

DUNS No.: 80-939-7102  
CSFA No.: N/A

Contract No.: \_\_\_\_\_  
FM No: 406919-3-78-01  
FEID No: VF-596-000-319

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
JOINT PARTICIPATION AGREEMENT

THIS Joint Participation Agreement (hereinafter referred to as "AGREEMENT"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and City of Fort Lauderdale, located at 100 N. Andrews Avenue, Fort Lauderdale, FL 33309, hereinafter referred to as the PARTICIPANT.

WITNESSETH

WHEREAS, the DEPARTMENT and the PARTICIPANT are desirous of having the PARTICIPANT provide maintenance services in connection with Financial Management (FM) Number 406919-3-78-01 (Funded in Fiscal Year 2015/2016) for perpetual maintenance of an historic CSX bridge in Broward County, Florida. Refer to **Exhibit A**, Scope of Services, attached hereto and made of part hereof; and

WHEREAS, for purposes of this Agreement, perpetual maintenance of the historic bridge as stated above are hereinafter referred to as the Project; and

WHEREAS, the Project is in the interest of both the PARTICIPANT and the DEPARTMENT and it would be more practical, expeditious, and economical for the PARTICIPANT 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 PARTICIPANT shall be responsible for assuring that the Project complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards. The PARTICIPANT shall also be responsible for the administration and overall coordination required for the Project.
3. The DEPARTMENT agrees to make all previous studies, maps, drawings, surveys and other data, and information pertaining to the Project available to the PARTICIPANT at no extra cost.

4. The PARTICIPANT shall have the sole responsibility for resolving claims and requests for additional work for the Project. The PARTICIPANT will make best efforts to obtain the DEPARTMENT's input in its decisions.
5. 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 is completed as evidenced by the written acceptance of the DEPARTMENT or June 30, 2019, whichever occurs first. The obligations of the PARTICIPANT shall survive the lapse or termination of this Agreement.
6. The DEPARTMENT agrees to pay the PARTICIPANT for services related to the Project as described in **Exhibit A**. The total DEPARTMENT's share towards this Project is an amount not to exceed ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00) for actual costs incurred as detailed in annual progress reports. In the event the actual cost of the Project exceeds the DEPARTMENT's participation of ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00), any additional cost shall be the sole responsibility of the PARTICIPANT.
7. The PARTICIPANT acknowledges and agrees that the DEPARTMENT'S obligation to pay the sum set forth herein is contingent upon an annual appropriation by the Florida Legislature.
8. In the event the Project costs or Project modifications increase or exceed the amount authorized in paragraph 6, the DEPARTMENT and the PARTICIPANT shall meet and attempt to mutually agree to the amount and distribution of the additional funding needed to complete the Project. Any funding increase or modifications to the Project shall be added by means of an amendment to the Agreement to be signed by both parties before work is undertaken. However, in the event the PARTICIPANT and the DEPARTMENT fail to negotiate an amendment for any reason whatsoever, then the increase in the Project costs will be the sole responsibility of the PARTICIPANT.
9. The PARTICIPANT shall provide the following quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The deliverables for the Project are shown in **Exhibit B**, Deliverables, attached hereto and a made apart hereof. The PARTICIPANT will need written approval from the DEPARTMENT, if deviating from the Deliverables set forth in **Exhibit B**.
10. The PARTICIPANT will be reimbursed, on an annual basis, only for actual expenses incurred during the Agreement time period that are directly related to the Project as set forth in this Agreement. The PARTICIPANT will submit written progress report by the 15<sup>th</sup> day of the month, following the end of each quarter (January 15<sup>th</sup>, April 15<sup>th</sup>, July

15<sup>th</sup>, October 15<sup>th</sup>) attesting to the actual services performed. Upon completion, the PARTICIPANT will notify the DEPARTMENT's Project Manager or designee, who will be responsible for verifying and accepting the services contemplated in this Agreement.

11. Invoices shall be submitted by the PARTICIPANT, in detail sufficient for proper preaudit and postaudit thereof, based on the quantifiable, measurable, and verifiable units of deliverables as established in **Exhibit B**. Deliverables must be received and accepted in writing by the PARTICIPANT's Project Manager prior to payments.

Supporting documentation must establish that the deliverables were received and accepted in writing by the PARTICIPANT and that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Paragraph 9 has been met.

12. The PARTICIPANT must submit the final invoice to the DEPARTMENT within 180 days after the final acceptance of the Project. Invoices submitted after the 180 day time period may not be paid. The final balance due under this Agreement will be reimbursed upon the completion of all Project services and receipt of final cost documentation and proper submission of a detailed invoice and when the Project has been inspected, approved, and accepted to the satisfaction of the DEPARTMENT in writing. The final invoice shall be accompanied by a Notice of Completion/Acceptance Form, **Exhibit C**, attached hereto and made a part hereof.
13. Payment shall be made only after receipt and approval of the deliverables as described in **Exhibit B**, unless advance payments are authorized by the Department of Financial Services under Section 215.422(14), Florida Statutes, or by the Department's Comptroller under Section 334.044(29), Florida Statutes.
14. The PARTICIPANT providing goods and services to the DEPARTMENT should be aware of the following time frames. Upon receipt of an invoice from the PARTICIPANT, the DEPARTMENT has five (5) business days to inspect and approve the goods and services where business day is defined as any day of the week excluding Saturday, Sunday and any legal holiday as designated in Section 110.117, Florida Statutes. The DEPARTMENT has twenty (20) calendar days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) calendar days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.
15. If payment is not available within forty (40) calendar days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the PARTICIPANT. Interest penalties of less than one (1) dollar will not be enforced, unless the PARTICIPANT requests

payment. Invoices that have to be returned to the PARTICIPANT because of PARTICIPANT preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the DEPARTMENT.

16. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.
17. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this Agreement. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred includes the PARTICIPANT's general accounting records and the Project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the Project, and all other records of the contractor and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs.
18. In the event this contract is for services in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of \$25,000.00 and which have a term for a period of more than 1 year."

19. The PARTICIPANT will comply with all Federal, State, and Local laws and ordinances applicable to the work or payment for work thereof, and will not discriminate on the grounds of race, color, religion, sex, national origin, age, or disability in the performance of work under the Agreement.

20. 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.
21. The PARTICIPANT agrees to include the following indemnification in all contracts with contractors/sub-contractors, or consultants/sub-consultants who performed work in connection with this Agreement:

To the fullest extent permitted by law the PARTICIPANT's contractor shall indemnify and hold harmless the PARTICIPANT, the DEPARTMENT, and its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of contractor and persons employed or utilized by contract in performance of this contract.

This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the DEPARTMENT's and the PARTICIPANT's sovereign immunity.

To the fullest extent permitted by law the PARTICIPANT's consultant shall indemnify and hold harmless the PARTICIPANT, the DEPARTMENT, and its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused, in whole or in part, by the professional negligence, error or omission, recklessness, or intentional wrongful misconduct of the consultant and persons employed or utilized by the consultant in performance of this Agreement.

This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the DEPARTMENT's and the PARTICIPANT's sovereign immunity.

22. 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.

23. In the event it becomes necessary for the DEPARTMENT or PARTICIPANT 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.
24. This Agreement is governed by and construed in accordance with the laws of the State of Florida.
25. 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.
26. 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.
27. 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: Norma Corredor  
With a copy to: Leos Kennedy, Jr.  
With a second copy to: Lynn Kelley, Project Manager  
A third copy to: Office of the General Counsel

If to the COUNTY:

City of Fort Lauderdale  
100 N. Andrews Avenue  
Fort Lauderdale, Florida 33309  
Attn: Elkin Diaz  
With A Copy to: City Attorney

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 \_\_\_\_\_, 2015

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 MGMT ADMINISTRATOR

Approved as to form by Office of City Attorney:

BY: \_\_\_\_\_  
RHONDA MONTOYA HASAN,  
ASSISTANT CITY ATTORNEY

**EXHIBIT “A”**  
**SCOPE OF SERVICES**  
**FM # 406919-3-78-01**

Pursuant to an agreement between the PARTICIPANT and the DEPARTMENT entered into July 10, 2012, (hereinafter the CSX Bridge Relocation Agreement) the DEPARTMENT agreed to pay the PARTICIPANT for the maintenance in perpetuity for the CSX BRIDGE, a 1926 Scherzer Rolling lift bridge. This Joint Participation Agreement should satisfy the onetime payment for the maintenance of the CSX Bridge into perpetuity, under paragraph 7 of the CSX Bridge Relocation Agreement.

The Project shall include, but not limited to the following:

1. The PARTICIPANT shall incorporate the bridge into the pedestrian walkway of the River Oaks Preserve.
2. The PARTICIPANT shall paint the bridge as needed to eliminate rust and corrosion.
3. The PARTICIPANT shall make structural and non-structural repairs as needed to preserve its historic character.
4. The PARTICIPANT shall be responsible for the removal of graffiti and repair of any vandalism.
5. The PARTICIPANT shall maintain the pedestrian decking over the bridge to comply with the Americans with Disabilities Act (ADA) in perpetuity.
6. The PARTICIPANT shall be responsible for maintaining the bridge in accordance with the State Historic Preservation office (SHPO) requirements described in Exhibit B of the CSX Bridge Relocation Agreement.



**EXHIBIT B**  
**DELIVERABLES**  
**FM # 406919-3-78-01**

The following item, listed below is the deliverable for the Project. The DEPARTMENT shall not release payment until this deliverable is accepted in writing by the DEPARTMENT.

The DEPARTMENT's Notice of Completion/Acceptance Form signed by The Florida State Historic Preservation Officer (SHPO), verifying and acknowledging the Installation of a Monumental Plaque for the Project.

**EXHIBIT C**

**NOTICE OF COMPLETION  
FM # 406919-3-78-01**

PROJECT DESCRIPTION: Post construction monitoring and maintenance and perpetual maintenance, FIN Project Number: 406919-3-78-01

In accordance with the Terms and Conditions of this Agreement, the undersigned hereby provides notification that the work authorized by this Agreement is complete as of \_\_\_\_\_, 20\_\_\_\_.

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_