

INTERLOCAL AGREEMENT BETWEEN
POLK COUNTY AND CITY OF AUBURNDALE
FOR THE INTERSECTION DESIGN AT CR-559 AND GAPWAY ROAD

This AGREEMENT is made and entered into by and between the City of Auburndale, Florida, a municipal corporation of the State of Florida, whose address is 1 Bobby Green Plaza, Auburndale, 33823 ("AUBURNDALE") and Polk County, a political subdivision of the State of Florida, whose address is 330 West Church Street, Bartow, Florida 33830 ("COUNTY"). AUBURNDALE, and COUNTY are referred to herein individually as a "Party" and collectively as the "Parties."

WITNESSETH

WHEREAS, COUNTY and AUBURNDALE are authorized under Chapter 163, Florida Statutes, to enter into an Interlocal Agreement to make the most efficient use of their respective powers, resources, authorities, and capabilities by enabling them to cooperate on the basis of mutual advantage and thereby provide the services provided for herein in a manner that will best utilize existing resources, powers and capabilities available to each of them; and

WHEREAS, on or about May 2022, COUNTY and AUBURNDALE jointly participated in a Transportation Master Plan identifying needed transportation infrastructure as development occurs within the Auburndale Utility Service Area to include city, county, and state roadways; and

WHEREAS, the Auburndale Transportation Master Plan, as part of its future infrastructure improvements, recommended the installation of a roundabout to address the future failing level of service at the intersection of County Road 559 (CR-559) and Gapway Road/Lake Van Road (the "Intersection"); and

WHEREAS, AUBURNDALE advanced preliminary design of the roundabout at the Intersection to identify future right-of-way for needed sewer infrastructure at the Intersection; and

WHEREAS, on or about March 2025, COUNTY agreed to move forward with the roundabout concept at the Intersection; and

WHEREAS, COUNTY has identified roundabout improvements at the Intersection in COUNTY'S Capital Improvements Program; and

WHEREAS, COUNTY requires engineered construction documents for the roundabout to identify and acquire the necessary right-of-way at the Intersection; and

WHEREAS, COUNTY and AUBURNDALE mutually desire to enter this Interlocal Agreement ("Agreement") to authorize AUBURNDALE to complete design and engineering of the proposed roundabout at the Intersection (the "Design") for the estimated cost of THREE HUNDRED FORTY-FIVE THOUSAND TWO HUNDRED DOLLARS (\$345,200.00); and

WHEREAS, COUNTY and AUBURNDALE mutually desire that this initial Agreement constitute the Design phase for the roundabout construction and any other associated, necessary improvements at the Intersection (the “Project”). The Parties acknowledge that a separate amendment to this Agreement will be required to define the scope, cost, and schedule for the right-of-way and construction phase of the Project. In addition, the Parties contemplate a future agreement in which COUNTY transfers ownership of portions of CR559 and Gapway Road/Lake Van Road to AUBURNDALE pursuant to Section 335.0415, Florida Statutes.

NOW THEREFORE, in consideration of the mutual terms, covenants, and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

ARTICLE I RECITALS AND DEFINITIONS

1.1 **Recitals.** The foregoing recitals are incorporated herein by reference as if recited in full and serve as a factual stipulation upon which the Parties agree is the basis for this Agreement.

1.2 **Definitions.** The capitalized terms contained herein shall be defined as set forth in the above recitals or as specified in the following paragraphs.

ARTICLE II PROJECT PHASING

2.1 The Parties agree this Agreement constitutes the initial agreement for the design phase only. The Parties agree that a separate amendment, acceptable to both Parties, will be required to define the scope, cost, and schedule for the construction phase of the Project. This Agreement does not include any construction services, and no construction work shall commence until a separate written amendment for the construction phase has been executed by both Parties.

2.2 Upon completion and both Parties’ approval of the final Design phase, the Parties anticipate entering into the subsequent amendment for the right-of-way and construction phase. This subsequent amendment will incorporate the approved final design documents and will specify the scope of work, budget, schedule, and all other terms and conditions applicable to the construction of the Project.

ARTICLE III AUBURNDALE’S RESPONSIBILITIES

3.1 **Scope of Work.** The Parties Agree that AUBURNDALE shall be solely responsible for the design of the roundabout at the Intersection, at an estimated cost of THREE HUNDRED FORTY-FIVE THOUSAND TWO HUNDRED DOLLARS (\$345,200.00). This responsibility includes, but is not limited to, the provision, development, coordination, and procurement of all

necessary design documents, plans, specifications, drawings, and engineering services required for the Project.

3.2 AUBURNDALE shall survey and place stakes marking the Project's future right-of-way and construction limits.

3.3 AUBURNDALE shall comply with the Consultant's Competitive Negotiation Act (CCNA) as required by Section 287.055, Florida Statutes.

3.4 AUBURNDALE shall maintain open communication with COUNTY through the assigned project manager and provide periodic progress reports and documentation about the Design as requested by COUNTY.

ARTICLE IV COUNTY'S RESPONSIBILITIES

4.1 Upon receipt of the final Design from AUBURNDALE, the COUNTY shall evaluate the cost feasibility of acquiring the necessary right-of-way. If the COUNTY determines that the acquisition is feasible, necessary, and serves a demonstrated public purpose, the COUNTY shall proceed with the right-of-way acquisition in accordance with applicable law. Nothing in this Agreement obligates the COUNTY to acquire right-of-way if, in its sole discretion, it determines that such acquisition is not feasible or does not serve a demonstrated public purpose and necessity.

ARTICLE V MISCELLANEOUS PROVISIONS

5.1 **Public Records.** The Parties mutually acknowledge their respective obligations to comply with the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes, and each Party agrees to cooperate with the other in such compliance.

5.2 **Notice.** The Parties hereby agree and understand that written notice, mailed or delivered, shall constitute sufficient notice to the COUNTY and AUBURNDALE. All written notices required and made pursuant to this Agreement shall be in writing and given by way of recognized overnight delivery services, or by United States Postal Services, first class mail, postage prepaid, addressed to the following addresses of record:

5.2.2 Notices to POLK COUNTY shall be:

Polk County
Attn: County Manager
330 W. Church Street
Bartow, Florida 33831

With a copy to:
(which shall not constitute notice)
Polk County

Polk County Attorney's Office
P.O. Box 9005, Drawer AT01
Bartow, Florida 33831

With a copy to:
(which shall not constitute notice)
Division Director
Polk County Roads and Drainage Division
P.O. Box 9005, Drawer TR01
Bartow, Florida 33831

5.2.3 Notices to AUBURNDALE shall be:

City Manager
City of Auburndale
P.O. Box 186
Auburndale, FL 33823

With a copy to:
(which shall not constitute notice)
Frederick J. Murphy, Jr., Esquire
City Attorney
Boswell & Dunlap LLP
P.O. Drawer 30
Bartow, FL 33831-0030

With a copy to:
(which shall not constitute notice)
Director of Public Works
City of Auburndale
P.O. Box 186
Auburndale, FL 33823

5.3 **Severability.** All clauses contained herein shall act independently of each other. If any section, phrase, sentence, or portion of this Agreement is, for any reason, held to be invalid by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

5.4 **Counterparts.** This Agreement may be executed in multiple counterparts each of which shall be an original, but which collectively shall form a single agreement.

5.5 **Effective Date and Term.** This Agreement shall become effective upon execution by both Parties and recording in the Official Records of Polk County (the "Effective Date"). The County shall record this Agreement and any amendments hereto as soon as reasonably possible following the execution by both Parties. This Agreement shall remain in

effect through the completion of the Design concept and the COUNTY'S determination of feasibility regarding right-of-way acquisition.

5.6 **Days.** The term days in this Agreement shall mean calendar days unless otherwise so noted. If a date for performance falls on a Saturday, Sunday, or legal State of Florida or federal holiday, or holiday recognized by the City ("Holiday") the date for performance shall be extended until the next calendar day that is not a Saturday, Sunday, or Holiday.

5.7 **Default and Remedy.** If any Party materially defaults in its obligations under this Agreement and fails to cure the same within thirty (30) days after the date the Party receives written notice of the default from a non-defaulting Party, then the non-defaulting Party shall have the right to (i) immediately terminate this Agreement by delivering written notice to the materially defaulting Party (after expiration of the foregoing cure period), and (ii) pursue any and all remedies available in law, equity, and under this Agreement (after expiration of the foregoing cure period).

5.8 **Limitation of Liability.** IN NO EVENT, SHALL ANY PARTY BE LIABLE UNDER THIS AGREEMENT TO ANY OTHER PARTY OR ANY THIRD PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, RELATING TO, IN CONNECTION WITH, OR RESULTING FROM ANY BREACH OF THIS AGREEMENT BY THE DEFAULTING PARTY, WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY, OR OTHERWISE.

5.9 **Waiver.** Failure by the Parties to insist upon strict performance of any covenant, term, provision, or condition of this Agreement, or to exercise any right or option contained herein, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, or condition, or right of election, but shall remain in full force and effect.

6.1 **Attorneys' Fees and Costs.** Each Party shall be responsible for its own legal and attorneys' fees, costs, and expenses incurred in connection with any dispute or any litigation arising out of, or relating to this Agreement, including attorneys' fees, costs, and expenses incurred for any appellate or bankruptcy proceedings.

6.2 **Amendments.** This Agreement may only be modified or extended in time by a written instrument, mutually accepted by the Parties and executed with the same formality as this Agreement. No oral modifications will be effective or binding. In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and any written amendments hereto, the provisions of the latest executed instrument shall take precedence.

6.3 **Governing Law and Venue.** This Agreement and the rights and obligations of the Parties hereunder shall be interpreted, governed by, construed under, and enforced in accordance

with the applicable laws of the State of Florida, and the ordinances, rules, and regulations of Polk County and/or the City. The Parties hereby consent to the sole and exclusive jurisdiction and venue for any action relating to the construction, interpretation, or enforcement of this Agreement to be in or for the Tenth Judicial Circuit, in Polk County, Florida.

6.4 **Assignment.** This Agreement may not be assigned in whole or in part without the written approval of all Parties. Any such assignment or attempted assignment shall be null and void.

6.5 **Headings.** Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

6.6 **Integration.** This Agreement, including referenced plans, exhibits, and attachments hereto, shall constitute the entire agreement between the Parties and shall supersede, replace, and nullify any and all prior agreements or understandings, either written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or effect whatsoever on this Agreement.

IN WITNESS WHEREOF, the Parties, through their duly authorized representatives, have made and executed this Agreement on the date indicated below.

CITY OF AUBURNDALE
CITY COMMISSIONERS

By: Alexander S. Cam, Mayor

Date: December 15, 2025

POLK COUNTY BOARD OF
COUNTY COMMISSIONERS

By: _____
Martha Santiago, Board Chair

Date:

ATTEST:
Brandon Henry, City Clerk

By: John Doe

Print Name: Brandon Henry

Title: City Clerk

ATTEST:
Stacy M. Butterfield, Clerk to the Board

By: _____

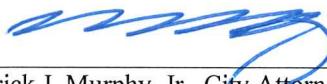
Print Name:

Title: _____

(SEAL)



Reviewed as to Form and Legal Sufficiency

By:  12-15-25
Frederick J. Murphy, Jr., City Attorney Date

Reviewed as to Form and Legal Sufficiency

By: _____
County Attorney's Office _____ Date