

REQUEST FOR LEGAL SERVICES

TO: COUNTY ATTORNEY'S OFFICE (AT01)

ATTENTION: Noah Milov
(CHECK ONE) Heather Bryan

FROM: Robert Collins 863-535-2326 DATE: 2/25/26
(Name and Phone Number)

RETURN TO: Robert Collins TR01 DIVISION: Roads and Drainage

BOARD AGENDA DATE: ~~March 17~~ 4/18/26 COUNTY MANAGER ITEM:

PROJECT: Ridge Scenic Highway (RSH) Connector Trail LAP Agreement and Resolution

CSA/CONTRACT NUMBER: N/A

MODIFICATION NUMBER: CHANGE ORDER NUMBER:

TYPE OF AGREEMENT: LAP Agreement

NAME OF CONSULTANT/CONTRACTOR: N/A

Please indicate any time limits and attach all necessary documentation.
REQUEST IN DETAIL: _____
Reviewed as to form and legal sufficiency
Heather Bryan 3/24/26
County Attorney's Office Date

Please review attachments for the Board Agenda date indicated and return APPROVED documents at your earliest convenience. THANK YOU.

| | | |
|---------------------|----------|--------------------------|
| For CAO Use Only: | | County Attorney |
| Assigned Staff: | Heather | Log-In Date: MAR 24 2026 |
| CAO Project Number: | 2026-202 | Log-Out Date: 3-26-26 |

COUNTY OF POLK, STATE OF FLORIDA

RESOLUTION NO. 2026 - _____

Local Agency Program Agreement (FPN: 452132-1-58-01) with the Florida Department of Transportation for the Ridge Scenic Highway (RSH) Connector Trail proposed east of Scenic Highway along Central Ave., 3rd Street, Seminole Ave., and north on Scenic Highway to connect to the existing Lake Wales Trail Way.

A RESOLUTION OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS AUTHORIZING THE EXECUTION OF THAT CERTAIN LOCAL AGENCY PROGRAM (LAP) AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION.

WHEREAS, the Polk County Board of County Commissioners have the authority to enter into a LAP Agreement with the Florida Department of Transportation to undertake a project as authorized by Florida Statute § 339.08.

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Polk County, Florida that:

1. The LAP Agreement with the Florida Department of Transportation for the Ridge Scenic Highway Connector Trail Project east of Scenic Highway along Central Ave., 3rd Street, Seminole Ave., and north on Scenic Highway to connect to the existing Lake Wales Trail Way is approved; and
2. The Chairperson of the Board of County Commissioners, or in his/her absence the Vice Chairperson, is hereby authorized to enter into, modify, or terminate the LAP Agreement with the Florida Department of Transportation, unless specifically rescinded.

DULY ADOPTED this ____ day of _____, 2026.

ATTEST:

STACY M. BUTTERFIELD, CLERK

BOARD OF COUNTY COMMISSIONERS POLK COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____

Date: _____

Reviewed as to form and legality:

By: Heather Bryan 4/10/2026
County Attorney's Office Date

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
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| | | |
|--------------------------------------|---------------------------|---------------------------|
| FPN: <u>452132-1-58-01</u> | FPN: _____ | FPN: _____ |
| Federal No (FAIN): <u>D125-106-B</u> | Federal No (FAIN): _____ | Federal No (FAIN): _____ |
| Federal Award Date: _____ | Federal Award Date: _____ | Federal Award Date: _____ |
| Fund: <u>ACSU</u> | Fund: _____ | Fund: _____ |
| Org Code: <u>55014010106</u> | Org Code: _____ | Org Code: _____ |
| FLAIR Approp: _____ | FLAIR Approp: _____ | FLAIR Approp: _____ |
| FLAIR Obj: <u>780000</u> | FLAIR Obj: _____ | FLAIR Obj: _____ |

County No: 16 - Polk Contract No: _____
 Recipient Vendor No: F596000809027 Recipient Unique Entity ID (UEI) No: JBN5EHFNGUG9

Assistance Listing Number (ALN): 20.205 Highway Planning and Construction

THIS LOCAL AGENCY PROGRAM AGREEMENT ("Agreement"), is entered into on _____, by and between the State of Florida Department of Transportation, an agency of the State of Florida ("Department"), and Polk County ("Recipient").

(This date to be entered by DOT only)

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

1. **Authority:** The Department is authorized to enter into this Agreement pursuant to Section 339.12, Florida Statutes. The Recipient by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D"** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf.
2. **Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in the pass-through LAP funding and financial oversight of construction service on a project that consist of constructing an ADA-compliant 8- to 12-foot-wide asphalt multi-use path with a length of approximately 0.55 miles, as further described in **Exhibit "A"**, Project Description and Responsibilities attached to and incorporated in this Agreement ("Project"), to provide Department financial assistance to the Recipient; state the terms and conditions upon which Department funds will be provided; and to set forth the manner in which the Project will be undertaken and completed.
3. **Term of Agreement:** The Recipient agrees to complete the Project on or before 06/30/2028. If the Recipient does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Recipient and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the term of this Agreement will not be reimbursed by the Department.
4. **Project Cost:**
 - a. The estimated cost of the Project is \$ 853,152.00 (Eight Hundred, Fifty-Three Thousand, One Hundred, Fifty-Two Dollars). This amount is based upon the Schedule of Financial Assistance in **Exhibit "B"**, attached to and incorporated in this Agreement. **Exhibit "B"** may be modified by mutual execution of an amendment as provided for in paragraph 5.i.
 - b. The Department agrees to participate in the Project cost up to the maximum amount of \$808,992.00 (Eight Hundred, Eight Thousand, Nine Hundred, Ninety-Two Dollars) and as more fully described in **Exhibit "B"**. This amount includes Federal-aid funds which are limited to the actual amount of Federal-aid participation. The Department's participation may be increased or reduced upon determination of the actual bid amounts of the Project by the mutual execution of an amendment. The Recipient agrees to bear all expenses in excess of the total cost of the Project and any deficits incurred in connection with the completion of the Project.

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- c. Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible Project costs is subject to:
- i. Legislative approval of the Department's appropriation request in the work program year that the Project is scheduled to be committed;
 - ii. Availability of funds as stated in paragraphs 5.l. and 5.m. of this Agreement;
 - iii. Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
 - iv. Department approval of the Project scope and budget at the time appropriation authority becomes available.

5. Requisitions and Payments

- a. The Recipient shall provide 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 Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A"**.
- b. Invoices shall be submitted by the Recipient in detail sufficient for a proper pre-audit and post-audit based on the quantifiable, measurable and verifiable units of deliverables as established in **Exhibit "A"**. Deliverables must be received and accepted in writing by the Department's Project Manager prior to payments. Requests for reimbursement by the Recipient shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the Department. The Recipient shall use the format for the invoice and progress report that is approved by the Department.
- c. The Recipient shall charge to the Project account all eligible costs of the Project except costs agreed to be borne by the Recipient or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs. All costs charged to the Project, including any approved services contributed by the Recipient or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.
- d. If the Recipient is considered a rural community or rural area of opportunity, as these terms are defined by Section 288.0656(2), Florida Statutes, Recipient may submit payment requests for eligible performance completed/costs incurred under this agreement pursuant to **Exhibit "H", Alternative Advance Payment Financial Provisions**.
- e. Supporting documentation must establish that the deliverables were received and accepted in writing by the Recipient and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A"** was met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.
- f. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes and the most current version of the Disbursement Handbook for Employees and Managers.
- g. Payment shall only be made after receipt and approval of goods and services unless the payment is made under **Exhibit "H"** or advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes.

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If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Recipient will not be reimbursed or paid under Exhibit "H", to the extent of the non-performance. The Recipient will not be reimbursed or paid until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the Recipient may bill the Department for any unpaid performance completed by the Recipient during the next billing period or as provided by **Exhibit "H", Alternative Advance Payment Financial Provisions**. If the Recipient is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

- h. Agencies providing goods and services to the Department should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to **Section 55.03(1), F.S.**, will be due and payable, in addition to the invoice amount, to the Recipient. Interest penalties of less than one (1) dollar will not be enforced unless the Recipient requests payment. Invoices that have to be returned to an Recipient because of Recipient 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.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- i. The Recipient shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. 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 and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Recipient'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.
- j. Prior to the execution of this Agreement, a Project schedule of funding shall be prepared by the Recipient and approved by the Department. The Recipient shall maintain said schedule of funding, carry out the Project, and shall incur obligations against and make disbursements of Project funds only in conformity with the latest approved schedule of funding for the Project. The schedule of funding may be revised by execution of a Local Agency Program ("LAP") Supplemental Agreement between the Department and the Recipient. The Recipient acknowledges and agrees that funding for this project may be reduced upon determination of the Recipient's contract award amount.
- k. If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Recipient owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- l. The Recipient must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- m. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, funds

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approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See **Exhibit "B"** for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Recipient, in writing, when funds are available.

- n. In the event this Agreement is in excess of \$25,000 and has 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 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 1 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 and which have a term for a period of more than 1 year."

6. Department Payment Obligations:

Subject to other provisions of this Agreement, the Department will honor requests for reimbursement to the Recipient pursuant to this Agreement. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment if:

- a. The Recipient shall have made misrepresentation of a material nature in its application, or any supplement or amendment to its application, or with respect to any document or data furnished with its application or pursuant to this Agreement;
- b. There is any pending litigation with respect to the performance by the Recipient of any of its duties or obligations which may jeopardize or adversely affect the Project, the Agreement or payments to the Project;
- c. The Recipient shall have taken any action pertaining to the Project which, under this Agreement, requires the approval of the Department or has made a related expenditure or incurred related obligations without having been advised by the Department that same are approved;
- d. There has been any violation of the conflict of interest provisions contained in paragraph 14.f.; or
- e. The Recipient has been determined by the Department to be in default under any of the provisions of the Agreement.

The Department may suspend or terminate payment for that portion of the Project which the Federal Highway Administration ("FHWA"), or the Department acting in lieu of FHWA, may designate as ineligible for Federal-aid.

In determining the amount of the payment, the Department will exclude all Project costs incurred by the Recipient prior to the Department's issuance of a Notice to Proceed ("NTP"), costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in **Exhibit "B"** for the Project, costs agreed to be borne by the Recipient or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

7. General Requirements:

The Recipient shall complete the Project with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement, and all applicable laws. The Project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's

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Local Agency Program Manual (FDOT Topic No. 525-010-300), which by this reference is made a part of this Agreement. Time is of the essence as to each and every obligation under this Agreement.

- a. A full time employee of the Recipient, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in responsible charge of the Project, which employee should be able to perform the following duties and functions:
 - i. Administers inherently governmental project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
 - ii. Maintains familiarity of day to day Project operations, including Project safety issues;
 - iii. Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
 - iv. Visits and reviews the Project on a frequency that is commensurate with the magnitude and complexity of the Project;
 - v. Reviews financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse;
 - vi. Directs Project staff, agency or consultant, to carry out Project administration and contract oversight, including proper documentation;
 - vii. Is aware of the qualifications, assignments and on-the-job performance of the Recipient and consultant staff at all stages of the Project.
- b. Once the Department issues the NTP for the Project, the Recipient shall be obligated to submit an invoice or other request for reimbursement to the Department no less than once every 90 days (quarterly), beginning from the day the NTP is issued. If the Recipient fails to submit quarterly invoices to the Department, and in the event the failure to timely submit invoices to the Department results in the FHWA removing any unbilled funding or the loss of state appropriation authority (which may include the loss of state and federal funds, if there are state funds programmed to the Project), then the Recipient will be solely responsible to provide all funds necessary to complete the Project and the Department will not be obligated to provide any additional funding for the Project. The Recipient waives the right to contest such removal of funds by the Department, if the removal is related to FHWA's withdrawal of funds or if the removal is related to the loss of state appropriation authority. In addition to the loss of funding for the Project, the Department will also consider the de-certification of the Recipient for future LAP Projects. No cost may be incurred under this Agreement until after the Recipient has received a written NTP from the Department. The Recipient agrees to advertise or put the Project out to bid thirty (30) days from the date the Department issues the NTP to advertise the Project. If the Recipient is not able to meet the scheduled advertisement, the Department District LAP Administrator should be notified as soon as possible.
- c. If all funds are removed from the Project, including amounts previously billed to the Department and reimbursed to the Recipient, and the Project is off the State Highway System, then the Department will have to request repayment for the previously billed amounts from the Recipient. No state funds can be used on off-system projects, unless authorized pursuant to **Exhibit "I"**, State Funds Addendum, which will be attached to and incorporated in this Agreement in the event state funds are used on the Project.
- d. In the event that any election, referendum, approval, permit, notice or other proceeding or authorization is required under applicable law to enable the Recipient to enter into this Agreement or to undertake the Project or to observe, assume or carry out any of the provisions of the Agreement, the Recipient will initiate and consummate, as provided by law, all actions necessary with respect to any such matters.
- e. The Recipient shall initiate and prosecute to completion all proceedings necessary, including Federal-aid requirements, to enable the Recipient to provide the necessary funds for completion of the Project.

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- f. The Recipient shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department and FHWA may require. The Recipient shall make such submissions using Department-designated information systems.
- g. Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable federal and state laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. Federal funds shall not be paid on account of any cost incurred prior to authorization by FHWA to the Department to proceed with the Project or part thereof involving such cost (23 C.F.R. 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Department shall notify the Recipient in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or Project costs in part or in total. For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Recipient shall promptly reimburse the Department for all such amounts within 90 days of written notice.
- h. For any project requiring additional right-of-way, the Recipient must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of each year.

8. Audit Reports:

The administration of resources awarded through the Department to the Recipient by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of federal awards or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Recipient shall comply with all audit and audit reporting requirements as specified below.

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include, but not be limited to, on-site visits by Department staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to federal awards provided through the Department by this Agreement. By entering into this Agreement, the Recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (“CFO”), or State of Florida Auditor General.
- b. The Recipient, a non-federal entity as defined by 2 CFR Part 200, as a subrecipient of a federal award awarded by the Department through this Agreement is subject to the following requirements:
 - i. In the event the Recipient expends a total amount of federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Recipient must have a federal single or program-specific audit for such fiscal year conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “E”** to this Agreement provides the required federal award identification information needed by the Recipient to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining federal awards expended in a fiscal year, the Recipient must consider all sources of federal awards based on when the activity related to the federal award occurs, including the federal award provided through the Department by this Agreement. The determination of amounts of federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
 - ii. In connection with the audit requirements, the Recipient shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.

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- iii. In the event the Recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in federal awards, the Recipient is exempt from federal audit requirements for that fiscal year. However, the Recipient must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Recipient's audit period for each applicable audit year. In the event the Recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-federal resources (*i.e.*, the cost of such an audit must be paid from the Recipient's resources obtained from other than federal entities).
- iv. The Recipient must electronically submit to the Federal Audit Clearinghouse ("FAC") at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements, and this Agreement. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
- v. Within six months of acceptance of the audit report by the FAC, the Department will review the Recipient's audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the federal award provided through the Department by this Agreement. If the Recipient fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:
1. Temporarily withhold cash payments pending correction of the deficiency by the Recipient or more severe enforcement action by the Department;
 2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
 3. Wholly or partly suspend or terminate the federal award;
 4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the federal awarding agency);
 5. Withhold further federal awards for the Project or program;
 6. Take other remedies that may be legally available.
- vi. As a condition of receiving this federal award, the Recipient shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Recipient's records including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:
- Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us
- c. The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, the CFO, or State of Florida Auditor General access to such records upon request. The Recipient shall ensure that the audit working papers are made available to the Department or its designee, the CFO, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

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The Department may, by written notice to the Recipient, suspend any or all of the Department's obligations under this Agreement for the Recipient's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

- a. If the Department intends to terminate the Agreement, the Department shall notify the Recipient of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
- c. If the Agreement is terminated before performance is completed, the Recipient shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department's maximum financial assistance. If any portion of the Project is located on the Department's right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Recipient.
- d. In the event the Recipient fails to perform or honor the requirements and provisions of this Agreement, the Recipient shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.
- e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Recipient to comply with the Public Records provisions of Chapter 119, Florida Statutes.

10. Contracts of the Recipient:

- a. Except as otherwise authorized in writing by the Department, the Recipient shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.
- b. It is understood and agreed by the parties to this Agreement that participation by the Department in a project with the Recipient, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Recipient's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act, the federal Brooks Act, 23 C.F.R. 172, and 23 U.S.C. 112. At the discretion of the Department, the Recipient will involve the Department in the consultant selection process for all projects funded under this Agreement. In all cases, the Recipient shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act and the federal Brooks Act.
- c. The Recipient shall comply with, and require its consultants and contractors to comply with applicable federal law pertaining to the use of Federal-aid funds. The Recipient shall comply with the provisions in the FHWA-1273 form as set forth in **Exhibit "G"**, FHWA 1273 attached to and incorporated in this Agreement. The Recipient shall include FHWA-1273 in all contracts with contractors performing work on the Project.
- d. The Recipient shall require its consultants and contractors to take emergency steps to close any public road whenever there is a risk to life, health and safety of the travelling public. The safety of the travelling public is the Department's first priority for the Recipient. If lane or road closures are required by the LA to ensure the life, health, and safety of the travelling public, the LA must notify the District Construction Engineer and District Traffic Operations Engineer immediately once the travelling public are not at imminent risk. The Department expects professional engineering judgment be applied in all aspects of locally

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delivered projects. Defect management and supervision of LAP project structures components must be proactively managed, monitored, and inspected by department prequalified structures engineer(s). The District Construction Engineer must be notified immediately of defect monitoring that occurs in LAP project construction, whether or not the defects are considered an imminent risk to life, health, or safety of the travelling public. When defects, including but not limited to, structural cracks, are initially detected during bridge construction, the engineer of record, construction engineering inspector, design-build firm, or local agency that owns or is responsible for the bridge construction has the authority to immediately close the bridge to construction personnel and close the road underneath. The LA shall also ensure compliance with the CPAM, Section 9.1.8 regarding actions for maintenance of traffic and safety concerns.

11. Disadvantaged Business Enterprise (DBE) Policy and Obligation:

It is the policy of the Department that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Recipient and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Recipient and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

12. Compliance with Conditions and Laws:

The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project. Execution of this Agreement constitutes a certification that the Recipient is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," in 49 C.F.R. Part 29, and 2 C.F.R. Part 200 when applicable.

13. Performance Evaluations:

Recipients are evaluated on a project-by-project basis. The evaluations provide information about oversight needs and provide input for the recertification process. Evaluations are submitted to the Recipient's person in responsible charge or designee as part of the Project closeout process. The Department provides the evaluation to the Recipient no more than 30 days after final acceptance.

- a. Each evaluation will result in one of three ratings. A rating of Unsatisfactory Performance means the Recipient failed to develop the Project in accordance with applicable federal and state regulations, standards and procedures, required excessive District involvement/oversight, or the Project was brought in-house by the Department. A rating of Satisfactory Performance means the Recipient developed the Project in accordance with applicable federal and state regulations, standards and procedures, with minimal District involvement/oversight. A rating of Above Satisfactory Performance means the Recipient developed the Project in accordance with applicable federal and state regulations, standards and procedures, and the Department did not have to exceed the minimum oversight and monitoring requirements identified for the project.
- b. The District will determine which functions can be further delegated to Recipients that continuously earn Satisfactory and Above Satisfactory evaluations.

14. Restrictions, Prohibitions, Controls, and Labor Provisions:

During the performance of this Agreement, the Recipient agrees as follows, and agrees to require its contractors and subcontractors to include in each subcontract the following provisions:

- a. The Recipient will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Recipient pursuant thereto. The Recipient shall include the attached **Exhibit "C"**, Title VI Assurances in all contracts

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with consultants and contractors performing work on the Project that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.

- b. The Recipient will comply with all the requirements as imposed by the ADA, the regulations of the Federal Government issued thereunder, and assurance by the Recipient pursuant thereto.
- c. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- d. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.
- e. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Recipient.
- f. Neither the Recipient nor any of its contractors or their subcontractors shall enter into any contract, subcontract or arrangement in connection with the Project or any property included or planned to be included in the Project in which any member, officer or employee of the Recipient or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Recipient, the Recipient, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Recipient or the locality relating to such contract, subcontract or arrangement. The Recipient shall insert in all contracts entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer or employee of the Recipient or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the Recipient and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

- g. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
- h. In accordance with Section 787.06(13), Florida Statutes, the Recipient must verify its contractors or subcontractors are not engaged in coercion for labor or services.

15. Indemnification and Insurance:

- a. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The

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Recipient guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Recipient or any subcontractor, in connection with this Agreement.

- b. To the extent provided by law, Recipient shall indemnify, defend, and hold harmless the Department against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Recipient, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Recipient hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. The foregoing indemnification shall not constitute a waiver of the Department's or Recipient's sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Recipient to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or for the acts of third parties. Nothing herein shall be construed as consent by Recipient to be sued by third parties in any manner arising out of this Agreement. This indemnification shall survive the termination of this Agreement.
- c. Recipient agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, or subconsultants (each referred to as "Entity" for the purposes of the below indemnification) who perform work in connection with this Agreement:

"To the extent provided by law, [ENTITY] shall indemnify, defend, and hold harmless the [RECIPIENT] and the State of Florida, Department of Transportation, including the Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of [ENTITY], or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by [ENTITY]."

The foregoing indemnification shall not constitute a waiver of the Department's or [RECIPIENT]'s sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify [RECIPIENT] for the negligent acts or omissions of [RECIPIENT], its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties. This indemnification shall survive the termination of this Agreement."

- d. The Recipient shall, or cause its contractor or consultant to carry and keep in force, during the term of this Agreement, a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$200,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$200,000 each occurrence, for the services to be rendered in accordance with this Agreement. The Recipient shall also, or cause its contractor or consultant to carry and keep in force Workers' Compensation Insurance as required by the State of Florida under the Workers' Compensation Law. With respect to any general liability insurance policy required pursuant to this Agreement, all such policies shall be issued by companies licensed to do business in the State of Florida. The Recipient shall provide to the Department certificates showing the required coverage to be in effect with endorsements showing the Department to be an additional insured prior to commencing any work under this Agreement. Policies that include Self Insured Retention will not be accepted. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the Department or as provided in accordance with Florida law.

16. Maintenance Obligations: In the event the Project includes construction then the following provisions are incorporated into this Agreement:

- a. The Recipient agrees to maintain any portion of the Project not located on the State Highway System constructed under this Agreement for its useful life. If the Recipient constructs any improvement on Department right-of-way, the Recipient
 - shall
 - shall not

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maintain the improvements located on the Department right-of-way for their useful life. If the Recipient is required to maintain Project improvements located on the Department right-of-way beyond final acceptance, then Recipient shall, prior to any disbursement of the state funding provided under this Agreement, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the Department. The Recipient has agreed to the foregoing by resolution, and such resolution is attached and incorporated into this Agreement as **Exhibit "D"**. This provision will survive termination of this Agreement.

17. Miscellaneous Provisions:

- a. The Recipient will be solely responsible for compliance with all applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Recipient will be responsible for securing any applicable permits. The Recipient shall include in all contracts and subcontracts for amounts in excess of \$150,000, a provision requiring compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).
- b. The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.
- c. In no event shall the making by the Department of any payment to the Recipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Recipient and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- d. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- e. By execution of the Agreement, the Recipient represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- f. Nothing in the Agreement shall require the Recipient to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Recipient will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Recipient to the end that the Recipient may proceed as soon as possible with the Project.
- g. In the event that this Agreement involves constructing and equipping of facilities, the Recipient shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Recipient a written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Recipient a written approval with said remainder of the Project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department.
- h. Upon completion of right-of-way activities on the Project, the Recipient must certify compliance with all applicable federal and state requirements. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, including if no right-of-way is required.

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- i. The Recipient will certify in writing, prior to Project closeout that the Project was completed in accordance with applicable plans and specifications, is in place on the Recipient's facility, adequate title is in the Recipient's name, and the Project is accepted by the Recipient as suitable for the intended purpose.
- j. The Recipient agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Recipient, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement. If any funds other than federally-appropriated funds have been paid by the Recipient to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. The Recipient shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. No funds received pursuant to this contract may be expended for lobbying the Legislature, the judicial branch or a state agency.
- k. The Recipient may not permit the Engineer of Record to perform Construction, Engineering and Inspection services on the Project.
- l. The Recipient shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by Department and or FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Recipient and FHWA requires reimbursement of the funds, the Recipient will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement.
- m. The Recipient shall:
 - i. utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Recipient during the term of the contract; and
 - ii. expressly require any contractor and 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.
- n. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- o. The Parties agree to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes.
- p. If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and the cost of the Project is to be paid from state-appropriated funds, then the Recipient must comply with the requirements of Section 255.0991, Florida Statutes.

18. Exhibits:

- a. Exhibits "A", "B", "C", "D", "E", "F" and "H" are attached to and incorporated into this Agreement.
- b. If this Project includes Phase 58 (construction) activities, then **Exhibit "G"**, FHWA FORM 1273, is attached and incorporated into this Agreement.

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- c. State funds are used on this Project. If state funds are used on this Project, then **Exhibit "I"**, State Funds Addendum, is attached and incorporated into this Agreement. **Exhibit "J"**, State Financial Assistance (Florida Single Audit Act), is attached and incorporated into this Agreement.
- d. This Project utilizes Advance Project Reimbursement. If this Project utilizes Advance Project Reimbursement, then **Exhibit "K"**, Advance Project Reimbursement is attached and incorporated into this Agreement.
- e. This Project includes funding for landscaping. If this Project includes funding for landscaping, then **Exhibit "L"**, Landscape Maintenance, is attached and incorporated into this Agreement.
- f. This Project includes funding for a roadway lighting system. If the Project includes funding for roadway lighting system, **Exhibit "M"**, Roadway Lighting Maintenance is attached and incorporated into this Agreement.
- g. This Project includes funding for traffic signals and/or traffic signal systems. If this Project includes funding for traffic signals and/or traffic signals systems, **Exhibit "N"**, Traffic Signal Maintenance is attached and incorporated into this Agreement.
- h. A portion or all of the Project will utilize Department right-of-way and, therefore, **Exhibit "O"**, Terms and Conditions of Construction in Department Right-of-Way, is attached and incorporated into this Agreement.
- i. The following Exhibit(s) are attached and incorporated into this Agreement: _____

j. Exhibit and Attachment List

- Exhibit A: Project Description and Responsibilities
- Exhibit B: Schedule of Financial Assistance
- Exhibit C: Title VI Assurances
- Exhibit D: Recipient Resolution
- Exhibit E: Federal Financial Assistance (Single Audit Act)
- Exhibit F: Contract Payment Requirements
- * Exhibit G: FHWA Form 1273
- Exhibit H: Alternative Advance Payment Financial Provisions
- * Exhibit I: State Funds Addendum
- * Exhibit J: State Financial Assistance (Florida Single Audit Act)
- * Exhibit K: Advance Project Reimbursement
- * Exhibit L: Landscape Maintenance
- * Exhibit M: Roadway Lighting Maintenance
- * Exhibit N: Traffic Signal Maintenance
- * Exhibit O: Terms and Conditions of Construction in Department Right-of-Way

* Additional Exhibit(s):

*** Indicates that the Exhibit is only attached and incorporated if applicable box is selected.**

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IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written above.

RECIPIENT Polk County

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: _____
Name:
Title:

By: _____
Name:
Title:

Legal Review:

DS
DC

EXHIBIT A

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 452132-1-58-01

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and Polk County (the Recipient)

PROJECT LOCATION:

- The project is on the National Highway System.
- The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS: 0.746

| County | Roadway ID | Roadway Side | Number of Lanes | MP From/To | Section Work Length |
|--------|------------|--------------|-----------------|-----------------|---------------------|
| POLK | 16000214 | COMPOSITE | 2 | 1.447 / 1.48 | 0.033 |
| | 16090000 | COMPOSITE | 2 | 19.768 / 19.855 | 0.087 |
| | 16900020 | COMPOSITE | 2 | 0.254 / 0.505 | 0.251 |
| | 16900021 | COMPOSITE | 2 | 0.159 / 0.534 | 0.375 |

PROJECT DESCRIPTION: The construction of the 8 to 12 foot asphalt multi-use path, Ridge Scenic Highway Connector Trail, east of Scenic Highway following Central Avenue, Third Street, Seminole Avenue and North on Scenic Highway to connect to the existing Lake Wales Trail Way

SPECIAL CONSIDERATIONS BY RECIPIENT:

The Recipient is required to provide a copy of the design plans for the Department’s review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

All work to be conducted outside of the Department Right-of-Way shall adhere to:

- 1) The current Florida Greenbook standards, as amended
- 2) At a minimum follow the LAP Specifications

All work to be conducted within the Department Right-of-Way shall adhere to the following:

- 1) The FDOT most current standard specification for road and bridge construction, and
- 2) The FDOT most current roadway and traffic design standard and design criteria from the PPM, or other FDOT Adopted criteria.

For all projects the following will apply:

- 1) Section 287.055, F.S. "Consultants Competitive Negotiation Act," when acquiring a consultant utilizing federal funds
- 2) FDOT "Project Development and Environmental Manual"
- 3) The Local Agency Program Manual

The Agency will be responsible for acquiring all required and applicable permits for the project for review and approval prior to construction.

The Agency will be responsible for providing the Certification Clear Package the following items must be completed and signed by the authorized Agency representative: Rail Clear Letter, Permits Clear Letter, Utilities Clear Letter, and Executed Environmental Certification and Determination

The Agency will be responsible for providing the Construction LAP agreement partially executed with the executed Resolution by the agency signed through the agency's authorization process.

The Agency will be responsible for providing Bid Documents & Construction Checklist for reviewed, and approved, and the construction checklist must be signed by the agency and department before the project can be advertised.

For LAP projects that are on-system, the Agency will be responsible for providing the 30%, 60%, 90%, and 100% (final) plans submittals. Plan submittals, FDOT specification package, and signed and sealed Engineer's Estimate must be received with each submittal from the agency and must be reviewed and approved.

Without the FDOT's review and approval of these documents the project funding, LAP agreement, and NTP will be ineligible to be authorized, encumbered, and fully executed. All items must be reviewed, approved with the LAP agreement fully executed and executed Notice to Proceed issues by the Department prior to any construction related activities, including project advertisement.

Construction related activities conducted prior to the Notice to Proceed will not be reimbursed and may render the entire project ineligible for Federal funding.

The Recipient shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

- b) Design to be completed by: Late April - Early May of 2026
- c) Right-of-Way requirements identified and provided to the Department by: Late April - Early May of 2026.
- d) Right-of-Way to be certified by: Late April - Early May of 2026.
- e) Construction LAP agreement to be Authorized, Encumbered, and Fully Executed by: June of 2026.
- f) Construction to be completed by: June 30, 2028.

If this schedule cannot be met, the Recipient will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:

The Department shall reimburse the Agency, subject to funds availability, in the year programmed, which is currently in Fiscal Year 2026 for Construction services.

Upon receipt of an invoice, the Department will have twenty, (20) working days to review and approve the goods and services submitted for payment.

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LOCAL AGENCY PROGRAM AGREEMENT

**EXHIBIT B
 SCHEDULE OF FINANCIAL ASSISTANCE**

| | |
|---|---|
| RECIPIENT NAME & BILLING ADDRESS: Polk County 3000 Sheffield Road Winter Haven, FL 33880 | FINANCIAL PROJECT NUMBER: 452132-1-58-01 |
|---|---|

| PHASE OF WORK By Fiscal Year | MAXIMUM PARTICIPATION | | | |
|--|-------------------------------|--------------------|--------------------|----------------------|
| | (1) TOTAL PROJECT FUNDS | (2) LOCAL FUNDS | (3) STATE FUNDS | (4) FEDERAL FUNDS |
| Design- Phase 38 | | | | |
| FY: (Insert Program Name) | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| FY: (Insert Program Name) | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| FY: (Insert Program Name) | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Total Design Cost | \$ 0.00 | \$ 0.00 | \$ 0.00 | \$ 0.00 |
| Right-of-Way- Phase 48 | | | | |
| FY: (Insert Program Name) | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| FY: (Insert Program Name) | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| FY: (Insert Program Name) | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Total Right-of-Way Cost | \$ 0.00 | \$ 0.00 | \$ 0.00 | \$ 0.00 |
| Construction- Phase 58 | | | | |
| FY: 2026 (ACSU) | \$ 853,152.00 | \$ 44,160.00 | \$ _____ | \$ 808,992.00 |
| FY: () | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| FY: () | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Total Construction Cost | \$ 853,152.00 | \$ 44,160.00 | \$ 0.00 | \$ 808,992.00 |
| Construction Engineering and Inspection (CEI)- Phase 68 | | | | |
| FY: (Insert Program Name) | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| FY: (Insert Program Name) | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| FY: (Insert Program Name) | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Total CEI Cost | \$ 0.00 | \$ 0.00 | \$ 0.00 | \$ 0.00 |
| (Insert Phase) | | | | |
| FY: (Insert Program Name) | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| FY: (Insert Program Name) | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| FY: (Insert Program Name) | \$ _____ | \$ _____ | \$ _____ | \$ _____ |
| Total Phase Costs | \$ 0.00 | \$ 0.00 | \$ 0.00 | \$ 0.00 |
| TOTAL COST OF THE PROJECT | \$ 853,152.00 | \$ 44,160.00 | \$ 0.00 | \$ 808,992.00 |

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Kelly Kautz
 District Grant Manager Name

Kelly L. Kautz
Digitally signed by: Kelly L. Kautz
 DN: CN = Kelly L. Kautz email = kelly.kautz@dot.state.fl.us
 C = US O = Local Programs OU = Program Management
 Date: 2025.12.17 13:44:22 -0500

Signature _____ Date _____

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT C****TITLE VI ASSURANCES**

During the performance of this contract, the consultant or contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as the "contractor") agrees as follows:

- (1.) Compliance with REGULATIONS:** The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") *Title 49, Code of Federal Regulations, Part 21*, as they may be amended from time to time, (hereinafter referred to as the **REGULATIONS**), which are herein incorporated by reference and made a part of this contract.
- (2.) Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the basis of race, color, national origin, or sex in the selection and retention of sub-contractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by **Section 21.5** of the **REGULATIONS**, including employment practices when the contract covers a program set forth in **Appendix B** of the **REGULATIONS**.
- (3.) Solicitations for Sub-contractors, including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under sub-contract, including procurements of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the **REGULATIONS** relative to nondiscrimination on the basis of race, color, national origin, or sex.
- (4.) Information and Reports:** The contractor shall provide all information and reports required by the **REGULATIONS** or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the *Florida Department of Transportation* or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such **REGULATIONS**, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the *Florida Department of Transportation, or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or Federal Motor Carrier Safety Administration* as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5.) Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or

Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the contractor under the contract until the contractor complies, and/or
- b. cancellation, termination or suspension of the contract, in whole or in part.

(6.) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (7) in every sub-contract, including procurements of materials and leases of equipment, unless exempt by the **REGULATIONS**, or directives issued pursuant thereto. The contractor shall take such action with respect to any sub-contract or procurement as the *Florida Department of Transportation* or the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, or *Federal Motor Carrier Safety Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(7.) Compliance with Nondiscrimination Statutes and Authorities: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT D

RECIPIENT RESOLUTION

The Recipient's Resolution authorizing entry into this Agreement is attached and incorporated into this Agreement.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT E

FEDERAL FINANCIAL ASSISTANCE (SINGLE AUDIT ACT)

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

ALN No.: 20.205
ALN Title: Highway Planning and Construction
Federal-Aid Highway Program, Federal Lands Highway Program
ALN Program Site: <https://sam.gov/fal/a122e57ebdd94c6b95d87450afeda1aa/view>
Award Amount: \$808,992.00
Awarding Agency: Florida Department of Transportation
Award is for R&D: No
Indirect Cost Rate: N/A

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE SUBJECT TO THE FOLLOWING:

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles & Audit Requirements for Federal Awards

<http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1>

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT MAY ALSO BE SUBJECT TO THE FOLLOWING:

Title 23 – Highways, United States Code

<http://uscode.house.gov/browse/prelim@title23&edition=prelim>

Title 49 – Transportation, United States Code

<http://uscode.house.gov/browse/prelim@title49&edition=prelim>

Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the “Bipartisan Infrastructure Law”)

<https://www.congress.gov/117/bills/hr3684/BILLS-117hr3684enr.pdf>

Federal Highway Administration – Florida Division

<http://www.fhwa.dot.gov/fldiv/>

Federal Funding Accountability and Transparency Act (FFATA) Sub-award Reporting System (FSRS)

<https://www.fsr.gov/>

EXHIBIT F**CONTRACT PAYMENT REQUIREMENTS****Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts**

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

Salaries: Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

Fringe benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

Other direct costs: Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

Indirect costs: If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

Contracts between state agencies may submit alternative documentation to substantiate the reimbursement request, which may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address

<https://www.myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf>.

EXHIBIT G

**FHWA FORM 1273
FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

**LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC – COMPLIANCE
WITH FHWA 1273.**

The FHWA-1273 version dated October 23, 2023 is appended in its entirety to this Exhibit. FHWA-1273 may also be referenced on the Department's website at the following URL address:
<http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>

Sub-recipients of federal grants awards for Federal-Aid Highway construction shall take responsibility to obtain this information and comply with all provisions contained in FHWA-1273.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT H

ALTERNATIVE ADVANCE PAYMENT FINANCIAL PROVISIONS

If payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes:

1. The invoiced amount to the Department for contractor(s) and consultant(s) cannot exceed the amount of the invoice received from the Recipient's contractor(s) or consultant(s).
2. All of the Recipient's costs must have been incurred and paid prior to the date of the invoice.
3. All invoices received from the Recipient shall clearly separate the cost of the contractor(s) or consultant(s) from the Recipient's costs billed to the Department.
4. All invoices submitted to the Department must provide complete documentation, including a copy of the contractor's or consultant's invoice(s), to substantiate the cost on the invoice.
5. The Recipient must certify on each invoice that the costs from the contractor(s) or consultant(s) are valid and have been incurred by the contractor(s) or consultant(s).
6. Each monthly invoice subsequent to the first invoice from the Recipient must contain a statement from the Recipient that the previous month's cost incurred by the contractor(s) or consultant(s) has been paid by the Recipient to the contractor(s) or consultant(s).

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT**EXHIBIT “L”****LANDSCAPE MAINTENANCE**

Paragraph 16 is modified to include the following provisions:

1. Until such time as the Project is removed from the right of way pursuant to paragraphs 3 and 4 of this Exhibit, the Recipient shall, at all times, maintain the Project in a reasonable manner and with due care in accordance with all applicable Department guidelines, standards, and procedures, hereinafter called “Project Standards.” Specifically, the Recipient agrees to:
 - a) Properly water and fertilize all plants, keeping them as free as practicable from disease and harmful insects;
 - b) Properly mulch plant beds;
 - c) Keep the premises free of weeds;
 - d) Mow and/or cut the grass to the proper length;
 - e) Properly prune all plants which responsibility includes removing dead or diseased parts of plants and/or pruning such parts thereof which present a visual hazard for those using the roadway; and
 - f) Remove or replace dead or diseased plants in their entirety, and remove or replace those plants that fall below original Project Standards.

The Recipient agrees to repair, remove or replace at its own expense all or part of the Project that falls below Project Standards in accordance with the provisions of this Exhibit. In the event any part or parts of the Project, including plants, has to be removed and replaced for whatever reason, then they shall be replaced by parts of the same grade, size, and specification as provided in the original plans for the Project. Furthermore, the Recipient agrees to keep litter removed from the project highway.

2. Maintenance of the Project shall be subject to periodic inspections by the Department. In the event that any of the aforementioned responsibilities are not carried out or are otherwise determined by the Department to not be in conformance with the applicable Project Standards, the Department, in addition to its right of termination under paragraph 9 of the Agreement, may at its option perform any necessary maintenance without the need of any prior notice and charge the cost thereof to the Recipient.
3. It is understood between the parties to this Agreement that any portion of or the entire Project may be removed, relocated, or adjusted at any time in the future as determined to be necessary by the Department in order that the adjacent state road be widened, altered, or otherwise changed to meet with the future criteria or planning of the Department. The Recipient shall be given notice regarding such removal, relocation, or adjustment and shall be allowed 60 days to remove all or part of the Project at its own cost. The Recipient will own that part of the Project it removed. After the 60-day removal period, the Department will become the owner of the unresolved portion of the Project, and the Department then may remove, relocate, or adjust the Project as it deems best, with the Recipient being responsible for the cost incurred for the removal of the Project.
4. This Exhibit shall remain in force during the life of the originally installed landscaping and/or the life of any replacement landscaping installed with the mutual consent of the parties hereto until superseded by a Landscape Maintenance Agreement between the Department and the Recipient.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

EXHIBIT "M"
ROADWAY LIGHTING MAINTENANCE

Paragraph is modified to include the following provisions:

1. Maintenance

a) The Recipient shall, at its sole cost and expense, maintain the existing or to-be-installed roadway lighting system throughout its expected useful life unless and until this exhibit is superseded by a State Highway Maintenance and Compensation Agreement.

b) In maintaining the roadway lighting system, the Recipient shall perform all activities necessary to keep the roadway lighting system fully and properly functioning, with a minimum of 90% lights fully functioning for any lighting type (e.g., high mast, standard, under deck, sign) or roadway system at all times for their normal expected useful life in accordance with the original design thereof, whether necessitated by normal wear and tear, accidental or intentional damage or acts of nature. Said maintenance shall include, but not limited to, providing electrical power and paying all charges associated therewith, routine inspection and testing, preventative maintenance, emergency maintenance, replacement of any component parts of the facilities (including the poles and any and all other component parts installed as part of the facilities), and the locating (both vertically and horizontally) of the facilities as may be necessary.

c) All maintenance shall be in accordance with the provisions of the following:

(1) Manual of Uniform Traffic Control Devices (MUTCD); and

(2) All other applicable local, state, or federal laws, rules, resolutions, or ordinances and Department procedures.

d) This Exhibit shall remain in force during the life of the originally installed roadway lighting system and/or the life of any replacement roadway lighting system installed with the mutual consent of the parties hereto until superseded by a Roadway Lighting System Maintenance Agreement between the Department and the Recipient.



2023 XT000157

STATE OF FLORIDA)
)
COUNTY OF POLK)

I, Stacy M. Butterfield, Polk County Clerk and Comptroller, hereby certify that attached is the Interlocal Agreement between Polk County and the city of Lake Wales for the Ridge Scenic Highway (RSH) Connector Trail Project. This Interlocal Agreement was approved by Polk County Board of County Commissioners on August 8, 2023.

WITNESS my hand and official seal on this 10 day of August 2023.



STACY M. BUTTERFIELD
County Clerk and Comptroller

By: Asuncion Nieves
Deputy Clerk

**AN INTERLOCAL AGREEMENT
BETWEEN THE CITY OF LAKE WALES, FLORIDA
AND POLK COUNTY, FLORIDA FOR THE RIDGE SCENIC HIGHWAY
CONNECTOR TRAIL**

This Interlocal Agreement (the "AGREEMENT") is made and entered into by and between the CITY OF LAKE WALES, a municipal corporation of the State of Florida, whose address is 201 Central Avenue W., Lake Wales, Florida 33859, (the "CITY") and POLK COUNTY, a political subdivision of the State of Florida, whose address is 330 West Church Street, Bartow, Florida 33830 ("POLK COUNTY") (the CITY and POLK COUNTY are referred to herein individually as a "Party" and collectively as the "Parties").

WITNESSETH

WHEREAS, Section 163.01, Florida Statutes, Florida Interlocal Cooperation Act, authorizes local governments to enter into Interlocal Agreements to ensure the most efficient use of their respective powers and to exercise, jointly, any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, the CITY has received a Local Agency Program (LAP) Grant from the State of Florida for the Ridge Scenic Highway Connector Trail project ("PROJECT"); and

WHEREAS, the CITY is not LAP Certified to manage this PROJECT; and

WHEREAS, the COUNTY is LAP Certified to manage this PROJECT; and

WHEREAS, POLK COUNTY has agreed to manage this PROJECT for the CITY; and

WHEREAS, POLK COUNTY and the CITY have agreed to enter into this AGREEMENT as set forth to establish the respective rights of the CITY and POLK COUNTY in accordance with the terms and conditions of this AGREEMENT.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged the Parties agree 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
AGREEMENT**

- 2.1 **The County's Responsibilities.** POLK COUNTY agrees to manage the PROJECT through construction as required by the LAP Agreement. This will include the bidding out of the RFP for construction. The COUNTY shall have no financial responsibility for this PROJECT.
- 2.2 **The City's Responsibilities.** The CITY shall be responsible for any and all costs associated with this project that are in excess of what funding is provided in the LAP Agreement. The CITY shall appoint a project manager to coordinate with the County. The CITY will use FDOT's continuing services contract to design the PROJECT.

**ARTICLE III
MISCELLANEOUS PROVISIONS**

- 3.1 **Notice.** Whenever a Party desires to give notice to any other Party, it must be given by written notice delivered: (i) via registered or certified United States mail, postage prepaid with return receipt requested or (ii) via nationally recognized overnight delivery service, and addressed to the Party for whom it is intended at the place last specified by each Party. Notices hereunder may also be delivered by counsel. The place for giving notice shall remain such until it is changed by written notice delivered in compliance with the provisions of this Section. For the present, the Parties designate the following as the respective places for giving of notice:

3.1.1 Notices to POLK COUNTY shall be:

Chairperson
Polk County Board of County Commissioners
P.O. Box 9005
Bartow, Florida 33830

With a copy to:
County Attorney
Polk County Board of County Commissioners
P.O. Box 9005, Drawer AT01
Bartow, Florida 33830

With a copy to:
Division Director
Polk County Roads and Drainage Division
P.O. Box 9005, Drawer TR01
Bartow, Florida 33830

3.1.2 Notices to the CITY shall be:

Mayor
City of Lake Wales
201 Central Avenue W.
Lake Wales, Florida 33853

With a copy to:
City Manager
201 Central Avenue W.
Lake Wales, Florida 33853

With a copy to:
Development Services Director
201 Central Avenue W.
Lake Wales, Florida 33853

3.2 **Severability.** 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.

3.3 **Effective Date.** The Effective Date shall be date in which the last Party executes this Agreement.

3.4 **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, the date for performance shall be extended until the next calendar day that is not a Saturday, Sunday or federal holiday.

3.5 **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).

3.6 **Limitation of Liability.** IN NO EVENT, SHALL ANY PARTY BE LIABLE TO ANY OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL,

EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NONPERFORMANCE OR BREACH OF THIS CONTRACT BY THE DEFAULTING PARTY WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE.

3.7 **Waiver.** A waiver by any Party of any breach of this Agreement shall not be binding upon the waiving Party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving Party's rights with respect to any other or further breach of this Agreement. The making or acceptance of a payment by any Party with the knowledge of any other Party's existing default or breach of the Agreement shall not waive such default or breach, or any subsequent default or breach of this Agreement, and shall not be construed as doing so.

3.8 **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.

3.9 **Modification or Extension.** This Agreement may only be modified or extended in time by a written amendment properly executed by the Parties. No oral modifications will be effective or binding.

3.10 **Integration.** This Agreement sets-forth the entire agreement between the Parties with respect to its subject matter and that there are no promises or understandings other than those stated herein. This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters, or other communications between the Parties pertaining to the PROJECT, whether written or oral.

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

3.12 **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 including, but not limited to the Polk County Comprehensive Plan, Land Development Code and Utility Code, and any amendments thereto in effect as of the Effective Date of this Agreement. 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.

3.13 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of all successors and/or assigns of the Parties hereto.

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

3.15 **Termination.** Prior to start of construction of the PROJECT, any Party may terminate this Agreement, with or without cause, with 30 days written notice to the other Parties. After the start of construction of the PROJECT, this Agreement can only be terminated in accordance with Section 3.5 of this Agreement.

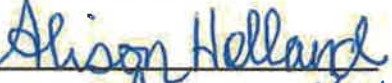
**(Continued on following pages with signatures)
(Remainder of page intentionally left blank)**

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

POLK COUNTY, a Political Subdivision of the
State of Florida

ATTEST: Stacy M. Butterfield,
Clerk to the Board

By: 
George Lindsey III, Chairperson


By: 
Print Name: Alison Holland
Title: Deputy Clerk

Date: 8/8/23 R.52

(SEAL)




Reviewed
as To Form and Legal Sufficiency.

By: 
County Attorney's Office

Signature Page Follows

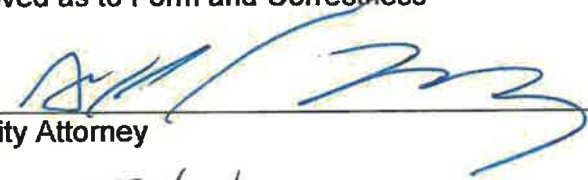
THE CITY OF LAKE WALES, a Municipal Corporation of the State of Florida

By: 
Title: City Clerk

By: 
Title: Mayor

Date: 7/11/2023

Approved as to Form and Correctness

By: 
City Attorney

Date: 7/11/23

COUNTY OF POLK, STATE OF FLORIDA

RESOLUTION NO. 2024 - 212

Local Agency Program Agreement (FPN: 452132-2-32-01) with the Florida Department of Transportation for the Ridge Scenic Highway (RSH) Connector Trail proposed east of Scenic Highway along Central Ave., 3rd Street, Seminole Ave., and north on Scenic Highway to connect to the existing Lake Wales Trail Way.

A RESOLUTION OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS AUTHORIZING THE EXECUTION OF THAT CERTAIN STATE-FUNDED GRANT AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION.

WHEREAS, the Polk County Board of County Commissioners have the authority to enter into a State-Funded Grant Agreement with the Florida Department of Transportation to undertake a project as authorized by Florida Statute § 339.08.

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Polk County, Florida that:

1. The State-Funded Grant Agreement with the Florida Department of Transportation for the Ridge Scenic Highway Connector Trail Project east of Scenic Highway along Central Ave., 3rd Street, Seminole Ave., and north on Scenic Highway to connect to the existing Lake Wales Trail Way is approved; and
2. The Chairperson of the Board of County Commissioners, or in his/her absence the Vice Chairperson, is hereby authorized to enter into, modify, or terminate the State-Funded Grant Agreement with the Florida Department of Transportation, unless specifically rescinded.

DULY ADOPTED this 19 day of November 2024.

ATTEST:
STACY M. BUTTERFIELD, CLERK

BOARD OF COUNTY COMMISSIONERS POLK COUNTY, FLORIDA

By: Alison Brown
Deputy Clerk

By: [Signature]

Date: 11/19/24

Reviewed as to form and legality:

By: [Signature]
County Attorney's Office Date _____



**LOCALLY FUNDED AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
POLK COUNTY**

This is an Agreement between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter, "DEPARTMENT") and POLK COUNTY, a political subdivision of the State of Florida, (hereinafter, "AGENCY") for the AGENCY to provide a lump sum deposit to the DEPARTMENT for the design of The Ridge Scenic Highway (RSH) Connector Trail proposed east of Scenic Highway along Central Ave, 3rd Street, Seminole Ave and north on Scenic Highway to connect to the existing Lake Wales Trail Way.

WITNESSETH

- A. WHEREAS, the DEPARTMENT has included the work listed below in its Five-Year Work Program in Fiscal Year 2025; and
- B. WHEREAS, the AGENCY has agreed to contribute monies to the DEPARTMENT for:
- Designing an ADA-compliant 8-foot-wide to 12-foot-wide multi-use path with a length of approximately 0.55 miles.
 - Begin trail will be located on the north side of E. Central Ave. at the existing parking lot and will follow E. Central Ave. to N. 3rd St., Where it turns North.
 - Along N. 3rd St., the trail is located on the west side of the road from E. Central Ave. to E Park Ave., where it will tie to the existing trail. The existing trail will remain between E. Park. Ave. and E. Sessoms Ave.
 - The trail will tie to the existing trail at E. Sessoms Ave. and continue north on the west side of N. 3rd St. to E. Seminole Ave.
 - At E. Seminole Ave. the trail turns west and continues on the north side of the roadway to N. Scenic Hwy.
 - At the northeast corner of E. Seminole Ave. and N. Scenic Hwy., the trail turns north and is located on the east side of N. Scenic Hwy. The trail terminus will connect to the existing Lake Wales Trailway and proposed trail head (by others) south of Kissimmee Ave.
- C. WHEREAS the DEPARTMENT and AGENCY desire to enter into this Locally Funded Agreement to set forth the terms and conditions upon which AGENCY shall provide funding (See Exhibit "B", Estimated Schedule of Funding, attached and incorporated by reference) for the PROJECT; and

D. WHEREAS, the AGENCY, by Resolution dated the 19th day of November, 2024, a copy of which is attached hereto and made a part hereof as **Exhibit A** has authorized the City Manager or Designee to enter into this Agreement.

NOW THEREFORE, in consideration of the mutual benefits to be derived from joint participation in this Agreement, the parties agree as follows:

1. The foregoing recitals are true and correct and are hereby adopted, incorporated into and made a part of this Agreement by reference, as if fully set forth herein.
2. The AGENCY agrees that it will, at least fourteen (14) calendar days after the execution of this agreement, furnish the DEPARTMENT with a lump sum non-refundable deposit in the amount of \$281,547.88 **Two Hundred, Eight-One Thousand, Five Hundred Forty-Seven Dollars (88/100 cents)** to be used for the project cost for **locally funded project number #452132-2-32-01**. The Department will utilize this deposit for payment of the costs of the PROJECT.
3. As the deposit is non-refundable, the DEPARTMENT will not refund any monies in the event the project costs less than the deposit. In the event the project costs more than the deposited amount, the DEPARTMENT agrees to pay the difference.

4. All deposits shall be made payable to the Florida Department of Transportation:

Florida Department of Transportation
OOC-GAO, LFA Section
605 Suwannee Street, MS 42B
Tallahassee, FL 32399

4. All notices under the Agreement shall be directed to the following contact persons:

TO DEPARTMENT:
Marquis Daymon
Local Program Coordinator
Florida Department of Transportation
801 N. Broadway Avenue
Bartow, Florida 33830
(863) 519-2612
Marquis.Daymon@dot.state.fl.us

TO AGENCY:
Daren Carriere, PE
Project Management
Roads and Drainage Division
3000 Sheffield Road
Winter Haven, FL 33880
863-535-2276
Darencarriere@polk-county.net

5. Failure of the AGENCY to deposit said amount shall be grounds for termination of this Agreement.
6. This Agreement shall continue in effect and be binding on the parties until the PROJECT is completed.
7. All tracings, plans, specifications, maps and/or reports prepared or obtained under this Agreement shall be considered works made for hire and shall become the property of the DEPARTMENT without restriction or limitation on their use.

8. The DEPARTMENT shall not be obligated or liable hereunder to any party other than the AGENCY. The AGENCY shall not be obligated or liable hereunder to any party other than the DEPARTMENT.
9. If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.
10. 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 representations or agreements whether oral or written. It is further agreed that no modification, amendment or alteration of the terms or conditions contained herein shall be effective unless contained in a written document and executed by both parties.
11. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

**(THE REMAINDER OF THIS PAGE HAS BEEN LEFT
BLANK INTENTIONALLY)**

IN WITNESS WHEREOF, the AGENCY has caused this Agreement to be executed in its behalf through its City Manager or its designee, as authorized by Resolution Number 2024-212, and the FLORIDA DEPARTMENT OF TRANSPORTATION has caused this Agreement to be executed in its behalf through its District Secretary or authorized designee: This Agreement shall become effective on: 12/03/2024

Department to enter date.

POLK COUNTY, FLORIDA

Stacy M. Butterfield, Clerk LOCAL AGENCY

ATTEST

BY: Alison Brown

BY: [Signature]

Alison Brown

PRINT NAME

T. B. Wilson

PRINT NAME

Deputy Clerk

TITLE

DATE

Chair

TITLE

11/19/24

DATE

R30



POLK COUNTY LEGAL REVIEW:

BY: [Signature] DATE

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST

BY: Jerri McCants

BY: [Signature]

District One Secretary or Designee

Jerri McCants

PRINT NAME

Nicole E Mills

PRINT NAME

Admin. Asst. 12/03/2024 | 9:18

TITLE

DATE

Director of Transportation Development 12/03/2024 | 8:37

TITLE

DATE

FLA. DEPT. OF TRANS. LEGAL REVIEW:

BY: [Signature] 12/03/2024 | 8:27 AM EST

EXHIBIT B

ESTIMATED SCHEDULE OF FUNDING

**Financial Management Number:
452132-2-32-01**

Project Description

| Design | |
|---|---------------------------|
| Phase: 32 | Amount: |
| Local Contribution Added | \$ 281,548.00 (LF) |
| Total Contribution (Local Agency): | \$ 281,548.00 |

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