

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCALLY FUNDED AGREEMENT**

THIS Locally Funded Agreement ("Agreement"), entered into this _____ day of _____, 20_____, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and the City of Lake Worth Beach located at 7 North Dixie Highway, Lake Worth Beach, FL 33460-3787, hereinafter called the PARTICIPANT.

WITNESSETH

WHEREAS, the DEPARTMENT and the PARTICIPANT are desirous of having the DEPARTMENT make certain improvements in connection with the DEPARTMENT's signalization and lighting improvement work along SR-805/Dixie Highway from Eastbound (EB) SR-802/Lake Avenue to Westbound (WB) SR-802/Lucerne Avenue in Palm Beach County, Florida. (Financial Management (FM) Number 441775-1-52-01, Funded in Fiscal Year 2021/2022); and

WHEREAS, the PARTICIPANT has requested that the DEPARTMENT perform the following additional work (FM No.: 441775-1-52-02): Construction (install) decorative lighting as set forth in **Exhibit A**, attached hereto and made a part hereof and hereinafter referred to as the Project; and

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

WHEREAS, the PARTICIPANT by Resolution No. _____ adopted on _____, 20____, a copy of which is attached hereto and made a part hereof, authorizes the proper officials to enter into this Agreement.

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

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The DEPARTMENT shall be responsible for assuring that the Project complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards.
3. The PARTICIPANT agrees to make all previous studies, maps, drawings, surveys and other data and information pertaining to the Project available to the DEPARTMENT at no extra cost.
4. The total cost for the Project and the DEPARTMENT's signalization and lighting improvement work along Dixie Highway, is estimated to be EIGHT HUNDRED ELEVEN THOUSAND TWO HUNDRED SEVENTEEN DOLLARS AND NO CENTS (\$811,217.00). The PARTICIPANT'S share for the Project is estimated to be FORTY FOUR THOUSAND FOUR HUNDRED FORTY THREE DOLLARS AND NO CENTS (\$44,443.00). In the

event the actual cost of the Project results in a decrease to the PARTICIPANT's share, the difference shall be refunded to the PARTICIPANT. In the event the actual cost of the Project results in a sum greater than that paid by the PARTICIPANT, then such sum shall be the sole responsibility of the PARTICIPANT and shall be paid to the DEPARTMENT.

- A. The PARTICIPANT agrees that it will, within thirty days of the execution of this Agreement, furnish the DEPARTMENT with a check in the amount of FORTY FOUR THOUSAND FOUR HUNDRED FORTY THREE DOLLARS AND NO CENTS (\$44,443.00) towards the Project Costs.

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

Remittance shall be made payable to the Department of Transportation. Payment shall be clearly marked to indicate that it is to be applied to FM No. 441775-1-52-02. The DEPARTMENT shall utilize this amount towards costs of Project No. 441775-1-52-02.

Payment shall be mailed to:
Florida Department of Transportation
Program Management Unit- Attention: Leos A. Kennedy, Jr.
3400 W. Commercial Boulevard
Fort Lauderdale, Florida 33309-3421

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

Wire transfer/Payments are to be made to:

Wells Fargo Bank, N.A.
Account # 4834783896
ABA # 121000248
Chief Financial Officer of Florida
Re: DOT – K 11-78, Financial project # 441775-1-52-02.

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

Once the wire transfer is complete, please contact Kenneth Ward at 850-414-4886.

- B. The PARTICIPANT's share of the accepted bid for the Project (hereinafter referred to as "Accepted Bid") and the Department's work plus allowances is hereinafter defined as the "Total Accepted Bid". If the PARTICIPANT's share of the Accepted Bid for the Project plus allowances is in excess of the advance deposit amount, the PARTICIPANT will provide an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT or prior to posting of the Total

Accepted Bid, whichever is earlier, so that the total deposit is equal to the Accepted Bid amount for the Project plus allowances. The DEPARTMENT will notify the PARTICIPANT as soon as it becomes apparent the Accepted Bid amount for the Project plus allowances are in excess of the advance deposit amount; however, failure of the DEPARTMENT to so notify the PARTICIPANT shall not relieve the PARTICIPANT from its obligation to pay for its full participation. If the PARTICIPANT cannot provide the additional deposit within fourteen (14) calendar days, a letter must be submitted to and approved by the DEPARTMENT's Project Manager indicating the date the deposit will be made and the DEPARTMENT's written consent to the payment of the additional deposit on said date. The PARTICIPANT understands the request and approval of the additional time could delay the Project, and additional costs at the PARTICIPANT's expense may be incurred due to delay of the Project. In the event of non-payment, the DEPARTMENT reserves the right to terminate this Agreement.

- C. If the PARTICIPANT's share of the Accepted Bid for the Project plus allowances is less than the advance deposit amount, the DEPARTMENT will refund the amount that the advance deposit exceeds the PARTICIPANT's share of the Accepted Bid amount plus allowances if such refund is requested by the PARTICIPANT in writing.
- D. Should Project modifications occur that increase the PARTICIPANT's cost for the Project, the PARTICIPANT will be notified by the DEPARTMENT. The PARTICIPANT agrees to provide, without delay, in advance of the additional work being performed, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the cost of the Project. The DEPARTMENT shall notify the PARTICIPANT as soon as it becomes apparent the actual cost will exceed the PARTICIPANT's payment. However, failure of the DEPARTMENT to so notify the PARTICIPANT shall not relieve the PARTICIPANT from its obligation to pay for its full participation. Funds due from the PARTICIPANT, for the Project, not paid within forty (40) calendar days from the date of the invoice are subject to an interest charge at a rate established pursuant to *Section 55.03, F.S.* In the event of non-payment, the DEPARTMENT reserves the right to terminate this Agreement.
- E. The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty (360) days of final payment to the Contractor. The DEPARTMENT considers the Project complete when the final payment has been made to the Contractor, not when the resurfacing work is complete. All Project cost records and accounts shall be subject to audit by a representative of the PARTICIPANT for a period of three (3) years after final close out of the Project and the Department's Improvement. The PARTICIPANT will be notified of the final cost. Both parties agree that in the event the final accounting of Project costs pursuant to the terms of this Agreement is less than the total deposits to date, a refund of the excess

will be made by the DEPARTMENT to the PARTICIPANT. If the final accounting is not performed within three hundred sixty (360) days, the PARTICIPANT is not relieved from its obligation to pay.

- F. In the event the final accounting of Project costs is greater than the total deposits to date, the PARTICIPANT will pay the additional amount within forty (40) calendar days from the date of the invoice from the DEPARTMENT. The PARTICIPANT agrees to pay interest at a rate as established pursuant to *Section 55.03, F.S.*, on any invoice not paid within forty (40) calendar days until the invoice is paid.
5. In the event it becomes necessary for either party to institute suit for the enforcement of the provisions of this Agreement, each party shall be responsible to pay their own attorney fees and court costs. Venue with respect to any such litigation shall be in Broward County.
6. This Agreement and any interest herein shall not be assigned, transferred or otherwise encumbered by the PARTICIPANT under any circumstances without the prior written consent of the DEPARTMENT. However, this Agreement shall run to the DEPARTMENT and its successors.
7. Except as otherwise set forth herein, this Agreement shall continue in effect and be binding to both the PARTICIPANT and the DEPARTMENT until the Project (FM# 441775-1-52-02) is completed as evidenced by the written acceptance of the DEPARTMENT.
8. The PARTICIPANT warrants that it has not employed or obtained any company or person, other than bona fide employees of the PARTICIPANT, to solicit or secure this Agreement, and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee employed by the PARTICIPANT. For breach or violation of this provision, the DEPARTMENT shall have the right to terminate the Agreement without liability.
9. The PARTICIPANT/ Vendor/ Contractor:
- (A) shall utilize the U.S. Department of Homeland Security's E-verify system to verify the employment eligibility of all new employees hired by the PARTICIPANT/ Vendor/Contractor during the term of the contract; and
 - (B) shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
10. This Agreement is governed by and construed in accordance with the laws of the State of Florida.
11. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no

modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

12. Any or all notices (except invoices) given or required under this Agreement shall be in writing and either personally delivered with receipt acknowledged or sent by certified mail, return receipt requested. All notices delivered shall be sent to the following addresses:

If to the DEPARTMENT:

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

If to the PARTICIPANT:

City of Lake Worth Beach
7 N. Dixie Highway
Lake Worth Beach, FL 33460
Attn: Paul Nicholas
With a copy to: City Attorney

The remainder of this page is blank.

IN WITNESS WHEREOF, this Agreement is to be executed by the parties below for the purposes specified herein. Authorization has been given to enter into and execute this Agreement by Resolution No. _____, hereto attached.

CITY OF LAKE WORTH BEACH, FLORIDA

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: _____
Betty Resch, Mayor

BY: _____
STEVEN C. BRAUN, P.E.
DIRECTOR OF TRANSPORTATION DEVELOPMENT

ATTEST:

LEGAL REVIEW:

Deborah M. Andrea, City Clerk

BY: _____
OFFICE OF THE GENERAL COUNSEL

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED:

BY: _____
Glen J. Torcivia, City Attorney

BY: _____
DISTRICT PROGRAM MGMT. ADMINISTRATOR

APPROVED FOR FINANCIAL
SUFFICIENCY

BY: _____
Bruce T. Miller, Financial Services Director

EXHIBIT A
SCOPE OF SERVICES
FM# 441775-1-52-02

The scope of work performed on behalf of the City of Lake Worth Beach is detailed below. The City will be contributing funds for the difference in cost between the Department's standard item and the decorative items that typical for the City.

Lighting:

- Construction (Install) decorative light pole