

**INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF COOPER CITY FOR
SURTAX-FUNDED MUNICIPAL TRANSPORTATION PROJECT:**

**STIRLING ROAD ROADWAY AND DRAINAGE IMPROVEMENT/
COOP-024, COOP-042, AND BC-COOPERC-FY2020-00001**

This Interlocal Agreement (“Agreement”) is made and entered by and between Broward County, a political subdivision of the State of Florida (“County”), and the City of Cooper City, a municipality of the State of Florida (“Municipality”) (each a “Party” and collectively referred to as the “Parties”).

RECITALS

A. In November 2018, Broward County voters approved a 30-year sales surtax (also known as “Penny for Transportation”) to fund statutorily-permissible transportation expenditures.

B. All projects, County, State, and municipal, funded by the transportation surtax are evaluated for eligibility under Section 212.055(1), Florida Statutes, by the independent Transportation Surtax Oversight Board before the Broward County Board of County Commissioners makes the final decisions regarding project funding.

C. A process has been established pursuant to which surtax-funded staff at the Broward Metropolitan Planning Organization (“MPO”) prioritize municipal projects, with the exception of municipal rehabilitation and maintenance projects, and make recommendations for funding. The first round of ranking of municipal capital projects was recently completed by the MPO following extensive and detailed discussions with the submitting municipalities, and the Project contemplated in this Agreement was included in that review and ranking.

D. The municipal Project defined herein has been determined statutorily eligible for funding and subsequently approved for funding by the Broward County Board of County Commissioners.

E. The purpose of this Agreement is to set forth the terms and conditions for County to provide transportation surtax funding for the Project and the terms and conditions for Municipality to complete the Project. Municipality will implement the Project, as funded by County with surtax funding, in accordance with the terms of this Agreement.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

1.1. **Board** means the Board of County Commissioners of Broward County, Florida.

- 1.2. **Contract Administrator** means the County Administrator or such other person designated by the County Administrator in writing.
- 1.3. **Contractor** means the persons, firms, or corporations with whom Municipality has or will contract for the performance of the Project.
- 1.4. **Consultant** means the architect or engineer with whom Municipality has or will contract to provide programming, design, construction management, engineering, and inspection, or other professional services for the Project.
- 1.5. **County Business Enterprise** or **CBE** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.
- 1.6. **Maximum Funding Amount** means the maximum funding amount stated in Section 5.4.
- 1.7. **Oversight Board** means the independent Transportation Surtax Oversight Board created pursuant to Section 31½-75 of the Broward County Code of Ordinances.
- 1.8. **Project** means the project described in Exhibit A.
- 1.9. **Project Manager** means Thomas Good, Public Works Director for Municipality.
- 1.10. **Subcontractor** means an entity or individual providing services to Municipality through Contractor or Consultant for all or any portion of the Project. The term “Subcontractor” includes subconsultants.
- 1.11. **Surety** means the surety company or individual that is bound by the performance bond and payment bond and that is responsible for Contractor’s or Consultant’s acceptable and timely performance and completion of the Project under this Agreement and for the payment of all debts pertaining thereto in accordance with Section 255.05, Florida Statutes.
- 1.12. **Surtax-Funded Projects** means any project, including without limitation the Project described in Exhibit A, that is funded in whole or in part by the transportation surtax collected pursuant to Section 212.055(1), Florida Statutes.

ARTICLE 2. EXHIBITS

Exhibit A	Project Description and Project Schedule
Exhibit B	Funding Schedule
Exhibit C	Reporting Requirements
Exhibit D	Form Contracts
Exhibit E	Municipal Resolution Authorizing Execution of Agreement

ARTICLE 3. PROJECT DESCRIPTION; COMPETITIVE PROCUREMENT; PERMITTING

3.1. Project Description and Project Schedule. Municipality shall perform, or cause to be performed, the Project in accordance with the Project Description and the Project Schedule set forth in **Exhibit A**. The Project Description is a general description of the Project and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks that are such an inseparable part of the Project described that exclusion of any of them would be impractical, illogical, or unconscionable.

3.2. Municipal Responsibility for the Project. Municipality is solely responsible for the Project, subject to the terms of this Agreement. County has no responsibility for the construction means, methods, techniques, sequences, or procedures employed in the performance of the Project. Municipality shall be solely responsible for retention, supervision, and payment of Contractor, Consultant, and all Subcontractors. Municipality shall be solely responsible for securing any and all property rights or permits required by the Project. Nothing in this Agreement shall impose on County an obligation to assume any contract or subcontract, or to make payment to Contractor, Consultant, or any Subcontractor, vendor, or supplier, or to perform the Project or any portion thereof, or to supply any goods or services for the Project. Further, nothing contained herein shall create any contractual relationship between County and Contractor, Consultant, or any Subcontractor, vendor, or supplier.

3.3. Competitive Procurement; Consultants' Competitive Negotiation Act. Except to the extent the Contract Administrator has approved utilization of an existing contract by Municipality for the services to be performed by Contractor or Consultant, Municipality must provide the proposed solicitation(s) for the Project to the Contract Administrator for review at least twenty (20) days prior to publication of the solicitation by Municipality. County's review shall include, without limitation, determination of the applicable CBE Goal (as defined in Article 10), which must be included by Municipality in the solicitation(s). If Municipality seeks to utilize an existing contract for the services to be performed by the Contractor or Consultant, Municipality must obtain prior approval by County and must provide the Contract Administrator with the proposed contract and supporting documentation for consideration pursuant to the procedures stated in Section 3.5.2; County may require, as a condition for its approval, that the engagement of Contractor or Consultant for this Project utilizing an existing municipal contract include modifications or additions to the existing contract terms and conditions, including without limitation any provision identified in Section 3.5.3. Municipality must comply with all applicable provisions of state law including, as applicable, Section 255.20 and Section 287.055, Florida Statutes, in the procurement of any services or materials relating to the Project. If any applicable state or federal procurement requirement is stricter than any other applicable requirement, Municipality shall be obligated to meet the stricter requirement. Prior to the execution of any contract with Contractor or Consultant relating to the Project, Project Manager shall certify in writing to the Contract Administrator that the procurement and the proposed contract comply with the requirements of this Section 3.3.

3.4. Modifications to Project or Phases.

3.4.1. Material Changes to the Project. Material changes are changes that increase the Maximum Funding Amount or materially modify the Project Description. Any proposed material change to the Project Description that does not increase the Maximum Funding Amount requires the prior written approval of the Contract Administrator. Any proposed material change that would increase the Maximum Funding Amount requires an amendment of this Agreement. Any proposed material change may also, if determined necessary by Contract Administrator pursuant to the applicable contractual, statutory, or other surtax-related requirements, require review by the Oversight Board for statutory eligibility. Municipality shall submit to the Contract Administrator written notice of the proposed material change and appropriate backup documentation; if requested by the Contract Administrator, Municipality shall provide any additional requested backup documentation. The Contract Administrator will either approve or disapprove in writing the proposed material change to the Project Description that does not increase the Maximum Funding Amount within fifteen (15) calendar days after receipt of the written notice and all requested backup documentation; if not timely approved, the request shall be deemed disapproved. Any material change that increases the Maximum Funding Amount must be approved by the Board.

3.4.2. Modifications to Construction Phase. Requests for additional funding as a result of modifications to the construction phase of a Project that exceed the amount provided in the then-current Funding Schedule, including without limitation change orders or other scope changes, are subject to (i) approval by the Contract Administrator, and (ii) the Board's allocation of additional funding; such requests may also, if determined necessary by Contract Administrator pursuant to the applicable contractual, statutory, or other surtax-related requirements, require additional review by the Oversight Board for statutory eligibility. Municipality shall submit to the Contract Administrator written notice of its request for additional funding and appropriate backup documentation; if requested by the Contract Administrator, Municipality shall provide any additional requested backup documentation. The Contract Administrator will either approve or disapprove the request in writing within fifteen (15) calendar days after receipt of the written notice and all requested backup documentation; if not timely approved, the request shall be deemed disapproved.

3.4.3. Owner Enhancements. In addition to any approvals that may be required pursuant to this Agreement, any increased or additional costs due to changes in the quality of materials, furnishings, finishes, aesthetics, or any other cost reasonably determined by the Contract Administrator to be an "owner enhancement" (including, without limitation, decorative lighting, decorative paving, and improvements that are not within the public right of way) must be funded solely by Municipality with non-surtax funding, and County shall have no funding responsibility for any such increased costs. Upon the Contract Administrator's request, the Project Manager shall provide sufficient

detail for the Contract Administrator's determination of whether any increased or additional costs include owner enhancements. The Contract Administrator shall determine, after consultation with the Project Manager, whether the increased or additional costs constitute owner enhancements.

3.4.4. Project Schedule. Any proposed change in the Project Schedule that modifies the commencement or completion date for any phase or for the Project by more than sixty (60) days requires the prior written approval of the Contract Administrator. Municipality shall submit to the Contract Administrator written notice of the proposed change and appropriate backup documentation; if requested by the Contract Administrator, Municipality shall provide any additional requested backup documentation. The Contract Administrator will either approve or disapprove in writing the proposed change within fifteen (15) calendar days after receipt of the written notice and all requested backup documentation; if not timely disapproved, the request shall be deemed approved.

3.4.5. Nonmaterial Changes. Nonmaterial changes to the Project (namely, changes that do not require approvals under Sections 3.4.1, 3.4.2, 3.4.3, or 3.4.4) do not require County approval and may be approved by the Project Manager.

3.5. Contractor and Consultant Contracts.

3.5.1. Form Contracts. County has preapproved the Surtax-Funded Projects Form Construction Contract and the Surtax-Funded Projects Form Consultant Contract (collectively, the "**Form Contracts**") attached as **Exhibit D**, which Municipality may utilize for its contracts with Contractor and Consultant, respectively. County may update the Form Contracts from time to time upon written notice to Municipality, and such updated Form Contracts shall be the applicable forms for solicitations advertised after the date of such written notice by County.

3.5.2. County Approval. Unless the Form Contracts are utilized for the Project with no material modification or an existing municipal contract is approved by County for use pursuant to Section 3.3, Municipality must obtain written approval from the County Attorney's Office for Municipality's contract(s) with Contractor and with Consultant prior to utilization of the contracts for the Project (and prior to publication of the solicitation, if the contract is included in the solicitation). In addition to the provisions required to be included in Municipality's contracts with Contractor and with Consultant pursuant to Section 8.1 or Section 10.5, Municipality's contracts must also include the provisions listed in Section 3.5.3 and Section 3.5.4, as applicable, in the form stated in the Form Contracts. Any material modification to any required contractual provision must be approved in advance by the County Attorney's Office; no subsequent material change to the contract(s) for the Project may be made without written approval from the County Attorney's Office. Municipality agrees and acknowledges that County's approval of any contracts with Contractor or Consultant, including without limitation the Form Contracts, is solely for purposes of protecting County's interests; County approval of any such contract does not constitute a legal opinion, including without limitation as to the legal

sufficiency of the contract, for use or reliance by Municipality or any third party and shall not be the basis for any claim or liability against County or asserted to avoid any reimbursement or other obligation of Municipality under this Agreement. Municipality shall provide at least twenty (20) days' written notification to the Contract Administrator and the County Attorney's Office prior to award of the contract to Contractor or Consultant, as applicable, which notice must include a copy of the competitive solicitation (or other applicable procurement document) for the Project, the responsive submission by the proposed Contractor or Consultant, the proposed contract amount for the Project, the proposed contract, and the date on which Municipality intends to award the contract. County may disapprove the proposed contract: (a) for failure to comply with any requirement of this Agreement; (b) if the contract price exceeds or is materially inconsistent with the Funding Schedule (absent good cause, as determined by Contract Administrator); or (c) after consultation with Project Manager, for any other good cause as determined in the sole discretion of the Contract Administrator. If County disapproves any proposed contract, County must provide notice of such disapproval within twenty (20) days after receipt of the notice and the documents required pursuant to this section; if not timely disapproved, the proposed contracts shall be deemed approved.

3.5.3. For the contract with Contractor, the following provisions from the Surtax-Funded Projects Form Construction Contract must be included:

- 3.5.3.1. Contract, Article 3 (Contract Time)
- 3.5.3.2. Contract, Article 5 (Progress Payments; Retainage)
- 3.5.3.3. Contract, Article 6 (Acceptance and Final Payment)
- 3.5.3.4. General Conditions, Article 4 (Performance Bond and Payment Bond) and Article 5 (Qualification of Surety)
- 3.5.3.5. General Conditions, Article 17 (Project Records and Right to Audit) (*see also* Section 8.1 herein)
- 3.5.3.6. General Conditions, Article 33 (Location and Damage to Existing Facilities, Equipment, or Utilities)
- 3.5.3.7. General Conditions, Article 38 (Change Orders) and Article 39 (Value of Change Order Work)
- 3.5.3.8. General Conditions, Article 14 (Superintendence and Supervision)
- 3.5.3.9. General Conditions, Article 20 (Differing Site Conditions)
- 3.5.3.10. General Conditions, Article 40 (Notification and Claim for Change of Contract Time or Contract Price)
- 3.5.3.11. General Conditions, Article 41 (No Damages for Delay)
- 3.5.3.12. General Conditions, Article 42 (Excusable Delay; Compensable; Non-Compensable)
- 3.5.3.13. General Conditions, Article 53 (Domestic Partnership)
- 3.5.3.14. General Conditions, Article 54 (Equal Employment Opportunity and CBE/SBE Compliance)
- 3.5.3.15. Supplemental Wage Requirements (Prevailing Wage Rate Ordinance)

3.5.4. For the contract with Consultant, the following provisions from the Surtax-Funded Projects Form Consultant Contract must be included:

- 3.5.4.1. Article 4 (Time for Performance; Contractor Damages)
- 3.5.4.2. Sections 5.3 and 5.4 (Reimbursable Expenses; Method of Billing)
- 3.5.4.3. Section 7.5 (Truth in Negotiation)
- 3.5.4.4. Section 7.9 (Domestic Partnership Requirement)
- 3.5.4.5. Article 10 (Equal Employment Opportunity and CBE Compliance)
- 3.5.4.6. Section 11.4 (Public Records and Trade Secrets)
- 3.5.4.7. Section 11.5 (Audit Rights)
- 3.5.4.8. Section 11.8 (Indemnification)
- 3.5.4.9. Section 11.14 (Drug-Free Workplace)

ARTICLE 4. TERM AND TIME OF PERFORMANCE

4.1. Term. The term of this Agreement shall begin on the date it is fully executed by the Parties (“Effective Date”) and shall end on April 30, 2025 (“Initial Term”), unless extended pursuant to Section 4.2.

4.2. Extensions. The Parties may renew this Agreement for up to two (2) additional one (1) year terms (each an “Extension Term”) by written approval of the Project Manager and the County Administrator at least thirty (30) days prior to the expiration of the then-current term. Any further extension shall require approval by the Board and the governing body of Municipality.

4.3. Fiscal Year. The continuation of this Agreement beyond the end of any County fiscal year (October 1 through September 30) is subject to both the appropriation and the availability of transportation surtax funds in accordance with Chapter 129, Florida Statutes.

4.4. Time of the Essence. Unless expressly waived by the Contract Administrator in writing, time is of the essence in Municipality’s performance of its duties, obligations, and responsibilities under this Agreement.

ARTICLE 5. FUNDING AND SURETY

5.1. Surtax Funding. County shall provide funding to Municipality for the Project in accordance with the Funding Schedule (**Exhibit B**). Any amounts, costs, or expenses indicated as ineligible for funding in Exhibit B shall not be funded by County but must instead be funded by Municipality from non-surtax funds. The Parties agree and acknowledge that all funding provided by County to Municipality under this Agreement shall be paid exclusively from and subject to the availability of proceeds from the transportation surtax levied pursuant to Section 212.055(1), Florida Statutes, and County shall not have any obligation to provide, nor shall County provide, any funding from County’s general revenue or any other County source. Municipality agrees and stipulates that the funding provided by County to Municipality under this Agreement will be

utilized by Municipality only for the purposes permitted under Section 212.055(1), Florida Statutes.

5.2. Method of Billing and Payment. Municipality shall invoice County only in accordance with the Funding Schedule. Any credit due to County under Section 5.6 must be reflected on the next applicable invoice. To be proper, each invoice must comply with the requirements of Exhibit B and be accompanied by a certification by the chief administrative officer and the chief financial officer of Municipality, or such other persons designated by Municipality with authority to act in similar capacities, that all funds received and utilized to date by Municipality under this Agreement were utilized only for the Project, only for the portion(s) of the Project that the Oversight Board and County determined were eligible for surtax funding, and only for purposes that Municipality independently determined were eligible for surtax funding. County shall pay Municipality in accordance with the Funding Schedule within thirty (30) days of receipt of Municipality's proper invoice. Payment shall be made to Municipality at the address designated by Municipality for notices pursuant to Section 11.6.

5.3. Phases; Funding Schedule. The Funding Schedule may provide for funding the Project in phases or by deliverable, with the funding for subsequent phases or deliverables to be determined after completion of prior phases or particular deliverables. Any such later-determined funding for the Project, including any modification to the funding amount(s), phase(s), or deliverable(s) stated in the Funding Schedule, shall require a written amendment to this Agreement with an amended Funding Schedule attached thereto setting forth the next phase(s) or deliverable(s) and applicable funding for same. All terms and conditions of this Agreement shall apply to any such amended Funding Schedule. The County Administrator, on behalf of County, and the Municipality's City Manager, on behalf of Municipality, are authorized to execute amendments to this Agreement to incorporate an amended Funding Schedule, provided the total of all funding obligations of County under this Agreement does not exceed the total Maximum Funding Amount. Any amended Funding Schedule or other amendment that would cause County's total funding obligations under this Agreement to exceed the Maximum Funding Amount shall not be effective unless approved by the Board.

5.4. Maximum Funding. Municipality acknowledges that the Maximum Funding Amount set forth below is the maximum amount payable by County and constitutes a limitation upon County's obligation to provide funding to Municipality for the Project. Municipality further acknowledges that subtotal amounts set forth below for the applicable phases and in the Funding Schedule (including as amended) are the maximum amounts payable for the applicable portions of the Project, and constitute limitations on County's obligation to provide funding to Municipality for the Project.

Description	Not-To-Exceed Amounts
Phase 1: Design	\$480,000.00
MAXIMUM FUNDING AMOUNT:	\$480,000.00

In no event shall County be liable to provide funding to Municipality in excess of the applicable

amounts stated in the Funding Schedule or the Maximum Funding Amount, regardless of the basis for any claim or the basis for increased cost, including, without limitation, differing site conditions, delays, weather, or any other reason. If the actual costs of the Project exceed the amount County is obligated to fund per the Funding Schedule, as same may be amended pursuant to this Agreement, Municipality shall be solely responsible for funding any and all such additional amounts. Municipality is solely responsible for any and all costs to operate, support, and maintain the Project unless otherwise agreed in writing by the Parties; County has no obligation to fund any costs related to the Project except as expressly stated in this Agreement.

5.5. Adjustments for Corridor Projects; Funding Withholding; Other Delayed Funding.

5.5.1. In order to avoid duplicative construction and unnecessary disruption of the local transportation network and community, the Parties shall cooperate in good faith to coordinate the timing of the Project with other projects that affect the same or nearby transportation elements, including, without limitation, other Surtax-Funded Projects and other County or State roadway projects (collectively, "Corridor Projects"). The Contract Administrator shall provide prompt notice to Municipality if County determines that the timing of the Project requires adjustment due to a Corridor Project. Upon receipt of such a notice, Municipality shall use best efforts to suspend any additional work on the Project pending an agreed adjustment to the Project Schedule, and the Parties shall cooperate to mutually approve an adjusted Funding Schedule (adjusted only as to timing, absent good cause as determined by Contract Administrator) and Project Schedule. County may withhold any otherwise scheduled funding until such adjustments are mutually approved by the Parties. To the extent some or all of the Project costs are modified as a direct result of a timing adjustment to accommodate a Corridor Project, such modified costs shall be addressed in an amendment to the Funding Schedule and, if necessary, an amendment to this Agreement.

5.5.2. If commencement or completion of a phase of the Project is delayed beyond its scheduled date by more than one (1) year, or work suspended for more than one (1) year, the Funding Schedule may be unilaterally adjusted as to timing (but not amount) by written notice issued by the Contract Administrator, after consultation with Municipality, to reflect the delay; any adjustment to the amount of funding for any phase in connection with the delay shall require an amended Funding Schedule in accordance with Section 5.3.

5.6. Overpayments; Refunds. Any funding provided by County under this Agreement for a Phase that exceeds the actual amounts expended by Municipality in accordance with this Agreement for that Phase shall be credited against the next invoice to County or refunded to County, as elected by County. Any funding provided by County under this Agreement that exceeds actual amounts paid by Municipality for the Project shall be promptly refunded to County upon Municipality's discovery of an overpayment, County's request for refund, or sixty (60) days after completion of the Project, whichever occurs first. For purposes of this calculation, any interest expense(s) incurred by Municipality are not an allowable cost. Any

refunds, credits, liquidated damages, insurance proceeds (after payment of any applicable deductible), claim or litigation proceeds (after payment of attorneys' fees and costs), or other amounts received by or credited to Municipality by or on behalf of Contractor, Consultant, or any Subcontractor (collectively, "Proceeds") shall be either credited against future funding due from County under this Agreement or paid by Municipality to County within thirty (30) days after its receipt of the Proceeds, as elected by County. The total Proceeds amount credited or refunded to County shall not exceed the total funding provided by County under this Agreement. Municipality shall promptly notify County of any amount of Proceeds received by or credited to Municipality, and of any claims filed or asserted relating to the Project. For unresolved claims or litigation, the Parties shall cooperate to ensure any Proceeds are first credited or repaid to the benefit of County before any other allocation.

5.7. Separate Accounting. Municipality shall deposit and maintain all funding received from any source for the Project in a segregated fund or account, which shall be subject to audit pursuant to Article 8. Any interest earned by Municipality on any funds provided under this Agreement shall be credited against the funding otherwise due from County under this Agreement and must be utilized by Municipality solely in accordance with the terms of this Agreement. Upon prior written approval by the Contract Administrator, Municipality may utilize other methods of separate accounting for the Project funds provided the accounting method permits a full and complete audit of the funds as required by Article 8.

5.8. Withholding by County. Notwithstanding any provision of this Agreement to the contrary, County may withhold, in whole or in part, payment to the extent necessary to ensure utilization of the funds in accordance with this Agreement, applicable law, and the Board-approved transportation surtax program. Failure of Municipality or the Project to comply with the Reporting Requirements or the Performance Metrics may also be a basis to withhold or limit future funding for the Project, as determined in the reasonable discretion of the Contract Administrator. The amount withheld shall not be subject to payment of interest by County. Upon written notice by County and except as expressly stated otherwise herein, payment may be withheld by County for the duration of any failure of Municipality to comply with a term, condition, or requirement of this Agreement; County shall promptly pay the amount withheld to Municipality when Municipality's noncompliance with the applicable terms and conditions of this Agreement is cured to the reasonable satisfaction of Contract Administrator.

5.9. Final Invoice and Reconciliation. Unless otherwise stated in the Funding Schedule or approved by the Contract Administrator, Municipality must submit the final invoice to County no later than one hundred twenty (120) days after the completion of the Project. The final invoice must be accompanied by a complete summary of all expenses incurred and all amounts paid for the Project, all funding, Proceeds, interest, or other amounts received relating to the Project, and any unpaid invoices, amounts still owing, disputed charges, or other unresolved issues relating to the Project that may impact the financial accounting of the Project (collectively, the "Final Reconciliation"). Upon request by the Contract Administrator, Municipality shall provide any backup or additional documentation requested relating to the Final Reconciliation; if County or Municipality identifies any error or omission in the Final Reconciliation, Municipality shall

resubmit a corrected final invoice and corrected Final Reconciliation. County shall pay the correct final invoice after review and approval of the Final Reconciliation.

ARTICLE 6. TRANSPORTATION SURTAX PROJECT COORDINATION AND PARTICIPATION

6.1. Reporting Requirements. Unless waived in writing by the Contract Administrator, Municipality shall comply with the Reporting Requirements set forth in **Exhibit C**. In addition, Municipality shall provide written reports to the Contract Administrator consisting of the following information as of the date of the report, with monthly information provided within thirty (30) days after the end of the applicable month, quarterly information provided within forty-five (45) days after the end of the applicable quarter, and annual information provided within one hundred eighty (180) days after the end of the fiscal year:

6.1.1. Quarterly Report on Expenditures: For both total to date and total for the applicable quarter, the total funds received from any funding source for the Project (itemized by funding source) and total funds (by funding source) expended to date for the Project;

6.1.2. Monthly Report on Project Schedule: The updated Project Schedule, summary of progress during the applicable quarter, and any adjustments to the Project Schedule (including all approved adjustments and pending requests for adjustments);

6.1.3. Monthly report on Material Changes or Impacts: All material changes to the Project, the Project Schedule, or any other aspect of the Project that may impact the cost of the Project or the ability of the Project to achieve the intended goals or purposes; and

6.1.4. Annual Audit Reports: On an annual basis, copies of Municipality's most recent annual financial reporting packages, reports, or other information required to be submitted in accordance with Section 215.97, Florida Statutes. A copy of Municipality's most recent single audit complies with this requirement.

6.2. Performance Metrics. Municipality must ensure that the quality, progress, and nature of the Project strictly comply with the Performance Metrics stated in Exhibit C. The Contract Administrator may modify the Performance Metrics for the Project at any time with the written approval of the Project Manager. In addition to the reporting required pursuant to Section 6.1 above, Municipality shall provide written reports to the Contract Administrator on at least an annual basis, no later than ninety (90) days after the end of the fiscal year, documenting the Project's compliance with the applicable Performance Metrics. The Contract Administrator or designee will provide technical assistance and support, as may be reasonably requested by Municipality, and shall make available to Municipality a centralized repository of relevant, available metrics and data.

6.3. Permitting for Surtax-Funded Projects. To decrease public inconvenience and to facilitate the expeditious and efficient completion of Surtax-Funded Projects, for any Surtax-Funded Project that is performed by County and is in whole or in part within the geographical boundaries

of Municipality, Municipality shall waive, to the full extent permissible under applicable law, all municipal permitting requirements, except to the extent of any portion of the work performed by County that will be owned, operated, and maintained by Municipality. The waiver shall include, but not be limited to, the requirements of permit application, permit issuance, inspections, and permitting fees. County shall be responsible for ensuring adequate plan review, inspections, and compliance with State and County standards for work in the public right of way. County shall waive, to the full extent permissible under applicable law, all County permitting fees for municipal Surtax-Funded Projects.

6.4. Road Closures. Municipality shall institute and comply with a cooperative notification program that ensures County is promptly notified and promptly provided with data reasonably requested by County regarding all municipal roads that are closed for any reason, including but not limited to the Project, other construction, or flooding, in a format prescribed by County. Providing Municipality consistently utilizes the cooperative notification program established by County and promptly cures any nonperformance upon notice by County, nonrecurring or isolated incidents of failure by Municipality to timely notify as required by this Section 6.4 shall not be a basis for withholding or nonpayment of funding by County under this Agreement.

6.5. Branding and Marketing. At County's request, Municipality shall participate in reasonable branding and marketing in the form and content prescribed by County, including, but not limited to, signage prominently acknowledging the surtax funding source of Surtax-Funded Projects, utilizing County-approved wording, logo, or other imagery, which branding and marketing will acknowledge the project contributions of County and Municipality. The costs for all branding and marketing requested by County pursuant to this Section 6.5 shall be fully funded by County. Provided Municipality cures any nonperformance within thirty (30) days after notice by County, nonrecurring or isolated incidents of failure by Municipality to comply with this Section 6.5 shall not be a basis for withholding or nonpayment of funding by County under this Agreement.

6.6. Data Collection and Sharing. To the extent requested by County, Municipality shall ensure the Project includes incorporation and placement of sensors or other devices on municipal roads, rights of way, properties, and assets for County-approved applications for mobility-related data collection purposes, provided such placement shall not unreasonably interfere with the aesthetics or Municipality's use of such roads, rights of way, properties, or assets. The costs for any such incorporation and placement requested by County shall be funded by County. Municipality shall ensure the collection of data includes and is consistent with the scope, type, frequency, quantity, and format requested by County in order to facilitate countywide collection and utilization of transportation data. For the useful life of the Project, to the extent requested by County, Municipality shall provide County any and all access to such data as may be requested by County, including recurring or real-time access or periodic download. Provided Municipality cures any nonperformance within thirty (30) days after notice by County, nonrecurring or isolated incidents of Municipality's failure to comply with this Section 6.6 shall not be a basis for withholding or nonpayment of funding by County under this Agreement.

6.7. Conflict of Interest.

6.7.1. Municipality represents and agrees that it has not contracted, and will not contract during the term of this Agreement, with the MPO for the MPO to perform any of the following services (collectively, the “Contracting Prohibitions”):

- 6.7.1.1. Any design, construction, oversight, or management services relating to any Surtax-Funded Project or any proposed project for which transportation surtax funding is being or will be sought;
- 6.7.1.2. Any planning, oversight, or reporting services relating to any receipt by Municipality of community shuttle surtax funding; or
- 6.7.1.3. Any grant writing or grant consultation services in connection with any Surtax-Funded Project (or proposed Surtax-Funded Project).

6.7.2. The foregoing Contracting Prohibitions:

- 6.7.2.1. Shall not apply to any state- or federally-mandated services provided by the MPO for which services the MPO does not receive any compensation from Municipality beyond Municipality’s annual contribution to the MPO;
- 6.7.2.2. May be waived by the County Administrator in connection with any Surtax-Funded Project for which the County Administrator determines, in his or her sole discretion, that such waiver is in the best interest of Broward County for reasons including, but not limited to, that such waiver would permit the performance of services reasonably necessary to obtain significant state or federal matching funds in connection with any project or proposed project. No such waiver shall be effective unless approved by the County Administrator in writing; and
- 6.7.2.3. Do not prohibit or in any way impede the ability of Municipality to contract with any entity other than the MPO for transportation planning services whether or not such services are in connection with any Surtax-Funded Project.

The Parties agree that any violation of the Contracting Prohibitions will constitute a material breach of this Agreement which, in addition to all other remedies available to County under this Agreement, would permit County to terminate this Agreement, withhold all funds otherwise payable to Municipality under this Agreement, and require Municipality to repay County in full for any funds previously paid by County under this Agreement.

6.8. Sale, Transfer, or Disposal of Surtax-Funded Property. Municipality shall not sell or otherwise transfer or dispose of its title, rights, or interests, or any portion thereof, in real property, facilities, or equipment, funded in any part by County under this Agreement, without prior written approval from County. If a sale, transfer, or disposal occurs in violation of this section, unless otherwise agreed in writing by the Parties, Municipality shall pay County, within ninety (90) days after the sale, transfer, or disposal, an amount equal to the greater of County's share of the fair market value or the straight line depreciated value of the improvements plus land value. "County's share of the fair market value" as used herein means the percentage of surtax funding in the Project multiplied by the best obtainable price for the item, and the resulting product then reduced by reasonable sales costs. If the property has never been used for the intended purpose of the Project, Municipality shall pay the greater of County's share of the fair market value or the entire amount of surtax funding provided for the Project.

6.9. Affirmation of MPO Prioritization and Ranking Process. Municipality acknowledges that the prioritization and ranking process of municipal capital projects for fiscal year 2020 was completed in compliance with all applicable obligations of County and the MPO; and was informed by each project's ability to alleviate traffic congestion and improve connectivity, as well as shovel-readiness, construction work planned in the vicinity of a proposed project, corridor delivery timing, and other existing conditions that allow surtax revenues to be utilized responsibly, efficiently, and with the least interruption to residents and businesses. Municipality hereby waives and releases any and all claims it has or may have that accrued at any time prior to the effective date of this Agreement, which claims, in any way, relate to, result from, or are in connection with the prioritization and ranking process of municipal capital projects for fiscal year 2020 or the County's funding decisions related thereto. Municipality agrees and stipulates that the MPO prioritization and ranking process for fiscal year 2020 was proper and consistent with the applicable interlocal agreements and that the County is not, as of the effective date of this agreement, in breach or default of any provision of any applicable interlocal agreement relating in any way to expenditure of transportation surtax proceeds.

ARTICLE 7. INDEMNIFICATION

Municipality shall indemnify, hold harmless, and defend County and all of County's current, past, and future officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of Municipality, its officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). If any Claim is brought against an Indemnified Party, Municipality shall, upon written notice from County, defend each Indemnified Party against each such Claim by counsel satisfactory to County or, at County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. If considered necessary by the Contract Administrator and the County Attorney, any

sums due Municipality under this Agreement may be retained by County until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County.

ARTICLE 8. AUDITING

8.1. Audit Rights and Retention of Records. County shall have the right to audit the books, records, and accounts of Municipality, Contractor, Consultant, and Subcontractors (the “Audited Entities”) that are related to the Project or this Agreement (the “Contract Records”). Audits, reviews, monitoring, inspections, and investigations conducted pursuant to this Agreement may include, but are not limited to, on-site visits by County staff, interviews of staff of any of the Audited Entities, review of performance and financial reports, determining and monitoring appropriate corrective action, and issuing management letters on deficiencies or weaknesses identified. Audited Entities shall fully comply and cooperate with any auditing and monitoring activities deemed appropriate by County.

Audited Entities shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request by the Contract Administrator to do so, Audited Entities shall make same available in written form at no cost to County.

Contract Records include any and all information, materials, and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, drawings, receipts, vouchers, and memoranda, and any and all other documents that pertain to rights, duties, obligations, or performance relating to the Project. Contract Records include hard copy and electronic records, written policies and procedures, time sheets, payroll records and registers, cancelled payroll checks, estimating work sheets, correspondence, invoices and related payment documentation, general ledgers, insurance rebates and dividends, and any other records pertaining to rights, duties, obligations, or performance relating to the Project of any of the Audited Entities.

Audited Entities shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to the Project or this Agreement until the later of five (5) years after expiration or termination of this Agreement, resolution of any audit findings, or as otherwise required by law. Any audit or inspection pursuant to this section may be performed by any County representative (including any outside representative engaged by County) or the Oversight Board. The Project and all expenditures relating to the Project shall be subject to the Oversight Board’s review, critique, and analysis for the duration of the Project.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County’s disallowance and recovery of any payment made or based upon such entry. If an audit

or inspection in accordance with this section discloses overpricing or overcharges to County of any nature in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of County's audit shall be reimbursed to County by Municipality in addition to any required adjustments for the overcharges. Any adjustments or payments due as a result of such audit or inspection shall be made by Municipality to County within thirty (30) days after presentation of County's findings to Municipality.

Municipality shall ensure that the requirements of this section are included in all agreements with any other Audited Entity. Municipality shall further include in its contract with Contractor and its contract with Consultant the following provision:

"If an audit inspection or examination in accordance with this provision discloses overpricing or overcharges to Municipality (of any nature) by the contractor or the contractor's subcontractors in excess of five percent (5%) of the total contract billings reviewed, the reasonable actual cost of any audit conducted by or on behalf of Municipality, Broward County, or the Independent Transportation Surtax Oversight Board shall be reimbursed by contractor to the Municipality or Broward County, as applicable, along with any required adjustments for the overpricing or overcharges. Any adjustments or payments that must be made as a result of any such audit or inspection of the contractor's invoices or records shall be made within a reasonable amount of time (not to exceed 30 days) after presentation of the audit findings to contractor."

8.2. Performance Audit. The Project, and all funding received, maintained, or expended by Municipality for the Project, shall be subject to audits and reviews by the Oversight Board at its expense (and subject to reimbursement pursuant to this article) for the duration of the Project and continuing until five (5) years after the later of completion of the project, expiration or termination of this Agreement, or resolution of any audit findings. Municipality shall fully cooperate and provide any and all requested Contract Records as may be requested by the Oversight Board. The Project and all funds received, maintained, or expended relating to the Project shall be subject to the Oversight Board's review, critique, and analysis for the duration of the Project.

ARTICLE 9. TERMINATION

9.1. This Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within thirty (30) days after receipt of written notice from the aggrieved Party identifying the breach. This Agreement may also be terminated by the Board upon sixty (60) days' prior written notice if the Board determines that the Project cannot be funded with surtax funding under applicable law, including Section 212.055, Florida Statutes. This Agreement may be immediately terminated by written notice by the County Administrator if the transportation surtax is determined by a court of competent jurisdiction to be invalid, void, or illegal.

9.2. This Agreement may be terminated for cause by County for reasons including, but not limited to, any of the following:

9.2.1. Inability of Municipality, including through Contractor or Consultant, to perform or complete the Project in compliance with this Agreement, including the Project Schedule (including any extensions approved by Contract Administrator, approval of which shall not be unreasonably withheld);

9.2.2. Repeated submission (whether negligent or intentional) for payment of false or incorrect invoices;

9.2.3. Fraud, misrepresentation, or material misstatement in the performance of this Agreement or the Project by Municipality, Contractor, or Consultant;

9.2.4. Contractor's or Consultant's act or omission that violates any applicable requirement of Section 1-81, Broward County Code of Ordinances; or

9.2.5. Utilization of the funding provided by County under this Agreement in a manner that violates applicable law or for uses or purposes that are not permitted uses for transportation surtax funds under Section 212.055, Florida Statutes.

9.3. Notice of termination shall be provided in accordance with the "Notices" section of this Agreement.

9.4. If this Agreement is terminated by County, Municipality shall be paid from proceeds of the surtax levied pursuant to Section 212.055, Florida Statutes, if funding is available, for any work on the Project properly performed through the termination date specified in the written notice of termination, subject to any right of County to retain any sums otherwise due and payable.

9.5. In addition to any right of termination stated in this Agreement, County and Municipality shall be entitled to seek any and all available remedies, whether stated in this Agreement or otherwise available at law or in equity, all such remedies being cumulative.

9.6. Municipality may terminate this Agreement upon thirty (30) days' prior written notice to County if Municipality determines not to proceed with the Project and either (a) the written notice of termination is provided prior to Municipality's receipt of any funding from County under this Agreement, or (b) prior to the effective date of termination, Municipality returns all funding received from County under this Agreement, including any interest earned by Municipality on any funds provided by County under this Agreement.

ARTICLE 10. EQUAL EMPLOYMENT OPPORTUNITY AND CBE COMPLIANCE

10.1. No Party may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Municipality shall include the foregoing or similar language in its contracts with Contractor and Consultant, and shall require inclusion of the foregoing or similar language in their contracts with Subcontractors, except that

any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

10.2. Unless otherwise approved in advance in writing by County's Director of Office of Economic and Small Business Development ("OESBD"), Municipality shall comply with all applicable requirements of the County Business Opportunity Act, Section 1-81, et seq., Broward County Code of Ordinances, in the award and administration of any contract or agreement regarding the Project. Failure by Municipality to carry out any of the requirements of this article shall constitute a material breach of this Agreement, which shall permit County to terminate this Agreement or exercise any other remedy provided under this Agreement, the Broward County Code of Ordinances, the Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

10.3. Unless otherwise approved in advance in writing by County's Director of OESBD, Municipality will meet the required CBE goal for the Project by utilizing (or requiring the utilization of) CBE firms for at least thirty percent (30%) of total Project costs, except that no CBE commitment shall apply to agreements that are subject to other participation goals (e.g., federal DBE program or SBE reserves), agreements that are expressly exempt from the County's Procurement Code, agreements that are otherwise ineligible by state or federal law, and agreements to which goals are not assigned by the County (e.g., sole source, sole brand, and emergency agreements) (the "Commitment").

10.4. Each CBE firm utilized to meet the Commitment must be certified by OESBD. Municipality shall inform County immediately when a CBE firm is not able to perform or if Municipality believes the CBE firm should be replaced for any other reason, so that OESBD may review and verify the good faith efforts of Municipality to substitute the CBE firm with another CBE firm, as applicable. Whenever a CBE firm is terminated for any reason, Municipality shall provide written notice to OESBD and, upon written approval of the Director of OESBD, shall substitute another CBE firm in order to meet the CBE goal, unless otherwise provided in this Agreement or agreed in writing by the Parties. Such substitution shall not be required if the termination results from modification of the Project and no CBE firm is available to perform the modified Project; in which event, Municipality shall notify County, and OESBD may adjust the Commitment by written notice to Municipality. Municipality shall not terminate a CBE firm for convenience without County's prior written consent, which consent shall not be unreasonably withheld.

10.5. Municipality shall include the following provision in its contract with Contractor:

"The parties stipulate that if Contractor fails to meet the CBE utilization obligation in the Interlocal Agreement between Municipality and Broward County (the "Commitment"), the damages to Broward County and Municipality arising from such failure are not readily ascertainable at the time of contracting. If Contractor fails to meet the Commitment and Broward County determines, in the sole discretion of the OESBD Program Director, that Contractor failed to make Good Faith Efforts (as defined in Section 1-81, Broward County Code of Ordinances) to meet the Commitment, Contractor shall pay Municipality liquidated damages in an amount equal to fifty percent (50%) of the actual dollar amount

by which Contractor failed to achieve the Commitment, up to a maximum amount of ten percent (10%) of the total contract amount excluding costs and reimbursable expenses. An example of this calculation is stated in Section 1-81.7, Broward County Code of Ordinances. As elected by Broward County, such liquidated damages amount shall be either credited against any amounts due Contractor from Municipality, or must be paid by Municipality to Broward County within thirty (30) days after written demand by Broward County. Any failure to meet the Commitment attributable solely to force majeure, changes to the Project, or inability to substitute a CBE Subcontractor where the OESBD Program Director has determined that such inability is due to no fault of Contractor, shall not be deemed a failure by Contractor to meet the Commitment.”

10.6. Municipality shall require Contractor and Consultant to provide written monthly reports to the Municipality and the Contract Administrator no later than ten (10) business days after the end of the month regarding Contractor’s and Consultant’s compliance with the Commitment stated in this article. In addition, Municipality shall require Contractor and Consultant to allow County to engage in onsite reviews to monitor Contractor’s and Consultant’s progress in achieving the Commitment and maintaining the applicable contractual and CBE obligations.

ARTICLE 11. MISCELLANEOUS

11.1. Contract Administrator Authority; Dispute Resolution; Escalation. The Contract Administrator is authorized to coordinate and communicate with Municipality to manage and supervise the performance of this Agreement. Any determination by the Contract Administrator that this Agreement authorizes the Contract Administrator to make shall be binding on the Parties. Unless expressly stated otherwise in this Agreement or otherwise set forth in an applicable provision of the Broward County Procurement Code, Broward County Code of Ordinances, or Broward County Administrative Code, the Contract Administrator may exercise any ministerial authority in connection with the day-to-day management of this Agreement. In the event of a dispute regarding the performance of this Agreement, both Parties stipulate and agree to expedited dispute resolution procedures as follows: if either Party provides notice of a dispute that the respective staff have failed to resolve despite diligent good faith efforts, the Contract Administrator and the Project Manager (or other appropriate representative(s) designated by County or Municipality, respectively) shall meet in person or via videoconference within ten (10) business days and attempt in good faith to resolve the dispute and report potential resolutions to their respective governing bodies for consideration; if either Party thereafter provides written notice of impasse, the Mayors or Vice-Mayors of the County and Municipality shall meet in person or via videoconference within ten (10) business days and attempt in good faith to resolve the dispute and report potential resolutions to their respective governing bodies for consideration; any resolution must be approved by the governing bodies of both Parties to be effective. If either Party thereafter provides written notice of impasse, either Party may proceed to seek any available judicial remedies and the Parties agree and stipulate that the requirements of Chapter 164 shall be deemed fully met and both Parties waive and agree not to assert any defense based upon failure to fully comply with the intergovernmental dispute resolution proceedings otherwise required under Chapter 164.

11.2. Public Records. The Parties agree and stipulate that both Parties are subject to Florida public records laws and shall fully comply with same. At the request of County, Municipality shall, in accordance with applicable law, respond to any request for public records received by County relating to the Project. Any other public records request shall be responded to by the receiving party. Each Party shall cooperate upon request by the other Party and provide any requested records to enable the Party to respond to a public records request.

Any material submitted to County that Municipality, Contractor, or Consultant contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (“Trade Secret Materials”) must be separately submitted and conspicuously labeled “EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET.” In addition, Municipality, Contractor, or Consultant, as applicable, must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. If a third party submits a request to County for records designated by Municipality, Contractor, or Consultant as Trade Secret Materials, County shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Municipality, Contractor, or Consultant, as applicable. Municipality shall indemnify and defend, and shall require Contractor and Consultant to indemnify and defend, County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys’ fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a public records request by a third party.

11.3. Independent Contractor. Nothing in this Agreement constitutes or creates a partnership, joint venture, or any other relationship between the Parties or any Party and Contractor, Consultant, or any Subcontractor. Neither Party nor its agents shall act as officers, employees, or agents of the other Party. Neither Party shall have the right to bind the other Party to any obligation not expressly undertaken by that Party under this Agreement.

11.4. Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by County or Municipality, nor shall anything included herein be construed as consent by County or Municipality to be sued by third parties in any matter arising out of this Agreement. County and Municipality are subdivisions of the State of Florida, as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of their respective employees pursuant to Section 768.28, Florida Statutes.

11.5. Third-Party Beneficiaries. Neither Municipality nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

11.6. Notices. In order for a notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). The addresses for notice shall remain as set forth in this section unless and until changed by providing notice of such change in accordance with the provisions of this section.

FOR COUNTY:

Broward County Administrator
Attn: Monica Cepero
115 South Andrews Avenue, Room 409
Fort Lauderdale, Florida 33301
Email address: mcepero@broward.org

With a copy to:

Broward County Attorney's Office:
Attn: Angela J. Wallace
115 South Andrews Avenue, Room 423
Fort Lauderdale, Florida 33301
Email address: ajwallace@broward.org

FOR MUNICIPALITY:

Cooper City Manager's Office
Attn: Joseph Napoli
9090 SW 50 Place
Cooper City, FL 33328
Email address: jnapoli@coopercityfl.org

11.7. Assignment. Neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by Municipality without the prior written consent of County. Any assignment, transfer, encumbrance, or subcontract in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit County to immediately terminate this Agreement, in addition to any other remedies available to County at law or in equity, all such remedies being cumulative.

11.8. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term of this Agreement. County's or Municipality's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed

to be a modification of the terms of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

11.9. Compliance with Laws. Municipality and the Project must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without limitation, American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations.

11.10. Representation of Authority. The Parties represent and warrant that this Agreement constitutes the legal, valid, binding, and enforceable obligation of each Party, that execution of this Agreement is within each Party's legal powers, and that each individual executing this Agreement is duly authorized by all necessary and appropriate action to do so on behalf of that Party and does so with full legal authority.

11.11. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

11.12. Joint Preparation. This Agreement has been jointly prepared by the Parties, and shall not be construed more strictly against either Party.

11.13. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated.

11.14. Priority of Provisions. Unless otherwise expressly stated in this Agreement, if there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision of Articles 1 through 11 of this Agreement, the provisions contained in Articles 1 through 11 shall prevail and be given effect. In the event of a conflict between this Agreement and the Transportation System Surtax Interlocal Agreement, executed by County on August 29, 2018, as amended, the provisions of this Agreement shall prevail and be given effect.

11.15. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal

court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, EACH OF MUNICIPALITY AND COUNTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

11.16. Amendments. No modification, amendment, or alteration in the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by duly authorized representatives of County and Municipality.

11.17. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

11.18. Payable Interest

11.18.1. Payment of Interest. County shall not be liable to pay any interest to Municipality for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Municipality waives, rejects, disclaims, and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This subsection shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

11.18.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, one quarter of one percent (0.25%) simple interest (uncompounded).

11.19. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached exhibits are incorporated into and made a part of this Agreement.

11.20. Prevailing Wage Requirement. If construction work in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) is required of, or undertaken by, Municipality as a result of this Agreement, Section 26-5, Broward County Code of Ordinances, as amended from time to time, shall be deemed to apply to such construction work. Municipality shall ensure Contractor fully complies with the requirements of such ordinance and satisfies, complies with, and completes the required forms as set forth in the Surtax-Funded Projects Form Construction Contract or such other contract as is approved pursuant to this Agreement.

11.21. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

11.22. Living Wage Requirement. To the extent Contractor is a “covered employer” within the meaning of the Broward County Living Wage Ordinance, Sections 26-100 through 26-105, Broward County Code of Ordinances, Municipality shall include in its written agreement with Contractor that Contractor agrees to and shall pay to all of its employees providing “covered services,” as defined in the ordinance, a living wage as required by such ordinance, and shall fully comply with the requirements of such ordinance, and that Contractor shall ensure all of its Subcontractors that qualify as “covered employers” fully comply with the requirements of such ordinance.

11.23. Workforce Investment Program. Municipality acknowledges the Broward Workforce Investment Program, Section 19.211, Broward County Administrative Code (“Workforce Investment Program”). Municipality shall include in its contract with Contractor the requirements of the Workforce Investment Program and Contractor’s agreement to use good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal as set forth in the Workforce Investment Program, including by (a) publicly advertising exclusively with CareerSource Broward for at least five (5) business days any vacancies that are the direct result of this Agreement (whether those vacancies are with Municipality or its Subcontractors) and using good faith efforts to interview any qualified candidates referred under the Workforce Investment Program, and (b) using good faith efforts to hire Qualifying New Hires, as defined by the Workforce Investment Program, for at least fifty percent (50%) of the vacancies that are the direct result of this Agreement.

11.24. Survivability. Notwithstanding any expiration or termination of this Agreement, the following provisions shall survive expiration and termination: Section 3.2 (Municipal Responsibility for the Project); Section 5.6 (Overpayments; Refunds); Article 6 (Transportation Surtax Project Coordination and Participation); Article 7 (Indemnification); Article 8 (Auditing); Section 11.2 (Public Records); Section 11.15 (Law, Jurisdiction, Venue, Waiver of Jury Trial); and Section 11.18 (Payable Interest).

11.25. Approvals. To be effective, any approval under this Agreement made by or on behalf of the County, County Administrator, Contract Administrator, Project Manager, or other representative of either Party must be in writing.

(The remainder of this page is intentionally blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY, through its County Administrator, authorized to execute same by Board action on the 25th day of August, 2020, Agenda Item No. 86, and Municipality, signing by and through its _____ Mayor _____ duly authorized to execute same.

COUNTY

WITNESSES:

BROWARD COUNTY, by and through its County Administrator

(Signature)

By _____
County Administrator

(Print Name of Witness)

____ day of _____, 2022

(Signature)

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

(Print Name of Witness)

By _____
William J. Bucciero (Date)
Assistant County Attorney

By _____
Angela J. Wallace (Date)
Transportation Surtax General Counsel

AJW/WJB/hb
Municipal Interlocal Agreement
COOP024/COOP042/BC-COOPERCFY2020-00001
5/2/2022
#22-114.00

INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF COOPER CITY FOR SURTAX-FUNDED MUNICIPAL TRANSPORTATION PROJECT: STIRLING ROAD ROADWAY AND DRAINAGE IMPROVEMENT/COOP-024, COOP-042, AND BC-COOPERC-FY2020-00001

MUNICIPALITY

ATTEST:

CITY OF COOPER CITY

Tedra Allen, City Clerk

By: _____
Greg Ross, Mayor

_____ day of _____, 2022

I HEREBY CERTIFY that I have approved this Agreement as to form and legal sufficiency subject to execution by the parties:

Jacob Horowitz, City Attorney

EXHIBIT A
Project Description and Project Schedule

1. Project Description: As further detailed in the Scope of Work attached hereto as Exhibit A-1, this Project includes the following:

Planning, design, and permitting of a storm drain system, including curbs and gutters, to convey storm water off of the paved surface of Stirling Road; review of existing grades and adjacent properties to confirm offsite runoff is not entering Stirling Road drainage system; potential roadway widening to accommodate bike lanes in both directions; review of and potential improvements to the roadway lighting system; replacement or enhancement of the existing median landscaping; upgrading to mast arms at the existing span wire intersections at the Fire Station Emergency Flasher, SW 106th Avenue and Hiatus Road; pedestrian and ADA upgrades. The project will not include intersection improvements to Stirling Road within SW 100 Avenue nor within Flamingo Road.

The following items are not eligible for transportation surtax funding:

- Decorative lighting and road signage, brick pavers, and similar items.
- Landscaping improvements that are not within the public right of way.
- Utility system adjustments.
- Increases to the stormwater system to accommodate a drainage area greater than the eligible size; and improvements to address runoff from private roads and/or developments.

Improvements to a public road stormwater system that address drainage deficiencies are eligible for transportation surtax funding, provided the drainage improvements only address stormwater runoff from a public roadway. A drainage analysis is required for drainage work and may include the width of the road right-of-way plus up to ten (10) feet on each side of the right-of-way to calculate the eligible size of the stormwater system.

A lighting justification report consistent with Broward County and FDOT policies and criteria outlined in the then-current version of the Florida Greenbook is required.

All costs associated with work ineligible for surtax funding must be adequately and separately itemized and paid by Municipality with non-transportation surtax funds.

2. Deliverables:

Municipality shall provide quantifiable, measurable, and verifiable units of Deliverables as set forth below. Each Deliverable must specify the required minimum level of work to be performed and the

criteria for evaluating successful completion of the Deliverable.

Municipality shall provide a certification from a professional engineer which states all documents submitted meet a level of completeness in accordance with local engineering standards; this applies to all Deliverables listed in this Agreement.

DELIVERABLES: Phase 1 - Design

Sample Deliverable Schedule for Design

No.	Description	Duration/Deadline	Acceptance Criteria
0	Execution of ILA between County and City of Cooper City	Effective Date	ILA fully executed by City and County and City government signed resolution.
1	Bid Advertisement and Award; Consultant Agreement	60 days after Effective Date	Advertised Solicitation Package, Award Letter, fully executed Consultant Agreement with County terms and conditions.
2	Notice to Proceed and Commencement of Work	15-30 days after Contract Award	NTP Issued by Municipality
3	Surveying; Pre-Design Work and Data Collection; Basis of Design Report	8 months after NTP	The basis of design report shall establish the design criteria and standards to be used and describe the conceptual design plan and scope of the project. The report must include a noise study for soundwalls if applicable, lighting justification report if lighting is proposed, and conceptual drainage design for review and approval by County.
4	30% Design Submittal	4 months after acceptance of Basis of Design Report	Typical and standard sections must be included in 30% Design Submittal for review and approval by County.
5	60% Design Submittal	2 months after acceptance of 30% Design Submittal	Complete Drainage Analysis must be included in 60% Design Submittal as well as typical and standard sections. Subject to review and approval by County
6	Final Plans, Specification Package, and Final Cost Estimate Submittal and Bid Documents; Permitting completed.	4 months after 60% Design Submittal	Signed, sealed, and complete construction plans, specifications, and cost estimate, prepared in accordance with applicable State, County, and local standards. All required permits issued. Subject to review and approval by County.

3. Project Schedule:

Sample Project Schedule for Design Contract

Phase: 1	Estimated Date of Completion
ILA fully executed by County and Municipality	April 30, 2022
Project Consultant Bid Advertising and Award; Consultant Agreement Execution	June 30, 2022
Notice to Proceed Issued	July 30, 2022
Basis of Design Report/Pre-Design Work and Data Collection/Surveying	March 30, 2023
30% Design Submittal	July 30, 2023
60% Design Submittal	September 30, 2023
Permitting/Revisions	November 30, 2023
Final Design Completion	January 30, 2024
Bidding Assistance	March 15, 2024
Design Services During Construction and CEI Services	TBD

EXHIBIT A-1
Scope of Work

SECTION V - SCOPE OF WORK / TECHNICAL SPECIFICATIONS

5.1 SCOPE OF WORK

The City of Cooper City is seeking qualification statements from professional engineering service providers/consultants for the purpose of establishing a contract for planning, design, bidding assistance, and construction engineering and inspection services for the Stirling Road Roadway and Drainage Improvement Project, in accordance with the terms, conditions, and specifications contained in this solicitation and in accordance with the Consultant's Competitive Negotiation Act (C.C.N.A. – Florida Statute 287.055).

Cooper City has entered into an interlocal agreement with Broward County to plan and design improvements to Stirling Road, from SW 100th Avenue to Flamingo Road. This project is to be funded by Broward County's Transportation Surtax in accordance with Section 212.055(1), Florida Statutes.

The scope of services generally includes surveying, civil engineering, traffic engineering, lighting/electrical engineering, geotechnical investigation, and subsurface utility investigation services. The proposed improvements include design and permitting of a storm drain system, including curbs and gutters, to convey storm water off of the paved surface of Stirling Road; review of existing grades and adjacent properties to confirm offsite runoff is not entering the Stirling Road drainage system; roadway widening to accommodate bike lanes in both directions; review of and potential improvements to the roadway lighting system; replacement or enhancement of the existing median landscaping; upgrading to mast arms at the existing span wire intersections at the Fire Station Emergency Flasher, SW 106th Ave, and Hiatus Rd; pedestrian and ADA upgrades.

The project will not include intersection improvements to Stirling Road within SW 100 Avenue nor within Flamingo Road.

The following items are not eligible for transportation surtax funding:

- Decorative lighting and road signage, brick pavers, and similar items.
- Landscaping improvements that are not within the public right of way.
- Utility system adjustments.
- Increases to the stormwater system to accommodate a drainage area greater than the eligible size; and improvements to address runoff from private roads and/or developments.

Improvements to a public road stormwater system that address drainage deficiencies are eligible for transportation surtax funding, provided the drainage improvements only address stormwater runoff from a public roadway. A drainage analysis is required for drainage work and may include the width of the road right-of-way plus up to ten (10) feet on each side of the right-of-way to calculate the eligible size of the stormwater system.

A lighting justification report consistent with Broward County and FDOT policies and criteria outlined in the then-current version of the Florida Greenbook is required.

All costs associated with work ineligible for surtax funding must be adequately and separately itemized and paid by Municipality with non-transportation surtax funds.

Final deliverables must include signed, sealed, and complete construction plans, specifications, and cost estimate prepared in accordance with applicable state, county, and local standards.

5.2 PROFESSIONAL ENGINEERING SERVICES

5.2.1 CIVIL ENGINEERING

5.2.1.1 Project Management and Client Coordination

Design team and client coordination to ensure the project progresses on schedule. This includes scheduling and running internal progress meetings, coordination with the surveying, landscape architecture, electrical and traffic engineering departments, subconsultants, coordination with adjacent projects and development, answering/providing information requests from City, MPO or interested stakeholders, schedule updates, budget control and invoice processing, addressing client comments, meeting minutes, and quality control review of plans. Overall client coordination to keep the City aware of the project's progress, budget, schedule and critical design decisions.

5.2.1.2 Intergovernmental Coordination

Consultant shall consider and include as needed, any existing or proposed Broward County Transit infrastructure into the roadway design.

5.2.1.3 Pre-design and Data Collection

Attend and prepare meeting minutes for a kick-off meeting with the City staff to discuss project schedule, budget, and historical information about the corridor and utilities within the corridor.

5.2.1.4 Data Collection and Utility Coordination

5.2.1.4.1 Perform site visit to review existing conditions with proposed improvements in mind.

5.2.1.4.2 Create an 811 Design Ticket and send out initial utility request letters/emails to applicable utility agency owners.

5.2.1.4.3 Coordinate and obtain utility as-built from the City

5.2.1.4.4 Create a utility matrix for tracking all utility coordination, responses, and confirmation information

5.2.1.4.5 Log and input utility information into AutoCAD to create the existing utility base file.

5.2.1.4.6 Create a conflict matrix denoting potential conflicts to track throughout the design process.

5.2.1.4.7 Submit follow up utility letters to applicable utility agency owners or their designated representative.

5.2.1.5 Subsurface Utility Investigation

5.2.1.5.1 Provide SUE Quality Levels (QL) A through D in accordance with ASCE "Standard Guidelines for the Collection and Depiction of Existing Subsurface Utility Data". QL-A, known as "locating", is the highest level of accuracy presently available and involves nondestructive exposure of underground utilities for identifying material, use, size, and condition.

5.2.1.5.2 Perform up to 30 exploratory excavations for existing power, telecommunication, water, sewer, drainage, and other identified facilities within the project corridor. The locations of the excavations shall be determined by consultant based on City record documents, aboveground visible features, and responses provided from the 811 Design Ticket.

5.2.1.5.3 Provide a summary report of the exploratory digging findings that includes horizontal and vertical measurements based on fixed objects in the field, estimated size of the buried facility, and assumed material.

5.2.1.6 Geotechnical Investigation

Perform two pavement cores, up to four Standard Penetration Test (SPT) borings to a depth of ten feet below grade with the depth to water table, and two (2) field permeability tests in accordance with the usual open-hole exfiltration test method. The findings shall be summarized in a geotechnical report.

5.2.1.7 Drainage Analysis

Consultant will produce a drainage analysis to determine the necessary drainage improvements and required drainage system capacity, and may include the width of the road right-of-way plus up to ten feet on each side of the right-of-way to calculate the eligible size of the stormwater system. Increases to the stormwater system to accommodate a drainage area greater than the eligible size shall not be considered. Improvements to address runoff from private roads and/or developments shall not be included.

5.2.1.8 Public Meeting

Attendance at and preparation for up to two (2) public meetings and up to one 2-hour meeting with Broward County for execution of the ILA. Colored plans showing the conceptual layout shall be prepared for the public meeting. If additional meeting attendance is required, an additional service will be provided.

5.2.1.9 30% Plans

5.2.1.9.1 Prepare a typical section for approval by the City and the MPO.

5.2.1.9.2 Prepare conceptual/preliminary plans including the following:

- i. Cover Sheet
- ii. General Notes and Typical section sheet.
- iii. Roadway Plan sheets showing the proposed alignment and area impacted by the widening.
- iv. Conceptual drainage design.
- v. noise study for soundwalls if applicable.

5.2.1.9.3 Review existing longitudinal profile and cross slopes for areas that need to be upgraded in order to construct a closed drainage system.

5.2.1.9.4 Review existing drainage patterns for adjacent property to confirm runoff is not flowing from private property into public right-of-way. Provide a memorandum of findings to the City.

5.2.1.9.5 Attend a pre-application meeting with the required permitting agencies.

5.2.1.9.6 Coordinate with electrical engineer to provide the lighting justification report.

5.2.1.9.7 Prepare Engineering Opinion of Probable Costs for 30% level plans.

5.2.1.9.8 Submit 30% conceptual plans and Engineer's Opinion of Probable Cost to the City for review.

5.2.1.9.9 Meeting with City to review their comments on the conceptual layout, lighting justification report results, initial drainage review, and schedule/budget progress.

5.2.1.9.10 Advance plans to 60% and incorporate any City comments in preparation of permitting upon approval of the 30% plans.

5.2.1.10 60% Plans/Permitting

5.2.1.10.1 Prepare 60% roadway plan and profile, signing and pavement marking sheets, details, and SWPPP plans to prepare for submittal to the permitting agencies.

5.2.1.10.2 Prepare drainage calculations and prepare complete report and analysis for inclusion with the permit application.

5.2.1.10.3 Initiate the Quality Control/Quality Assurance process which includes a multidisciplinary peer review, independent review, and a constructability review.

5.2.1.10.4 Prepare an updated Engineer's opinion of probable cost.

5.2.1.10.5 Begin the technical specification table of contents and coordination with the City.

5.2.1.10.6 Submit 60% conceptual plans and Engineer's Opinion of Probable Cost to the City for review.

5.2.1.10.7 Submit plans and permit applications to the following agencies Broward County Traffic Engineering Division (BCTED), Central Broward Water Control District (CBWCD), South Florida Water Management District (SFWMD), and Cooper City.

5.2.1.10.8 Advance plans to 90% and incorporate any City and permitting agency comments in preparation of final construction documents.

5.2.1.11 100%/Bid Documents

5.2.1.11.1 Prepare Technical Specifications package

5.2.1.11.2 Coordinate the front end documents, to be provided by the City, with the technical specifications.

5.2.1.11.3 Submit 100% Plans, Technical Specifications, Front End Specifications, and Engineer's Opinion of Probable Cost for the City's review.

5.3 TRAFFIC ENGINEERING

5.3.1 Consultant will be responsible to provide technical traffic engineering memorandum related to the establishment of the proposed design speed of the roadway corridor. The technical memorandum should provide traffic data related to the existing 85th percentile speed within the project limits. The Consultant will provide narrative regarding the complete streets' context classification and the desired target speed for the corridor. The details should include the safety related design issues related to inclusion of bicycle and pedestrian infrastructure and how the typical section addresses multimodal user safety. Consultant's technical memorandum should address any clear zone safety concerns with the planned proposed typical section versus the existing typical section.

5.3.2 Consultant shall submit technical memorandum as part of the 30% design development plan phase submittal. Consultant will submit technical memorandum to all relevant agency stakeholders for review and feedback.

5.3.3 PRE-DESIGN AND DATA COLLECTION

5.3.3.1 Project Limits within Key Intersections: Consultant shall study the Stirling Road intersections with SW 106 Avenue, Hiatus Road, to define the limits of this project at these intersections, based on the current 95th percentile vehicle queues.

5.3.3.2 Lighting Justification Report: Consultant will complete a safety analysis of the entire segment corridor required for the lighting justification report referenced in Section I.C.1. of this Scope of Work.

5.3.4 60% DESIGN PLANS & PERMITTING

5.3.4.1 Consultant will prepare 60 % signal design plans for the conversion of the span-wire supported intersection at Stirling Road and SW 106th Avenue and at the emergency signal at the fire station located on Stirling Road and SW 105th Ave. The proposed traffic signal infrastructure will be upgraded in accordance with the current requirements of Broward County Traffic Engineering Department (BCTED), including but not limited to, steel mast arm assemblies that meet the FDOT 170 MPH wind load requirements.

5.3.4.2 Geotechnical sub-consultant services will be provided to perform one Standard Penetration Test (SPT) boring in general accordance with ASTM D-1586 specifications to a depth of 25 feet at each intersection to identify soil parameters and design recommendations for support of the proposed traffic signal poles.

5.3.5 100% DESIGN PLANS, PERMITTING & BID DOCUMENTS

5.3.5.1 Consultant will prepare 100 % signal design plans for the conversion of the span-wire supported intersection at Stirling Road and SW 106th Avenue, Stirling Road and Hiatus Road, and at the emergency signal at the fire station located on Stirling Road and SW 105th Ave. Consultant will coordinate with BCTED to secure approval of the proposed traffic signal infrastructure.

5.3.5.2 Consultant will prepare bidding plans for the traffic signal improvements and will prepare a final cost estimate of the proposed work.

5.3.5.3 Subsurface utility engineering sub-consultant services will be provided to confirm locations of any underground utility lines near the future traffic signal foundation pole locations. This scope of services is limited to a maximum of four soft dig locations only per foundation. Any additional test holes or subsurface utility engineering services will be provided as an additional service

5.3.6 ELECTRICAL ENGINEERING

5.3.6.1 Predesign and Data Collection

5.3.6.1.1 Attend field visit to investigate and obtain existing information of the electrical connections to the existing irrigation pumps.

5.3.6.1.2 Set up a field meeting with FPL representative regarding proposed streetlights for the roadway.

5.3.6.1.3 Evaluate existing conditions and provide memorandum to CLIENT regarding field visit and FPL meeting findings.

5.3.6.1.4 Attend one meeting with CLIENT to review proposed light pole type and LED light type to be used. Type of poles and lights will be selected from available latest FPL LED Lighting Solutions Catalog.

5.3.6.1.5 Prepare preliminary photometric layout for the preparation of the Lighting Justification Report. Coordination of proposed light poles with utilities and easements will be required. Preliminary lighting pole locations will not include trees coordination in order to prepare Lighting Justification Report. Preliminary photometric design will be based on FDOT Green Book 2016 Edition.

5.3.6.1.6 Prepare Lighting Justification Report as per Broward County and FDOT Guidelines for submission with conceptual/preliminary plans.

5.3.7 60% CONSTRUCTION PLAN DOCUMENTS

5.3.7.1 Set up meeting with FPL to review proposed light pole locations and type of lights to be used.

5.3.7.2 Prepare photometric plans to indicate locations of proposed light pole locations for Stirling Road section and Hiatus Rd Intersection as dictated in the scope of work. Coordinate light pole locations with existing and proposed utilities, and landscape features. Photometric plans will be designed to meet FDOT Green Book 2016 Edition.

5.3.7.3 Attend one meeting with CLIENT to review proposed light pole locations and type of lights to be used.

5.3.7.4 Prepare preliminary lighting and electrical cost estimate.

5.3.8 100% CONSTRUCTION PLAN DOCUMENTS

5.3.8.1 Revised lighting and photometric plans per 60% Construction Document Submittal comments from CLIENT and coordination with Consultant.

5.3.8.2 Provide final lighting, photometric and electrical plans.

5.3.8.3 Prepare final lighting and electrical cost estimate, and bid form.

5.3.8.4 Prepare final electrical technical specifications. Additional electrical specifications and notes will be included in Construction Document Plans.

5.4 PROFESSIONAL LANDSCAPE ARCHITECTURE SERVICES

5.4.1 PRE-DESIGN AND DATA COLLECTION

5.4.1.1 Tree Survey Assistance with Survey Department

Utilizing the survey locations for the existing trees and palms, Architect will visit the site to identify the varieties for the existing trees and palms, provide the scientific and common name of each specie. Trees which are at least 3 inch caliper or greater will be identified by Diameter at breast height, estimated canopy size and height, provide the Tree Disposition information and provide an condition for each.

5.4.1.2 Evaluation of the existing irrigation system to determine the functionality and effectiveness of the current coverage.

5.4.2 30% PLANS

5.4.2.1 The Architect will utilize the information from the survey department to develop the Tree Disposition Plan which will show the actual canopy size of the trees/palms and provide a Legend to direct the contractor how to address the tree/palm relocation, removal or preservation for those remaining in place.

5.4.2.2 Utilizing the base file developed by the other disciplines, Architect will prepare a conceptual planting plan for the plantable area for the project.

5.4.2.3 The site visibility triangles shall be shown on the plan as well as the horizontal clearances to determine where plant material can be located.

5.4.2.4 Overhead utility lines will be reviewed with regard to proposed planting height limitations and clearances.

5.4.2.5 Site furnishings and special paving areas will be defined as budget allows.

5.4.2.6 Bus stop enhancement issues will be identified.

5.4.2.7 The Tree Disposition Plans will be further developed during this phase of work and coordinated with the City's Urban Forester.

5.4.2.8 Preliminary cost estimating will be developed to ensure that the budgets are carefully followed.

5.4.2.9 Color renderings for the proposed planting shall be provided at this stage.

5.4.3 60% PLANS AND PERMITTING

5.4.3.1 The 60% planting plans within the right of way will be further refined as the Civil, Traffic, and Electrical plans are more clearly developed.

5.4.3.2 The coordination with site lighting will be coordinated with the planting locations as well as any signage on the project.

5.4.3.3 The Irrigation head layout will begin at this phase of work.

5.4.3.4 The Planting Plans, Details and Specifications will be developed and coordinated with the City of Cooper City landscape review staff.

5.4.3.5 The Tree Removal Permit. Coordination with the City's Urban Forester will be further defined and a Tree Removal Permit for the City will be developed and coordinated with the Tree Disposition Plans, Details and Specifications.

5.4.5 100% PLANS AND BID DOCUMENTS

5.4.5.1 The Planting Plans, Details and Notes will be finalized.

5.4.5.2 Site furnishings and special paving will be specified during this phase as requested by the City of Cooper City.

5.4.5.3 The Irrigation Plans, Details, Notes and specifications will be finalized.

5.4.5.4 The QC process will be completed during this phase of work.

5.4.5.5 An updated cost estimated will be provided at this phase.

5.4.5.6 The written specifications will be refined and the items relative to this project will be modified to address any special conditions or elements.

5.5 PROFESSIONAL SURVEYING SERVICES

5.5.1 PRE-DESIGN AND DATA COLLECTION

5.5.1.1 Route Survey

5.5.1.1.1 Survey work will comply with the Standards and Practice requirements for Surveying and Mapping in the State of Florida, according to Chapter 51-17.052 of Florida Administrative Code, as adopted by the Board of Professional Surveyors, Chapter 472, Florida Statutes and comply with any Cooper City standards and/or requirements.

5.5.1.1.2 Topographic survey of all above ground improvements within the project right-of-way corridor, with horizontal locations and vertical elevations being provided for edge-of-pavement, sidewalks, curb, pavement striping, walls, fences and above ground utilities.

- Visible above ground utilities refer to the visible structures (e.g., manholes, valve boxes, inlets, etc.) typically associated with storm drainage, sanitary sewer, potable water, electric, gas, telephone and cable television.

5.5.1.1.3 Obtain rim, bottom of structure and invert elevations of all existing sanitary sewer manholes, storm manholes and catch basins to include pipe sizes, material and direction of flow.

5.5.1.1.4 Cross sections at 50 ft. intervals, to include elevations at the centerline, edge of pavement, low and high points, swales and lane lines, whenever applicable within each cross section.

5.5.1.1.5 Recover right-of-way and property corners along route survey to establish Right-of-Way Lines throughout limits of project.

5.6 BIDDING ASSISTANCE

5.6.1 Upon obtaining all necessary approvals of the Construction Documents, and approval by the City of the latest Statement of Probable Construction Cost, the Consultant shall assist the City, where applicable, in obtaining bids and awarding construction contracts or coordinating with the Construction Manager for same.

5.6.1.1 The Consultant shall prepare addenda, if any are required, for the City to issue to all prospective bidders. No addendum shall be issued without the City's approval.

5.6.1.2 The Consultant shall be present at the bid opening, with the City's representatives.

5.6.1.3 The Consultant shall evaluate bids, and recommend the low responsive and responsible bid to the City.

5.7 CONSTRUCTION PHASE SERVICES

5.7.1 The Consultant shall provide construction phase services limited to interpretations and clarifications of the contract documents, shop drawing review, and field inspection to assess substantial completion and punch list items.

[END OF SECTION]

EXHIBIT B
Funding Schedule

Funding Amounts: The amounts stated in this Funding Schedule are the maximum amounts payable for the Phase(s) stated, and shall be invoiced and paid only in accordance with the remainder of this Funding Schedule (as may be amended from time to time) and the terms and conditions of the Agreement. In the event of a conflict between anything stated in this Funding Schedule and anything stated elsewhere in the Agreement, the provisions stated in Articles 1 through 11 of the Agreement shall govern and control.

Invoicing/Application for Funding Documentation: Municipality shall submit the following with each invoice or Application for Funding (as defined below): an updated progress schedule; documentation of all invoices received from or payments made to Contractor or Consultant for which funding is sought; a statement indicating the cumulative amount of CBE participation to date; and a certification that all funding amounts sought are statutorily eligible for funding under Section 212.055, Florida Statutes.

Additional Invoicing Requirements: If checked, the checked requirements apply to all invoices/Applications for Funding under this Agreement:

- All costs invoiced shall be supported by properly certified payrolls, time records, invoices, contracts, or vouchers evidencing appropriate detail the amounts invoiced/expended and the nature and purpose of such amounts.
- Pay Application documents consistent with AIA Document G702 and G703
- _____

Funding Parameters: The checked expenses are ineligible for funding under this Agreement:

- Costs incurred by Municipality prior to the execution of this Agreement
- Costs incurred after the expiration of this Agreement
- Costs that are not expressly permitted in Exhibit A or B
- Amounts that Contractor, Consultant, or Subcontractors are contractually responsible to pay, credit, or reimburse to Municipality or County (e.g., liquidated damages for not meeting the Project Schedule, audit costs, etc.)
- Amounts attributable to good or services received under a contract or other arrangement that was not approved by County
- Audit costs incurred by Municipality
- Legal and accounting fees and expenses
- Costs for operation, support, or maintenance of the Project
- Interest expenses incurred by Municipality
- Municipality's staff or other personnel costs in directly performing the Project

**Advance Payment of Maximum Not-to-Exceed Amount
(Quarterly Draws in Advance of Expenditures for projects over \$250,000)**

Municipality shall invoice County for up to a quarter of the applicable Total Maximum Not-To-Exceed Amount specified below in advance of the applicable Deliverable or Phase (“Application for Funding”). The first Application for Funding shall be submitted to the Contract Administrator no later than thirty (30) days after the full execution of this Agreement. Municipality shall submit no more than four separate Applications for Funding per funding schedule provided below.

Each quarter will be funded in advance by County per the schedule(s) stated below, with each funding amount determined by the Maximum Not-to-Exceed Amount for the applicable Deliverable less any unexpended funding for prior Deliverables. Unexpended funds for prior Deliverables shall be deducted from subsequent Applications for Funding or refunded to County, as requested by the Contract Administrator.

Each Application for Funding (after the first) shall include the information required in the Agreement including the following information for the prior Deliverables (as applicable): the amount of funding received and evidence of actual expenditures (including documentation demonstrating all invoices received from and payments made to Consultant and for right of way acquisition or wetland mitigation); a statement indicating the cumulative amount of CBE participation; an updated progress schedule; and all required certifications including that all Deliverables sought are statutorily eligible for funding under Section 212.055, Florida Statutes.

Absent prior written approval by the Contract Administrator, Municipality may not submit an Application for Funding for a Deliverable until all prior Deliverables have been satisfactorily completed.

Deliverable/Phase Description	Maximum Not-To-Exceed Amount
Deliverables 0-3: Solicitation Advertisement, Award, and Consultant Agreement Execution; Notice to Proceed Issued and Commencement of Work; Basis of Design Report/Pre-Design Work and Data Collection/Surveying	\$120,000
Deliverable 4: 30% Design Submittal	\$120,000
Deliverable 5: 60% Design Submittal which includes Complete Drainage Analysis	\$120,000
Deliverable 6: Final Plans, Specification Package, and Final Cost Estimate Submittal; Permitting completed.	\$120,000
TOTAL MAXIMUM NOT-TO-EXCEED AMOUNT:	\$480,000

EXHIBIT C

Reporting Requirements

Municipality shall submit to County and the Oversight Board, on a quarterly and annual basis, a detailed Financial Report that includes the information contained in the attached Sample Financial Report.

Municipality shall submit to County on a monthly basis a detailed report of the Project Metrics and progress towards applicable goals in a form prescribed by County (see attached MAP PMO Project Report Status Template). The reports must include sufficient information to enable County's Program Management Office ("PMO") to track and document on a monthly basis:

- Key activities and Project milestones since the previous report;
- Expected activities/milestones to be completed before the next report;
- If applicable, key issues/challenges the Project faces and the plan to resolve or manage the issues/challenges; and
- Overall status of the Project.

Municipality's annual financial report for the Project must be audited and certified by an independent CPA, at Municipality's expense, with an opinion as to whether the financial information in the report is presented in accordance with Generally Accepted Accounting Principles and whether the Project is in accordance with the operative interlocal agreements for surtax funding. The audit shall contain sufficient information for County and the Oversight Board to determine if the Project expenditures conform to this Agreement and applicable law. The annual financial report must also include cumulative financial information for each individual Surtax-Funded Project undertaken by Municipality. The annual financial report must include appropriate footnote disclosures in support of the financial information items presented, including disclosure of any issue of noncompliance with this Agreement or applicable law.

Sample Financial Report

Project Name:	
Quarterly Period:	

Section A: Total/Maximum Project Funding

1.	Surtax Maximum Funding Amount (per Section 5.4)	\$
2.	Non-Surtax Funding Awarded/Committed	\$
3.	Total Project Funding (Total lines 1 + 2)	\$
4.	Less Proceeds (as defined in Section 5.6)	(\$)
5.	Adjusted Project Funding (Line 3 minus Line 4)	\$

Section B: Funding Received to Date

		Quarter Reported	Fiscal Year to Date	Total
6.	Surtax Funding Received	\$	\$	\$
7.	Non-Surtax Funding Received	\$	\$	\$
8.	Total Project Funding Received (Total lines 6 + 7)	\$	\$	\$

Section C: Expenditures to Date

		Quarter Reported	Fiscal Year to date	Total
9.	Surtax Funding Expended	\$	\$	\$
10.	Non-Surtax Funding Expended	\$	\$	\$
11.	Total Project Funding Expended (Total lines 9 + 10)	\$	\$	\$

Section D: Available Funding to Date

12.	Adjusted Project Funding (Line 5 above)	\$
13.	Total Project Funding Expended to Date (Line 11 above)	\$
14.	Available Project Funding to date (Line 12 minus line 13)	\$

Section E: Contract Financials *(complete for each of Contractor and Consultant)*

Original Contract amount	\$
Changes (increases or decreases)	\$
Revised contract amount	\$
Total Work Completed to Date	\$
Retainage Held to Date	\$
Total Earned Less Retainage	\$
Total Amount Paid to Date	\$
Work Completed this Quarter	\$
Retainage Held for Work Completed this Quarter	\$

Retainage Released this Quarter	\$
Amount Paid this Quarter	\$

Section F: Quarterly Detailed Expenditures (for Quarter Reported)

Invoice No.	Invoice Date	Vendor Name	Description of Work	Invoice Amount	Amount Paid

Section G: Project Schedule & Status

15.	Project Schedule Completion Date	
16.	Total Project Schedule Time Remaining	
17.	Amount Project Is Ahead/Behind Schedule	<input type="checkbox"/> Ahead by ___ Days <input type="checkbox"/> Behind by ___ Days
18.	Explanation for Change in Project Schedule:	
19.	Project Run Rate (Actual vs. Planned Expenditures)	
20.	Percentage of Project Phases/Milestones Met	%

Section H: Performance Metrics

- A. [To be provided by the PMO as applicable]
- B. [To be provided by the PMO as applicable]

MAP PMO Project Status Report *Template*





<Agency> Project: <i><fill in project name or id></i>		Owner: <i><fill in></i>	July 15,2019
Progress update <ul style="list-style-type: none"> • <i>Key activities since the last status report</i> • ? 		Overall Progress  <div style="border: 1px solid black; padding: 5px; display: inline-block;"> <ul style="list-style-type: none">  Red = Execution critical delay  Amber = Delay; but recoverable  Green = On track </div>	
Key activities to be completed in the next <2-4> weeks: <ul style="list-style-type: none"> • ? • ? 		Summary: (may include) <ul style="list-style-type: none"> • <i>Key take-aways for BoCC, OB and SurTax Admin</i> • Project run rate; actual vs. planned • % Milestones met • Days over budget • Leverage ratio • <i>Key reminders of critical decisions/milestones/etc.</i> 	
Issues/Challenges:		Proposed solutions:	

Exhibit D Form Contracts

Surtax-Funded Projects Form Construction Contract:

Surtax-Funded Projects Form Consultant Contract:

Exhibit E

RESOLUTION NO. 22-1

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COOPER CITY, FLORIDA, SUPPORTING AND APPROVING THE STIRLING ROAD ROADWAY AND DRAINAGE IMPROVEMENT PROJECT (THE “PROJECT”), AS MORE PARTICULARLY DESCRIBED IN EXHIBIT “A,” ATTACHED HERETO AND INCORPORATED HEREIN; AUTHORIZING AND DIRECTING THE APPROPRIATE CITY OFFICIALS TO TAKE ANY AND ALL ACTION NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Broward County citizens approved by referendum the Transportation Surtax (“Penny for Transportation” Program) on November 6, 2018; and

WHEREAS, Broward County, the Municipalities, and the Broward Metropolitan Organization (MPO) entered the Transportation System Surtax Interlocal Agreement, which provided for a cooperative and organized process for the Municipalities to submit projects for evaluation and funding with the Surtax proceeds; and

WHEREAS, City staff applied for surtax funding of the Project; and

WHEREAS, Broward County has approved surtax funding for planning and design of the Project, contingent upon the execution of an Interlocal Agreement; and

WHEREAS, Broward County did not approve surtax funding for construction of the Project, and did not include surtax funding for construction in their original five-year plan for surtax funding; and

WHEREAS, the MPO has notified City Staff that Broward County is now considering the acceleration of the Project within the five-year plan and, as such, the MPO desires to complete a Readiness Review in order to support acceleration of the Project within the five-year plan; and

WHEREAS, a Resolution from the City Commission of the City of Cooper City stating support for the project is required in order for the MPO to support acceleration of the Project; and

WHEREAS, the City Commission feels that it is in the best interest of the citizens Cooper City to endorse the Project; and

WHEREAS, the City commits to administer and deliver the Project under the terms of the Surtax Project Funding Agreement and Broward County Code or Ordinances;

WHEREAS, the Project will be constructed within the City's right-of-way;

WHEREAS, it is the responsibility of the City, to maintain or coordinate the maintenance of the Project after its completion; and

WHEREAS, the City Commission finds that supporting and approving the Project is in the best interests of the citizens and residents of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COOPER CITY, FLORIDA:

Section 1: The foregoing "WHEREAS" clauses are hereby ratified and confirmed by the City Commission and are incorporated herein by this reference. All exhibits attached hereto are incorporated herein and made a part of this Resolution.

Section 2: That the City Commission hereby supports and approves the Stirling Road Roadway Improvement Project, as more particularly described in Exhibit "A" and will provide technical assistance when available and needed for the duration of the Project.

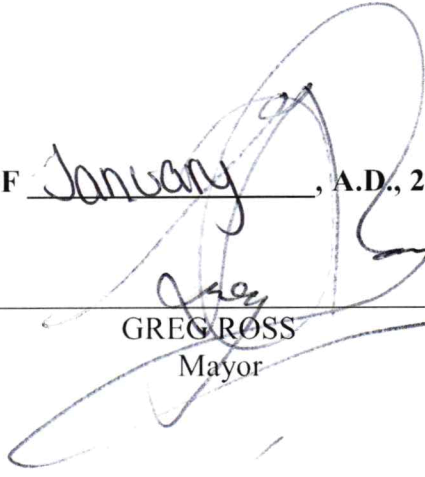
Section 3. All Resolutions or parts of Resolutions in conflict herewith, be and the same are repealed to the extent of such conflict.

Section 4. If any clause, section, or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be construed as eliminated and shall in no way affect the validity of the remaining portions of this Resolution.

Section 5. This Resolution shall become effective upon its passage and adoption by the City Commission.

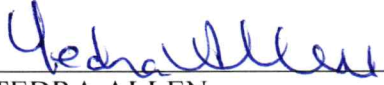
THE REST OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.

PASSED AND ADOPTED THIS 25th DAY OF January, A.D., 2022.



GREG ROSS
Mayor

ATTEST:



TEDRA ALLEN
City Clerk

ROLL CALL

Mayor Ross	<u>Yes</u>
Commissioner Green	<u>Yes</u>
Commissioner Meltzer	<u>No</u>
Commissioner Pulcini	<u>Yes</u>
Commissioner Shrouder	<u>Yes</u>

APPROVED AS TO LEGAL FORM:



JACOB C. HOROWITZ
City Attorney

EXHIBIT A

STIRLING ROAD ROADWAY AND DRAINAGE IMPROVEMENT PROJECT

The Stirling Road Roadway and Drainage Improvement Project (“Project”) is a proposed Broward County Mobility Advancement Program funded project to improve the condition and safety of Stirling Road. The limits of the Project are Stirling Road from SW 100 Avenue to Flamingo Road. The proposed improvements include design, permitting, and construction of a storm drain system, including curbs and gutters, to convey storm water off of the paved surface of Stirling Road; review of existing grades and adjacent properties to confirm offsite runoff is not entering the Stirling Road drainage system; potential roadway widening to accommodate bike lanes in both directions; review of and potential improvements to the roadway lighting system; replacement or enhancement of the existing median landscaping; upgrading to mast arms at the existing span wire intersections at the Fire Station Emergency Flasher, SW 106th Ave, and Hiatus Rd; pedestrian and ADA upgrades.



CITY COMMISSION ORDINANCE/RESOLUTION

TITLE: Resolution 22-1 (Utilities)

DESCRIPTION: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COOPER CITY, FLORIDA, SUPPORTING AND APPROVING THE STIRLING ROAD ROADWAY AND DRAINAGE IMPROVEMENT PROJECT (THE "PROJECT"), AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A," ATTACHED HERETO AND INCORPORATED HEREIN; AUTHORIZING AND DIRECTING THE APPROPRIATE CITY OFFICIALS TO TAKE ANY AND ALL ACTION NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

CITY MANAGER RECOMMENDATION:

The City Manager recommends approval of Resolution 22-1, expressing the City Commission's support and approval of the proposed Stirling Road Roadway and Drainage Improvement Project for Broward County Transportation Surtax funding.

BACKGROUND OF ITEM:

In September 2019, City Staff submitted three projects related to the improvement of Stirling Road to the Metropolitan Planning Organization (MPO) and Broward County for consideration for surtax funding. Two of the projects were for capital improvements (e.g. drainage, road regrading, potential bike lanes, etc.) and the third was for resurfacing of the road. Broward County ultimately approved funding for planning and design of the capital improvement projects, and full funding for the resurfacing. Funding for construction of the capital improvement projects, however, was not approved by the County and not included in their five-year funding plan.

Subsequent to the above approvals, City and County staff discussed these projects and agreed that they should be combined into one. Additionally, Broward County has recently expressed an interest in moving construction of the project back into their five-year plan and accelerating it. In order for this acceleration to be approved by the County, the MPO must complete a "readiness review" for the purpose of ultimately supporting acceleration of the project. One of the items required in the readiness review is a resolution of support for the project by the City Commission.

ANALYSIS:

N/A

FISCAL IMPACT:

There is a fiscal impact in that, if acceleration of the project is ultimately approved by the County, surtax funding in the amount of \$4,556,960 will be made available to the City as soon as the City is ready to award a contract and begin construction of the project.

<u>General Ledger Acct. Number</u>	<u>Budgeted Amount</u>	<u>Requested Amount</u>	<u>Remaining Amount</u>
N/A			

ALTERNATIVES:

N/A

ATTACHMENTS:

Resolution 22-XX, with Exhibit