impact the construction project.

Local Agency: City of Fort Lauderdale

\_\_\_\_\_  
\* SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
TITLE

\*NOTE: (Must be authorized employee of the local agency)