

FM No: 446094-1-52-02
FEID No: VF-596-000-531

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCALLY FUNDED AGREEMENT

THIS Locally Funded Agreement (“Agreement”), entered into this _____ day of _____ 20_____, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and Broward County located at 1 North University Drive, Plantation, Florida 33324, hereinafter called the COUNTY, also referred to as the Participant in Exhibit B (Three Party Escrow Agreement).

WITNESSETH

WHEREAS, the DEPARTMENT and the COUNTY are desirous of having the COUNTY provide additional financial assistance to the DEPARTMENT for construction work (milling and resurfacing) of SR-842/Broward Blvd. from West of NW 42nd Avenue to West of SW 22nd Avenue (Financial Management (FM) Number 446094-1-52-01, Funded in Fiscal Year 2022/2023); and

WHEREAS, as part of the Department’s construction work the COUNTY has requested that the DEPARTMENT perform the following additional work: construction (installation/deployment) of an Adaptive Traffic Control System (ATCS) (Financial Management (FM) number 446094-1-52-02, Funded in Fiscal Year 2022/2023) as set forth in **Exhibit A** attached hereto and made a part hereof and hereinafter referred to as the Project; and

WHEREAS, the term “Project” in this Agreement shall mean only the work requested by the COUNTY for which the COUNTY will pay for pursuant to this Agreement and is specified in Exhibit A; and

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

WHEREAS, the COUNTY by Action Item _____ dated the _____ day of _____ 20_____, a copy of which is attached hereto and made a part hereof, authorizes the Mayor, Vice-Mayor, or designee to enter into this Agreement.

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

1. The recitals set forth above are true and correct and are incorporated herein.
2. The DEPARTMENT shall be responsible for assuring that the Project complies with all applicable Federal, State and Local laws, rules, regulations, guidelines, and standards.
3. The COUNTY agrees to make all previous studies, maps, drawings, surveys and other data and information pertaining to the Project available to the DEPARTMENT at no extra cost.
4. The DEPARTMENT shall have the sole responsibility for resolving claims and requests for additional work for the Project. The DEPARTMENT will make reasonable efforts to obtain the COUNTY input in its decisions.

5. The total cost of the Department's construction work and the Project is estimated to be SEVEN MILLION THREE HUNDRED THIRTEEN THOUSAND EIGHT HUNDRED NINETYTEEN DOLLARS AND NO CENTS (\$7,313,819.00). The COUNTY's cost of the Project is an estimated amount of SIX HUNDRED NINETY-ONE THOUSAND SIX HUNDRED FIFTY-ONE DOLLARS AND NO CENTS (\$691,651.00), which sum shall be paid to the DEPARTMENT. In the event the actual cost of the Project is less than the funds paid by the COUNTY, the difference shall be refunded to the COUNTY. In the event the actual cost of the Project results in a sum greater than that paid by the COUNTY, then such sum shall be the sole responsibility of the COUNTY and shall be paid to the DEPARTMENT.
- (A) The COUNTY agrees that it will, within thirty (30) days of the execution of this Agreement, furnish the DEPARTMENT with a check in the amount of SIX HUNDRED NINETY-ONE THOUSAND SIX HUNDRED FIFTY-ONE DOLLARS AND NO CENTS (\$691,651.00) towards the Project Costs.

In the event payment is not received by the DEPARTMENT within thirty (30) days of execution of this Agreement the DEPARTMENT reserves the right to terminate this Agreement and remove the Project from the DEPARTMENT's Work Program.

Remittance shall be made payable to the Florida Department of Transportation. Payment shall be clearly marked to indicate that it is to be applied to FM Number 446094-1-52-02. The DEPARTMENT shall utilize this amount towards costs of Project No. 446094-1-52-02.

Payment shall be mailed to:
Florida Department of Transportation
Office of Comptroller
General Accounting Office, LFA Section
605 Suwannee Street, MS 42B
Tallahassee, Florida 32399

In lieu of mailing payment to the DEPARTMENT, the COUNTY may submit the payment for the Project via wire transfer.

Wire transfer/Payments are to be made to:

Wells Fargo Bank, N.A.
Account # 4834783896
ABA # 121000248
State of Florida Department of Financial Services
Bureau of Collateral Management
Re: DOT – K 11-78, Financial project #446094-1-52-02

In order for FDOT to receive credit for the funds due to the Department, the reference line must contain "FDOT" and an abbreviated purpose, financial project number or LFA account number.

Once the wire transfer is complete, please contact Tia Parnell at 850-414-4886. In addition to calling Ms. Parnell, the COUNTY will send an email notification to Leos Kennedy at leos.kennedy@dot.state.fl.us stating the day and time the wire transfer was sent.

- (B) The COUNTY's share of the accepted bid for the Project (hereinafter referred to as "Accepted Bid") and the Department's work plus allowances is hereinafter defined as the "Total Accepted Bid". Allowances are hereby defined as contingency, mobilization (MOB), & Maintenance of Traffic (MOT). If the Project costs are in excess of the advance deposit amount, the COUNTY will provide an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT. The DEPARTMENT will notify the COUNTY as soon as it becomes apparent that Project costs are in excess of the advanced deposit amount; however, failure of the DEPARTMENT to so notify the COUNTY shall not relieve the COUNTY from its obligation to pay for its full participation. If the COUNTY cannot provide the additional deposit within fourteen (14) calendar days, a letter must be submitted to and approved by the DEPARTMENT's Project Manager indicating the date the deposit will be made and the DEPARTMENT's written consent to the payment of the additional deposit on said date. The COUNTY understands the request and approval of the additional time could delay the Project, and additional costs at the COUNTY's expense may be incurred due to delay of the Project. In the event of non-payment, the DEPARTMENT reserves the right to terminate this Agreement and remove the Project from the Department's Work Program.
- (C) If the COUNTY's payment for the accepted bid amount plus allowances is less than the advance deposit amount, the DEPARTMENT will refund the amount that the advance deposit exceeds the COUNTY's payment for the accepted bid amount plus allowances if such refund is requested by the COUNTY in writing.
- (D) Should Project modifications occur that increase the COUNTY's payment for the Project costs, the COUNTY will be notified by the DEPARTMENT. The COUNTY agrees to provide, without delay, in advance of the additional work being performed, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the cost of the Project. The DEPARTMENT shall notify the COUNTY as soon as it becomes apparent the actual Project costs will exceed the deposit amount. However, failure of the DEPARTMENT to so notify the COUNTY shall not relieve the COUNTY from its obligation to pay for its full participation. Funds due from the COUNTY during the Project not paid within forty (40) calendar days from the date of the invoice are subject to an interest charge at a rate established pursuant to Section 55.03, F.S. In the event the COUNTY fails to make the additional payment within the time hereinabove set forth, in addition to any other remedy, the DEPARTMENT reserves the right to terminate this Agreement.

- (E) The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty (360) days of final payment to the Consultant. The DEPARTMENT considers the Project complete when the final payment has been made to the Consultant, not when the design work is complete. All Project cost records and accounts shall be subject to audit by a representative of the COUNTY for a period of three (3) years after final close out of the Project. The COUNTY will be notified of the final cost. Both parties agree that in the event the final accounting of total Project costs pursuant to the terms of this Agreement is less than the total deposits to date, the excess funding will be refunded to the COUNTY. If the final accounting is not performed within three hundred sixty (360) days, the COUNTY is not relieved from its obligation to pay.
- (F) In the event the final accounting of total Project costs indicate that the Project costs are greater than the total deposits to date, the COUNTY will pay the additional amount within forty (40) calendar days from the date of the invoice from the DEPARTMENT. The COUNTY agrees to pay interest at a rate as established pursuant to *Section 55.03, F.S.*, on any invoice not paid within forty (40) calendar days.
- (G) The payment of funds under this Agreement will be sent directly to the Department of Financial Services, Division of Treasury for deposit as provided in the Three-Party Escrow Agreement between the COUNTY, the DEPARTMENT and the State of Florida, Department of Financial Services, Division of Treasury a copy of which is attached hereto and made a part hereof as **Exhibit B**.
6. In the event it becomes necessary for either party to institute suit for the enforcement of the provisions of this Agreement, each party shall be responsible to pay their own attorney fees and court costs. Venue with respect to any such litigation shall be in Broward County.
7. This Agreement and any interest herein shall not be assigned, transferred, or otherwise encumbered by the COUNTY under any circumstances without the prior written consent of the DEPARTMENT. However, this Agreement shall run to the DEPARTMENT and its successors.
8. Except as otherwise set forth herein, this Agreement shall continue in effect and be binding to both the COUNTY and the DEPARTMENT until the Project (FM# 446094-1-52-02) is completed as evidenced by the written acceptance of the DEPARTMENT.
9. The COUNTY warrants that it has not employed or obtained any company or person, other than bona fide employees of the COUNTY, to solicit or secure this Agreement, and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee employed by the COUNTY. For breach or violation of this provision, the DEPARTMENT shall have the right to terminate the Agreement without liability.

10. The COUNTY / Vendor/ Contractor:
 - (A) shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the COUNTY / Vendor/ Contractor during the term of the contract; and
 - (B) shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
11. This Agreement is governed by and construed in accordance with the laws of the State of Florida.
12. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
13. Any or all notices (except invoices) given or required under this Agreement shall be in writing and either personally delivered with receipt acknowledged or sent by certified mail, return receipt requested. All notices delivered shall be sent to the following addresses:

If to the DEPARTMENT:

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

If to the COUNTY:

Broward County
1 North University Drive, Suite #300B
Plantation, Florida 33324
Attn: Director
With a copy to: County Attorney

IN WITNESS WHEREOF, the COUNTY has caused this Agreement to be executed on its behalf this _____ day of _____, _____, by the Mayor or Vice Mayor, authorized to enter into and execute same by Action of the Board on the _____ day of _____, _____, and the DEPARTMENT has executed this Agreement through its Director of Transportation Development for District _____, Florida Department of Transportation, this _____ day of _____, _____.

BROWARD COUNTY, FLORIDA

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

MAYOR
_____ day of _____, 20__

Approved as to form by:
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite # 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone (954) 357-7600
Telecopier (954) 357-7641

BY **Gavin P. Rynard** Digitally signed by
Gavin P. Rynard
Date: 2022.08.18
09:10:30 -04'00'

Gavin Rynard (date)
Assistant County Attorney

BY **Angela J. Wallace** Digitally signed by
Angela J. Wallace
Date: 2022.08.18 09:10:46
-04'00'

Angela J. Wallace (date)
Transportation Surtax General Counsel

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST: _____
EXECUTIVE SECRETARY

BY: _____
DIRECTOR OF TRANSPORTATION
DEVELOPMENT

NAME: _____

DISTRICT _____

APPROVED:

LEGAL REVIEW:

PROGRAM MGMT ADMINISTRATOR

OFFICE OF THE GENERAL COUNSEL

EXHIBIT "A"
SCOPE OF WORK
FPID: 446094.1.52.02

The DEPARTMENT's construction work consists of milling and resurfacing along SR-842/ Broward Boulevard from West of NW 42nd Avenue to West of SW 22nd Avenue. This scope of services is for additional work on this project related to the deployment of an Adaptive Traffic Control System (ATCS) within the same project limits. The improvements being constructed shall include, but not be limited to the upgrading the existing vehicle detection equipment, upgrading, or modifying the existing traffic controller cabinet assemblies, and the re-splicing of new fiber optic cable drops to upgraded controller cabinet assemblies. The proposed work will also include the addition of ATCS software for all signal controllers as well as the testing of the ATCS software and equipment.

The signalized intersections included in this scope are shown in Table 1 below:

#	Broward Blvd (SR-842) Intersection	Replace Cabinet/ Controller	ATCS System Deployment	Traffic Detection Upgrade	Existing Signal Structure	Existing Fiber at Ethernet Switch	Remarks
1	SR-7 (US-441)	Yes	Yes	Yes	Mast Arm	Yes	Install advance detectors at both approaches of SR-7
2	W 38th Ave	Yes	Yes	Yes	Mast Arm	Yes	
3	NW 35th Ave/ Kentucky Ave	Yes	Yes	Yes	Mast Arm	Yes	
4	NW 34th Ave	Yes	Yes	Yes	Span Wire	Yes	T-intersection
5	NW/SW 31st Ave ML King Jr Ave	Yes	Yes	Yes	Mast Arm	Yes	
6	NW/SW 27th Ave	Yes	Yes	Yes	Mast Arm	Yes	
7	NW/SW 24th Ave	Yes	Yes	Yes	Mast Arm	Yes	

Table 1 – Signalized Intersections

Exhibit B THREE PARTY ESCROW AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of Florida, Department of Transportation ("FDOT"), Broward County ("Participant"), and the State of Florida, Department of Financial Services, Division of Treasury ("Escrow Agent"), and shall become effective upon the Agreement's execution by Escrow Agent.

WHEREAS, FDOT and Participant are engaged in the following project ("Project"):

Project Name: Construction (installation/ deployment) of Adaptive Traffic Control System (ATCS)
Project #: 446094-1-52-02
County: Broward

WHEREAS, FDOT and Participant desire to establish an escrow account for the Project.

NOW THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree to the following:

1. An initial deposit will be made into an interest-bearing escrow account established hereunder for the purposes of the Project. The escrow account will be opened with the Escrow Agent on behalf of FDOT upon Escrow Agent's receipt and execution of this Agreement.
2. Other deposits to the escrow account may be made during the life of this Agreement.
3. Deposits will be delivered in accordance with instructions provided by the Escrow Agent to the FDOT for deposit into the escrow account. A wire transfer or ACH deposit is the preferred method of payment and should be used whenever possible.
4. FDOT's Comptroller or designee shall be the sole signatory on the escrow account with the Escrow Agent and shall have sole authority to authorize withdrawals from the account. Withdrawals will only be made to FDOT or the Participant in accordance with the instructions provided to the Escrow Agent by FDOT's Comptroller or designee.

5. Moneys in the escrow account will be invested in accordance with section 17.61, Florida Statutes. The Escrow Agent will invest the moneys expeditiously. Income is only earned on the moneys while invested. There is no guaranteed rate of return. Investments in the escrow account will be assessed a fee in accordance with Section 17.61(4)(b), Florida Statutes. All income of the investments shall accrue to the escrow account.

THIS IS AN EXHIBIT ONLY. NOT FOR EXECUTION!!

6. Unless instructed otherwise by FDOT, all interest accumulated in the escrow account shall remain in the account for the purposes of the Project.
7. The Escrow Agent agrees to provide written confirmation of receipt of funds to FDOT. FDOT agrees to provide a copy of such written confirmation to Participant upon request.
8. The Escrow Agent further agrees to provide quarterly reports to FDOT concerning the escrow account. FDOT agrees to provide a copy of such quarterly reports to Participant upon request.
9. The Escrow Agent shall not be liable for any error of judgment or for any act done or omitted by it in good faith, or for anything which it may in good faith do or refrain from doing in connection herewith.
10. Escrow Agent shall have no liability for any claim, cost, expense, damage or loss due to the acts or omissions of FDOT and Participant, nor from any separate agreements between FDOT and Participant and shall have no responsibility to monitor or enforce any responsibilities herein or in any separate agreements associated with this Agreement between FDOT and Participant.
11. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida.
12. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
13. This Agreement shall terminate upon disbursement by the Escrow Agent of all money held by it in the escrow account in accordance with the instructions given by FDOT's Comptroller or designee and notification from FDOT to Escrow Agent that the account is to be closed.

The remainder of this page is blank.

THIS IS AN EXHIBIT ONLY... NOT FOR EXECUTION!

IN WITNESS WHEREOF, the parties have duly executed the Agreement on the date(s) below.

For FDOT (signature)

For PARTICIPANT (signature)

Name and Title

Name

59-3024028
Federal Employer I.D. Number

Title

Date

F-596-000-531-282
Federal Employer I.D. Number

Date

FDOT Legal Review:

For Escrow Agent (signature)

Name and Title

Date

THIS IS AN EXHIBIT ONLY NOT FOR EXECUTION!!