

**RESOLUTION 21-R-075 \_**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA; INCORPORATING RECITALS; PROVIDING FINDINGS THAT THE GATEWAY PROJECT MEETS THE PREVIOUSLY UNMET TOURISM NEEDS OF MARION COUNTY; PROVIDING DETERMINATIONS THAT THE GATEWAY PROJECT IS RELATED TO TOURISM AND PRIMARILY PROMOTES SUCH PURPOSE; APPROVING THE MARKETING ELEMENTS OF THE GATEWAY PROJECT TO TOURISTS; APPROVING THE LOCATION OF THE MARKERS; APPROVING THE LOCATION OF THE GATEWAYS; NOTING THE CITY OF OCALA'S APPROVAL OF THE LOCATION OF THE SOUTH GATEWAY; APPROVING ENTRY INTO THE INTERLOCAL AGREEMENT WITH THE CITY OF OCALA; APPROVING THE LOCAL I.D. MARKER CONCEPTUAL PLAN AS A SUBSTANTIAL REPRESENTATION OF THE MARKERS; APPROVING THE PRELIMINARY PROJECT PLANS AS A SUBSTANTIAL REPRESENTATION OF THE GATEWAYS; NOTING THE CITY OF OCALA'S APPROVAL OF THE PRELIMINARY PROJECT PLANS AS A SUBSTANTIAL REPRESENTATION OF THE SOUTH GATEWAY; APPROVING THE EXPENDITURE OF TOURIST DEVELOPMENT TAX REVENUE ON THE DESIGN, ENGINEERING, CONSTRUCTION AND PERPETUAL MAINTENANCE OF THE GATEWAY PROJECT; APPROVING THE MARKERS AND THE GATEWAYS AS LOCAL IDENTIFICATION MARKERS AS DEFINED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION; APPROVING THE NECESSITY OF THE FLORIDA DEPARTMENT OF TRANSPORTATION COMMUNITY AESTHETIC FEATURE AGREEMENT; APPROVING THAT MORE THAN ONE COMMUNITY AESTHETIC FEATURE AGREEMENT IS REQUIRED; APPROVING MARION COUNTY TO ACT AS THE APPLICANT ON EACH COMMUNITY AESTHETIC FEATURE AGREEMENT; SPECIFICALLY APPROVING MARION COUNTY TO ACT AS THE SINGLE APPLICANT ON THE COMMUNITY AESTHETIC FEATURE AGREEMENT FOR THE SOUTH GATEWAY; NOTING THE CITY OF OCALA'S APPROVAL OF THE COUNTY TO ACT AS THE SINGLE APPLICANT**

**FOR THE SOUTH GATEWAY; AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE COMMUNITY AESTHETIC FEATURE AGREEMENTS; AUTHORIZING THE COUNTY ADMINISTRATOR TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE COMMUNITY AESTHETIC FEATURE AGREEMENTS; APPROVING THE FINANCIAL OBLIGATIONS TO SUPPORT THE GATEWAY PROJECT TO MEET THE FLORIDA DEPARTMENT OF TRANSPORTATION STANDARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Marion County is rich in history and culture, offers unsurpassed outdoor recreation, and its equine activities are legendary; and

**WHEREAS**, Marion County seeks to promote these opportunities to travelers and works to draw tourists to enrich the area with diversity and industry; and

**WHEREAS**, Interstate-75 (hereinafter "I-75") is a major interstate highway running north and south right through the heart of Marion County; and

**WHEREAS**, the Florida Department of Transportation (hereinafter the "FDOT") is implementing certain improvements to I-75, including that portion within Marion County, in an effort to accommodate future demand; and

**WHEREAS**, similarly, Marion County is expanding its roadways in the I-75 area to accommodate the increasing traffic count; and

**WHEREAS**, I-75 within Marion County and the associated County owned roadways that influence one another are hereafter referred to as the "I-75 Corridor"; and

**WHEREAS**, Marion County has a tourist development project related to the I-75 Corridor and the roadway construction being undertaken presents an optimal time to implement the tourist development project known as the "Gateway Project"; and

**WHEREAS**, the Gateway Project implements the vision of the Marion County Board of County Commissioners to introduce tourists to the County's unique and distinctive character by creating two sets of County line markers as well as two representative gateways for tourists driving through the County on I-75; and

**WHEREAS**, the Gateway Project envisions tourists driving south on I-75 being

greeted by one set of County line markers placed along I-75 at the northern County border located at mile marker 369.6 +/- (the "North Marker") followed by a gateway placed above and across I-75 between mile markers 358 (SR 326) and 354 (US 27) (the "North Gateway"); and

**WHEREAS**, the Gateway Project further envisions tourists driving north on I-75 being greeted by a sister set of County line markers placed along I-75 at the southern County border located at mile marker 337.3 +/- (the "South Marker") followed by a gateway, identical to its northern counterpart, placed within the geographical limits of the City of Ocala upon the 42nd Street Flyover (hereinafter the "Flyover") and above and across I-75 between mile markers 349 and 350 (SR 200) (the "South Gateway"); and

**WHEREAS**, the North Marker and the South Marker are hereinafter referred to collectively as the "Markers," the North Gateway and the South Gateway are hereinafter referred to collectively as the "Gateways," and the Markers and the Gateways are hereinafter referred to collectively as the "Gateway Project"; and

**WHEREAS**, the Marion County Board of County Commissioners hired Kimley-Horn and Associates, Inc. ("Kimley-Horn") to create plans and specifications of the Markers and a gateway for use in the Gateway Project and the Board is in receipt of a preliminary set of those materials; and

**WHEREAS**, the Marion County Board of County Commissioners has reviewed and supports the preliminary plans and specifications for the Markers proposed by Kimley-Horn and entitled "Local ID Marker Conceptual Plan," attached hereto as **Exhibit A**, as a substantial representation of the Markers to be installed; and

**WHEREAS**, the Marion County Board of County Commissioners has reviewed and supports the preliminary construction plans and specifications for the Gateways proposed by Kimley-Horn attached hereto as **Exhibit B**, and the depiction entitled "I-75 Gateway Final Concept," attached hereto as **Exhibit C**, as a substantial representation of the Gateways to be installed; and

**WHEREAS**, said preliminary construction plans and specifications for the Gateways, attached hereto as **Exhibit B**, and depiction entitled "I-75 Gateway Final Concept," attached hereto as **Exhibit C**, are hereinafter referred to collectively as the "Preliminary Project Plans"; and

**WHEREAS**, the Marion County Board of County Commissioners supports using Tourist Development Tax funds as the source of funding for the Gateway Project with Board findings that Marion County has unmet tourism needs on the I-75 Corridor and Board determinations that the Gateway Project serves to fill such need; that the Gateway Project is related to tourism; and, the Gateway Project primarily promotes such a purpose;

**WHEREAS**, the Marion County Board of County Commissioners supports the Gateway Project as a "Local Identification Marker" as defined by the FDOT to efficiently and safely notify motorists of their arrival at Marion County; and

**WHEREAS**, the Marion County Board of County Commissioners supports the financial obligations to design, engineer, construct and perpetually maintain the Gateway Project to meet all applicable standards of the FDOT; and

**WHEREAS**, the Marion County Board of County Commissioners supports the Marion County Administrator entering into the FDOT Community Aesthetic Feature Agreements for the use of the State's right-of-way on Interstate-75 as the point of installation of the Gateway Project and implementing the Community Aesthetic Feature Agreements; and

**WHEREAS**, the Marion County Board of County Commissioners deems approval of this Resolution to be in the best interests of the citizens of Marion County.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, THAT:**

**SECTION 1. RECITALS.** The above recitals are hereby incorporated as a basis for the passage of this Resolution.

**SECTION 2. BOARD FINDINGS THAT THE GATEWAY PROJECT MEETS THE PREVIOUSLY UNMET TOURISM NEEDS OF MARION COUNTY.** The Board of County Commissioners of Marion County, Florida, after due consideration, make the following findings:

- A. The purpose of the expenditure of tourist development tax revenue is to advance, generate, and attract tourism from within and without the State to a particular area or county of the State.
- B. Statistics submitted to the Board indicate that an image displayed to drivers traveling on I-75 in Marion County creates an overwhelming 220,956 impressions weekly, which equates to 11,489,712 impressions yearly;
- C. Over 80,000 vehicles travel the 36 miles of I-75 in Marion County daily and of those three-quarters are passenger vehicles, increasing exponentially the number of impressions an image could make if placed strategically on the interstate;
- D. Despite having I-75 running directly through this locale, Marion County entirely lacks unique or informational signage to promote tourism on this heavily traveled area;

- E. The Markers, in substantially the form depicted on **Exhibit A**, serve as subtle yet artistic County line markers advising the traveler when he or she is crossing into Marion County. The color scheme ties the Markers to the Gateways, making a cohesive and recognizable connection that a traveler would associate with Marion County;
- F. The Gateways in substantially the form depicted on **Exhibit B** and **Exhibit C**, would remedy the lost opportunity for promotion by presenting a one-of-a-kind informational sign alerting motorists of their arrival in the heart of Marion County;
- G. The Gateways feature several horses engaged in different activities, such as being attended by a trainer, enjoying an outing with a rider, and a mother and foal nuzzling under the shade of native trees, each distinctively portraying the opportunities that await a visitor to Marion County;
- H. Research indicates that over 26% of visitors to the area engage in horse related activities, while 28% engage in other outdoor based recreation;
- I. The creation by Kimley-Horn represented in **Exhibit B** and **Exhibit C** captures the essence of the County as it provides an artistic rendering of what can be enjoyed by tourists exploring this area of the State of Florida;
- J. Studies have shown that 46% of visitations to the Marion County area originate in Florida and 66% originate in the Southeast United States;
- K. The Gateway Project will promote tourist activities in Marion County to travelers within Florida and in the surrounding states, increasing the County's presence as Horse Capital of the World; and
- L. The Gateway Project presents branding opportunities that would expand and develop the County's marketing creating a ripple effect that will continue to reach tourists.

**SECTION 3. BOARD DETERMINATIONS THAT THE GATEWAY PROJECT IS RELATED TO TOURISM AND PRIMARILY PROMOTES SUCH PURPOSE.** The Board of County Commissioners of Marion County, Florida, makes the following determinations:

- A. The Gateway Project artistry is representative of Marion County with its rendering of horse and foal, reinforcing that the area is the Horse Capital of the World;
- B. The representative artistry will intrigue and excite travelers to explore the locality;
- C. The location of the Gateway Project on the I-75 Corridor will advertise this locality to a vast number of motorists largely from the Southeastern United States who travel through Central Florida;
- D. Installing the Markers and Gateways in the I-75 Corridor will, by themselves, promote Marion County to tourists;
- E. The representative artistry combined with the heavily traveled location make the Gateway Project an activity that has, as one of its main purposes, the attraction of tourists;

- F. Marion County's strategic marketing elements will relate back to the Gateway Project to further enhance the sense of place and arrival for tourists; and
- G. The expenditure of tourist development tax revenues on the Gateway Project is in alignment with and falls within the permissible uses set forth in Section 125.0104(5)(a)(3), Florida Statutes, as the installation of the unique signage has a direct relationship to promote and advertise tourism in this state and nationally and, potentially, internationally.

**SECTION 4. APPROVING THE MARKETING ELEMENTS OF THE GATEWAY PROJECT TO TOURISTS.** The Board of County Commissioners of Marion County, Florida approves the marketing elements presented by the Tourist Development department based on the Gateway Project.

**SECTION 5. APPROVAL OF THE LOCATION OF THE MARKERS.**

- A. **NORTH MARKER.**  
The Board of County Commissioners of Marion County, Florida, approves the location of the North Marker on I-75 at mile marker 369.6 +/-.
- B. **SOUTH MARKER.**  
The Board further approves the location of the South Marker on I-75 at mile marker 337.3 +/-.

**SECTION 6. APPROVAL OF THE LOCATION OF THE GATEWAYS.**

- A. **NORTH GATEWAY.**  
The Board of County Commissioners of Marion County, Florida, approves the North Gateway being located on I-75 between mile markers 358 (SR 326) and 354 (US 27).
- B. **SOUTH GATEWAY.**
  - 1. **County Approval.** The Board further approves the South Gateway being located upon the Flyover above and across I-75 and within the geographic limits of the City of Ocala between mile markers 349 and 350 (SR 200).
  - 2. **City of Ocala Approval.** The City of Ocala, as the owner of the Flyover, has approved the South Gateway being located on the Flyover above and across I-75 and within the geographic limits of the City of Ocala between mile markers 349 and 350 (SR 200). This approval has been formalized in an agreement entitled "Interlocal Agreement between Marion County and the City of Ocala for Gateway Installation and Maintenance at Flyover" (hereinafter the "Interlocal Agreement") signed by the Ocala City Council on January 5, 2021.

**SECTION 7. APPROVAL OF ENTERING THE INTERLOCAL AGREEMENT WITH THE CITY OF OCALA.** The Interlocal Agreement with the City of Ocala signed by the City on January 5, 2021, has this day been presented to the Board. The Interlocal Agreement documents the City of Ocala's consent to allow the South Gateway to be constructed upon the City-owned Flyover. The Interlocal Agreement further provides for the County to act as the sole applicant for the FDOT Community Aesthetic Feature Agreement, serves to differentiate the parties' respective responsibilities for the City-owned Flyover and the County-owned South Gateway, and confirms that the County will post a bond with FDOT as security for the County's perpetual maintenance and repair of the South Gateway as well as its timely and complete removal. The Board of County Commissioners of Marion County, Florida, has considered and hereby approves the Interlocal Agreement with the City of Ocala signed by the City on January 5, 2021, and hereby authorizes the Chairman to execute same forthwith.

**SECTION 8. APPROVAL OF THE LOCAL I.D. MARKER CONCEPTUAL PLAN AS A SUBSTANTIAL REPRESENTATION OF THE MARKERS.** After a thorough review of the preliminary plans for the Markers proposed by Kimley-Horn, the Board of County Commissioners of Marion County, Florida, hereby approves the proposed "Local ID Marker Conceptual Plan," attached hereto as **Exhibit A**, as a substantial representation of the Markers to be installed.

**SECTION 9. APPROVAL OF THE PRELIMINARY PROJECT PLANS AS A SUBSTANTIAL REPRESENTATION OF THE GATEWAYS.**

**A. County Approval.**

After a thorough review of the Preliminary Project Plans proposed by Kimley-Horn, the Board of County Commissioners of Marion County, Florida, hereby approves the Preliminary Project Plans, attached hereto as **Exhibit B** and **Exhibit C**, as being a substantial representation of the Gateways to be installed.

**B. City Approval as to South Gateway.**

The City of Ocala, as owner of the Flyover upon which the South Gateway will be installed, has provided its approval of the Preliminary Project Plans proposed by Kimley-Horn on **Exhibit B** and **Exhibit C** as being a substantial representation of the South Gateway to be installed.

**SECTION 10. APPROVAL OF EXPENDITURE OF TOURIST DEVELOPMENT TAX REVENUE AS APPROPRIATE FOR THE DESIGN, ENGINEERING, CONSTRUCTION AND PERPETUAL MAINTENANCE OF THE GATEWAY PROJECT.** Based upon the Board findings and the Board determinations contained herein and after a complete review of the criteria set forth in Section 125.0104(5)(a)(3), Florida Statutes, which allows the use of tourist development tax revenues to promote and advertise tourism in the State of Florida, the Board of County Commissioners of Marion County,

Florida, approves the expenditure of tourist development tax revenues as appropriate for the design, engineering, construction, and perpetual maintenance of the Gateway Project.

**SECTION 11. APPROVAL OF THE MARKERS AND THE GATEWAYS AS LOCATION IDENTIFICATION MARKERS AS DEFINED BY FDOT.** The Board of County Commissioners of Marion County, Florida, hereby approves the Markers and the Gateways as Local Identification Markers as defined by FDOT.

**SECTION 12. FDOT COMMUNITY AESTHETIC FEATURE AGREEMENT.**

- A. **Necessity.** The Board of County Commissioners of Marion County, Florida, acknowledges and approves the FDOT Community Aesthetic Feature Agreement (hereinafter the "CAF Agreement"), a substantial copy attached hereto as **Exhibit D**, as being required to be entered by Marion County to execute the Gateway Project. The CAF Agreement acts as a FDOT permit for installation of the Markers and the Gateways in the FDOT rights of way.
- B. **More Than One CAF Agreement.** The Board of County Commissioners of Marion County, Florida, recognizes and approves that it is necessary to enter into more than one CAF Agreement for the different aspects of the Gateway Project.
- C. **CAF Agreement Applicant.** With regard to each CAF Agreement for the Gateway Project, the Board of County Commissioners of Marion County, Florida, approves Marion County to act as the applicant.
- D. **Single Applicant.** With regard specifically to the CAF Agreement for the South Gateway to be installed on the City-owned Flyover, the Interlocal Agreement approved in Section "7" above, provides the City of Ocala's recognition that the South Gateway CAF Agreement requires a single applicant and further provides for the City's approval that said single applicant be Marion County. The Board of County Commissioners of Marion County, Florida, specifically approves Marion County to act as the single applicant on the CAF Agreement for the South Gateway.
- E. **Authorization of County Administrator.** The Board of County Commissioners of Marion County, Florida, hereby authorizes the County Administrator to execute the requisite number of CAF Agreements with the FDOT for the design, installation, and perpetual maintenance of the Gateway Project and further authorizes the Tourist Development Department to file or cause to be filed the executed CAF Agreements with the FDOT on behalf of Marion County. Additionally, the Board of County Commissioners of Marion County, Florida, hereby authorizes the County Administrator to take all actions necessary to implement the CAF

Agreements with the FDOT, a substantial copy attached hereto and made a part of this Resolution as **Exhibit D**.

**SECTION 13. APPROVAL OF THE FINANCIAL OBLIGATIONS TO SUPPORT THE GATEWAY PROJECT TO MEET FDOT STANDARDS.** The Board of County Commissioners of Marion County, Florida, does hereby approve the financial obligations to support the Gateway Project to meet FDOT standards, including any required deposit(s) and the posting of any bond(s) required to secure maintenance and removal of the Gateway Project elements.

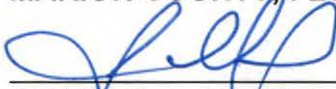
**SECTION 14. SEVERABILITY.** The provisions of this Resolution are severable. If any word, sentence, clause, phrase or provision of this Resolution for any reason is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then all remaining provisions and portions of this Resolution shall remain in full force and effect.

**SECTION 15. CONFLICT.** All Resolutions in conflict with this Resolution are repealed to the extent necessary to give this Resolution full force and effect.

**SECTION 16. EFFECTIVE DATE.** That this Resolution shall take effect immediately upon passage.

**DULY ADOPTED** this 19<sup>th</sup> day of January, 2021.

**BOARD OF COUNTY COMMISSIONERS  
MARION COUNTY, FLORIDA**

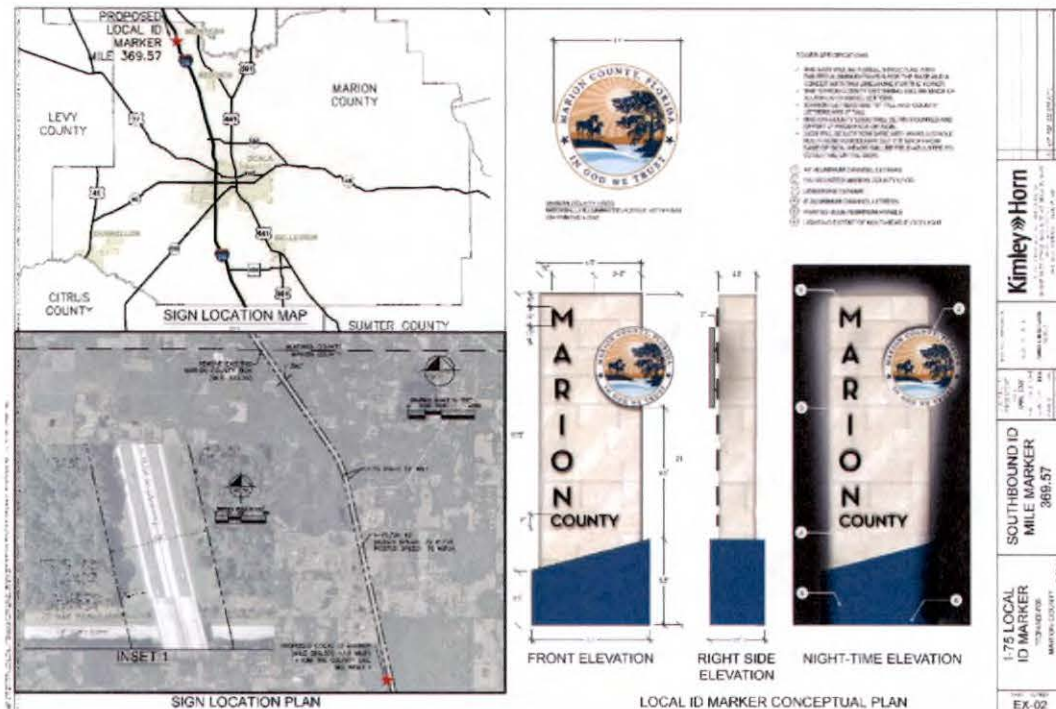
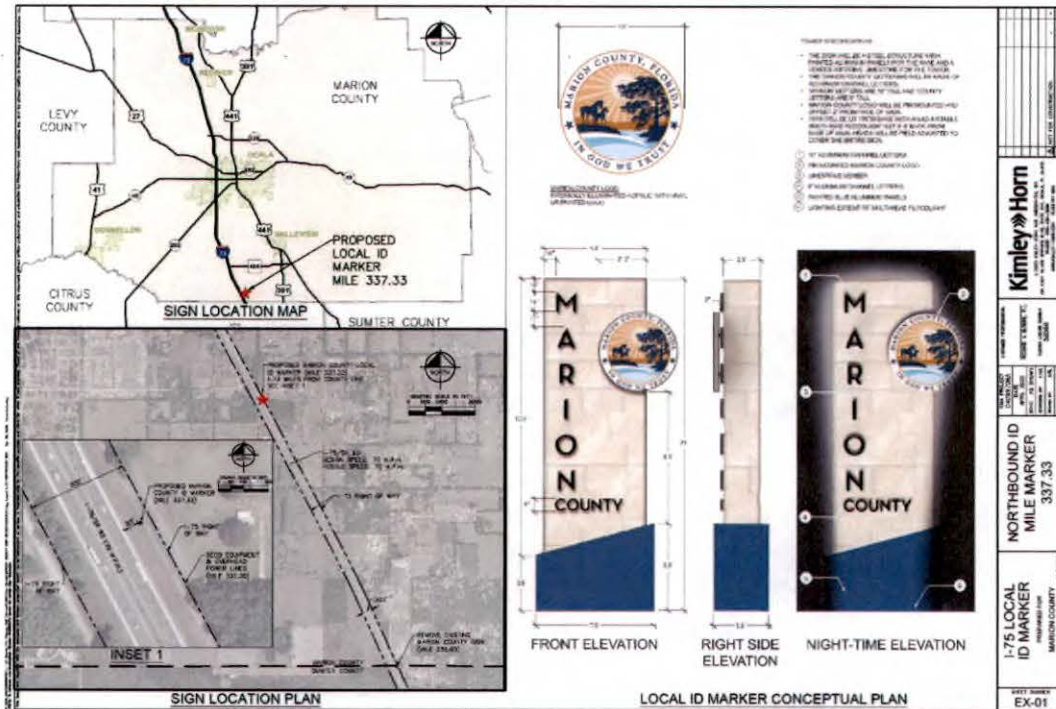
  
\_\_\_\_\_  
JEFF GOLD, CHAIRMAN

**ATTEST:**

By:   
\_\_\_\_\_  
GREGORY C. HARRELL, CLERK

## EXHIBIT A

### LOCAL ID MARKER CONCEPTUAL PLAN



## EXHIBIT B

### PRELIMINARY CONSTRUCTION PLANS AND SPECIFICATIONS

Page 1 of 2



#### LEGEND

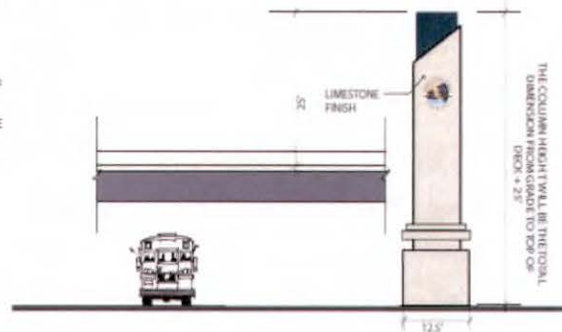
- |   |                                     |  |  |                                 |
|---|-------------------------------------|--|--|---------------------------------|
| 1 9" ALUMINUM CHANNEL LETTERS, BACK LIT. LETTERS WILL BE STRUCTURALLY ATTACHED TO THE BRIDGE. | 3 VERTICAL TOWER                    | 5 UPGRADED PEDESTRIAN SECURITY FENCE   | 7 NATIVE GRASSES AND LOW SHRUBS LANDSCAPE ENHANCEMENTS | 9 CITY LIMIT SIGN TO BE REMOVED |
| 2 EXISTING LIGHT POLE   | 4 STRUCTURAL BEAM COLOR ENHANCEMENT | 6 LASER CUT ALUMINUM PANELS. PANELS WILL BE BOLTED TO THE BRIDGE DECK AND WILL MEET WIND LOAD STRUCTURAL REQUIREMENTS. | 8 EXISTING DATE PALMS TO REMAIN                        |                                 |



COUNTY LOGO  
INTERNALLY ILLUMINATED ACRYLIC WITH VINYL OR PRINTED LOGO

#### VERTICAL TOWER:

- STEEL STRUCTURE WITH ALUMINUM PANELS
- TOP OF EACH STRUCTURE TO BE INTERNALLY ILLUMINATED ACRYLIC. ACRYLIC CAN BE CLEAR (OR INTERNALLY ILLUMINATED COLOR ACRYLIC) WITH COLOR RGB, FULL COLOR DYNAMIC CHANGING LED LIGHTS.
- ALUMINUM PANELS CAN BE TEXTURED AND PAINTED TO CREATE MULTIPLE FINISHES: LIMESTONE, CORAL, GRANITE, BRICK, ETC.
- TOWERS WILL BE INDEPENDENT FROM THE BRIDGE WITH THEIR OWN STRUCTURAL FOOTERS.



SW 42ND STREET FLYOVER COMMUNITY AESTHETIC FEATURE CONCEPT  
(BOARD OF COUNTY COMMISSIONERS / TOURIST DEVELOPMENT COUNCIL 2017)

Kimley **Horn**  
PAGE 1 OF 2

FORM 122-A

## SUBMITTAL/APPROVAL LETTER

To: District or Turnpike Design Engineer Date: 02/25/2019

Financial Project ID: \_\_\_\_\_ How Const. ☒ New Const. ☐ RRR ☐

Federal Aid Number: NA

Project Name: 42nd Street Flyover Ocala Gateway Feature

State Road Number: S.R. 93 S-75 Co/Sec/Sub: \_\_\_\_\_

Begin Project MP: 349.5 End Project MP: 349.5

FHWA Project of Division Interest: Yes ☐ No ☒

Request for: Design Exception ☐ Design Variation ☐

Community Aesthetic Feature: Conceptual ☒ Final ☐

Re-submittal: Yes ☐ No ☐ Original Ref: \_\_\_\_\_

Requested for the following element(s):

<input type="checkbox"/> Design Speed	<input type="checkbox"/> Lane Width	<input type="checkbox"/> Shoulder Width	<input type="checkbox"/> Cross Slope
<input type="checkbox"/> Design Loading Structural Capacity	<input type="checkbox"/> Vertical Clearance	<input type="checkbox"/> Maximum Grade	<input type="checkbox"/> Stopping Sight Distance
<input type="checkbox"/> Super-elevation	<input type="checkbox"/> Horizontal Curve Radius	<input type="checkbox"/> Other	

This application is for Conceptual Approval of a Local ID Marker on an existing flyover bridge (SW 43rd Street Rd) crossing over I-75 in Ocala, Florida. The bridge is owned and maintained by the City of Ocala. The marker will be facing I-75 northbound preceding the S.R. 200 Interchange to welcome motorists to Ocala.

The marker will include the word "OCALA" for the reason that the "sense of place" changes and contains features that identify arrival to the City of Ocala. In order to deliver this feeling to the motorists, they have to be able to read this message easily, safely and quickly. It is also important that the lettering heights are appropriate for the scale of the other components of the design. We examined three different lettering heights (8', 6' and 4') and it was clear that these objectives are best achieved with a 6' lettering height. The letters are not out of scale with the bridge features, and they will not seem obtrusive or out of place to the motorists. The proposed design demonstrates that the 6' lettering height is the appropriate scale and does not violate any provision of the MUTCD.

We submit that it is appropriate for the Department to allow Community Aesthetic Feature approval for the proposed sign location and design.

Recommended by:

Richard V. Rysche Date 02/25/2019

Responsible Professional Engineer

Approved:

District or Turnpike Design Engineer

State Roadway Design Engineer

Quantity Engineer

Don't Let Secretary

District Structures Design Engineer

State Structures Design Engineer

FHWA Division Administrator

## EXHIBIT C

### DEPICTION OF GATEWAY



#### LEGEND

1 ALUMINUM CHANNEL LETTERS  
(1/2" X 8" X 8" DEEP)

2 EXISTING LIGHT POLE  
3 VERTICAL TOWER

4 STRUCTURAL BEAM COLOR ENHANCEMENT  
5 UPGRADED PEDESTRIAN SECURITY FENCE

6 EXISTING BILLBOARD TO REMAIN  
7 NATIVE GRASSES AND LOW SHRUBS  
LANDSCAPE ENHANCEMENTS

8 EXISTING DATE PALMS TO REMAIN  
9 LASER CUT ALUMINUM PANELS

I-75 GATEWAY FINAL CONCEPT  
(BOARD OF COUNTY COMMISSIONERS / TOURIST DEVELOPMENT COUNCIL) JULY 17, 2018

Kimley»Horn

## EXHIBIT D

### SUBSTANTIAL FORM OF CAF AGREEMENT

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**COMMUNITY AESTHETIC FEATURE AGREEMENT**

625-013-10  
ROADWAY DESIGN  
OGC - 06/17  
Page 1 of 12

State Road/Local Road \_\_\_\_\_ Section No. \_\_\_\_\_ CAFA No. 2020-M-591 draft

This Community Aesthetic Feature Agreement ("Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, between the State of Florida, Department of Transportation ("Department") and the City of \_\_\_\_\_ ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

#### **RECITALS**

- A. The Agency has requested permission from the Department to install a [CHOOSE ONE: ☐ Public Art, ☐ Local Identification Marker] community aesthetic feature on that certain right-of-way owned by the Department which is located on State Road/Local Road \_\_\_\_\_ at MP \_\_\_\_\_ in \_\_\_\_\_ County, Florida ("Project").
- B. The Department agrees that transportation facilities enhanced by community aesthetic features can benefit the public, result in positive economic development, and increase tourism both locally and throughout Florida.
- C. The Parties agree to the installation and maintenance of the Project, subject to the terms and conditions in this Agreement.

#### **AGREEMENT**

1. **TERM.** The term of this Agreement shall commence upon full execution of this Agreement ("Effective Date") and continue through 12/31/2030, which is determined as the lifespan of the Project, unless terminated at an earlier date as provided in this Agreement. If the Agency does not complete the installation of the Project within one year (365) days of the Effective Date of this Agreement, the Department may immediately terminate this Agreement. This Agreement may only be renewed for a term no longer than the original term of this Agreement upon a writing executed by both Parties to this Agreement.
2. **PROJECT DESCRIPTION.** The Project is a [CHOOSE ONE: ☐ Public Art, ☐ Local Identification Marker], as more fully described in the plans in Exhibit "A", attached and incorporated in this Agreement.
3. **FUNDING OF THE PROJECT.** The Agency has agreed by resolution to approve the Project and to fund all costs for the design, installation, and maintenance of the Project, and such resolution is attached and incorporated in this Agreement as Exhibit "D". The Department shall not be responsible for any costs associated with the Project. All improvements funded, constructed, and installed by the Agency shall remain the Agency's property. However, this permissive use of the Department's right-of-way where the Project is located does not vest any property right, title, or interest in or to the Agency for the Department's right-of-way.
4. **DESIGN AND CONSTRUCTION STANDARDS AND REQUIRED APPROVALS.**
- a. The Agency is responsible for the design, construction, and maintenance of the Project in accordance with all applicable federal, state and local statutes, rules and regulations, including the Department standards and specifications. A professional engineer, registered in Florida, shall provide the certification that all design and construction for the Project meets the minimum construction standards established by the Department and applicable Florida Building Code construction standards. The Agency shall submit all plans or related construction documents, cost estimates, project schedule, and applicable third party agreements to the Department for review and approval prior to installation of the Project. The Agency is responsible for the preparation of all design plans for the Project, suitable for reproduction on 11 inch by 17 inch sheets, together with a complete set of specifications covering all construction requirements for the Project. A copy of the design plans shall be provided to the Department's District Design Engineer, located at \_\_\_\_\_. The Department will review the plans for conformance to the Department's requirements and feasibility. The Department review shall not be considered an adoption of the plans nor a substitution for the engineer's responsibility for the plans. By review of the plans, the Department signifies only that such plans and improvements satisfies the Department's requirements, and the Department expressly

disclaims all other representations and warranties in connection with the plans, including, but not limited to the integrity, suitability, or fitness for the intended purpose or whether the improvements are constructed in accordance with the plans. The Department's review of the plans does not relieve the Agency, its consultants or contractors of any professional or other liability for the plans. All changes required by the Department shall be made by the Agency and final corrected plans shall be provided to the Department within thirty (30) days.

- b. The Agency shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility. Section 337.403, Florida Statutes, shall determine whether the utility bears the costs of utility work. The Agency shall bear the costs of utility work not required to be borne by the utility by Section 337.403, Florida Statutes.
- c. The Agency shall be responsible for monitoring construction operations and the maintenance of traffic ("MOT") throughout the course of the Project in accordance with the latest edition of FDOT Standard Specifications, Section 102. The Agency is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of FDOT Design Standards, Index 600 series. Any MOT plan developed by the Agency that deviates from FDOT Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
- d. The Agency is responsible for obtaining all permits that may be required by any federal, state, or local agency.
- e. Prior to commencing the Project, the Agency shall request a Notice to Proceed from the Department's Construction Project Manager, \_\_\_\_\_, at (\_\_\_\_) \_\_\_\_\_ or from an appointed designee.
- f. The Agency is authorized, subject to the conditions in this Agreement, to enter Department's right-of-way to install the Project (see attached Exhibit "B" Special Provisions). The Parties agree that this Agreement creates a permissive use only. Neither the granting of permission to use Department's right-of-way nor the placing of facilities upon Department's right-of-way shall operate to create or vest any property right in or to the Agency. The Agency shall not acquire any right, title, interest, or estate in the Department's right-of-way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Agency's use, occupancy or possession of the Department's right-of-way.
- g. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction and throughout the maintenance term of the Project. If the Department determines that a condition exists which threatens the public's safety, the Department may, at its discretion, cause the Project to cease and/or immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Agency. Should the Agency fail to remove the safety hazard within thirty (30) days, the Department may remove the safety hazard at the Agency's sole cost, expense, and effort.
- h. The Agency shall be responsible to ensure that construction of the Project is performed in accordance with the approved construction documents, and that it will meet all applicable federal, state, and local standards and that the work is performed in accord with the Terms and Conditions contained in Exhibit "C".
- i. The Agency shall notify the Department a minimum of forty eight (48) hours before beginning the Project within the Department's right-of-way. The Agency shall notify the Department should installation be suspended for more than five (5) working days.
- j. Upon completion of the Project, the Agency shall notify the Department in writing of the completion of the installation of the Project. For all design work that originally required certification by a Professional Engineer, the notification shall contain a Responsible Professional's Certification of Compliance, signed and sealed by the responsible professional for the project, the form of which is attached to this

Agreement as Exhibit "E". The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation. The Agency and its contractors shall remove their presence, including, but not limited to, all of the Agency or its contractor's/ subcontractor's/ consultant's/ subconsultant's property, machinery, and equipment from the Department's right-of-way and shall restore those portions of the Department's right-of-way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project, at Agency's sole cost and expense.

- k. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification to the Agency. The Agency shall have thirty (30) days from the date of receipt of the Department's written notice to complete the Project and provide the Department with written notice of the same ("Notice of Completion"). If the Agency fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department may: 1) provide the Agency with written authorization granting additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Agency's sole cost and expense, without Department liability to the Agency for any resulting loss or damage to property, including but not limited to machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice within thirty (30) days of the date of the invoice.
- l. Upon completion of the Project, the Agency shall be responsible for the perpetual maintenance of the Project, including all costs. The maintenance schedule shall include initial defect, instantaneous damage and deterioration components. The initial defect maintenance inspection should be conducted, and any required repairs performed during the construction phase. The instantaneous damage maintenance inspection should be conducted sixty (60) to ninety (90) days after placement and is intended to identify short term damage that does not develop over longer time periods. The deterioration maintenance inspection shall be conducted on regular, longer term intervals and is intended to identify defects and damages that occur by naturally occurring chemical, physical or biological actions, repeated actions such as those causing fatigues, normal or severe environmental influences, abuse or damage due to other causes. Deterioration maintenance shall include, but is not limited to, the following services:

1) Periodic inspections

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- m. The Agency shall, within thirty (30) days after expiration or termination of this Agreement, remove the Project and restore the right-of-way to its original condition prior to the Project. The Agency shall secure its obligation to remove the Project and restore the right-of-way by providing a removal and restoration deposit, letter of credit, or performance bond in the amount of \$ 0.00. The removal and restoration deposit, letter of credit, or bond shall be maintained by the Agency at all times during the term of this Agreement and evidence of the deposit, letter of credit, or bond shall be submitted to the Department on an annual basis. A waiver of the deposit, letter of credit, or bond requirement is permitted with approval from the District Maintenance Engineer for those installations with estimated restoration/removal costs less than or equal to \$2000.00.

District Maintenance Engineer, \_\_\_\_\_ Date: \_\_\_\_\_

- n. The Department reserves its right to cause the Agency to relocate or remove the Project, in the Department's sole discretion, and at the Agency's sole cost.

5. INDEMNITY AND INSURANCE.

- a. The Agency agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, and subconsultants, who perform work in connection with this Agreement:

"The contractor/ subcontractor/ consultant/ subconsultant shall indemnify, defend, save and hold harmless the State of Florida, Department of Transportation and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the contractor/ subcontractor/ consultant/ subconsultant, its officers, agents or employees."

- b. The Agency shall carry or cause its contractor/ subcontractor/ consultant/ subconsultant to carry and keep in force during the period of this Agreement a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$1,000,000 per person and \$5,000,000 each occurrence, and property damage insurance of at least \$100,000 each occurrence, for the services to be rendered in accordance with this Agreement. Additionally, the Agency or its contractor/ subcontractor/ consultant/subconsultant shall cause the Department to be an additional insured party on the policy or policies, and shall provide the Department with certificates documenting that the required insurance coverage is in place and effective. In addition to any other forms of insurance or bonds required under the terms of the Agreement, when it includes construction within the limits of a railroad right-of-way, the Agency must provide or cause its contractor to obtain the appropriate rail permits and provide insurance coverage in accordance with Section 7-13 of the Department's current Standard Specifications for Road and Bridge Construction, as amended.
- c. The Agency shall also carry or cause its contractor/ subcontractor/ consultant/ subconsultant to carry and keep in force Worker's Compensation Insurance as required by the State of Florida under the Worker's Compensation Law.

6. NOTICES. All notices pertaining to this Agreement are in effect upon receipt by either Party, shall be in writing, and shall be transmitted either by personal hand delivery; United States Post Office, return receipt requested; or, overnight express mail delivery. E-mail and facsimile may be used if the notice is also transmitted by one of the preceding forms of delivery. The addresses set forth below for the respective parties shall be the places where notices shall be sent, unless prior written notice of change of address is given.

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
DISTRICT 5 PROGRAM MANAGER

\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

\_\_\_\_\_ COUNTY [OR CITY], FLORIDA  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

7. **TERMINATION OF AGREEMENT.** The Department may terminate this Agreement upon no less than thirty (30) days notice in writing delivered by certified mail, return receipt requested, or in person with proof of delivery. The Agency waives any equitable claims or defenses in connection with termination of the Agreement by the Department pursuant to this Paragraph 7.

8. **LEGAL REQUIREMENTS.**

- a. This Agreement is executed and entered into in the State of Florida and will be construed, performed, and enforced in all respects in strict conformity with local, state, and federal laws, rules, and regulations. Any and all litigation arising under this Agreement shall be brought in a state court of appropriate jurisdiction in Leon County, Florida, applying Florida law.
- b. If any term or provision of the Agreement is found to be illegal or unenforceable, the remainder of the Agreement will remain in full force and effect and such term or provision will be deemed stricken.
- c. The Agency shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Agency in conjunction with this Agreement. Failure by the Agency to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the Department.
- d. The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- e. The Agency shall not cause any liens or encumbrances to attach to any portion of the Department's right-of-way.

9. **PUBLIC ENTITY CRIME.** The Agency affirms that it is aware of the provisions of Section 287.133(2)(a), Florida Statutes. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list. The Agency agrees that it shall not violate Section 287.133(2)(a), Florida Statutes, and further acknowledges and agrees that any conviction during the term of this Agreement may result in the termination of this Agreement.

10. **UNAUTHORIZED ALIENS.** The Department will consider the employment of unauthorized aliens, by any contractor or subcontractor, as described by Section 274A(e) of the Immigration and Nationalization Act, cause for termination of this Agreement.

11. **NON-DISCRIMINATION.** The Agency will not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of age, ethnicity, race, religious belief, disability, national origin, or sex. The Agency shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management. The Agency shall insert similar provisions in all contracts and subcontracts for services by this Agreement.

12. **DISCRIMINATORY VENDOR LIST.** The Agency affirms that it is aware of the provisions of Section 287.134(2)(a), Florida Statutes. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity. The Agency further agrees

that it shall not violate Section 287.134(2)(a), Florida Statutes, and acknowledges and agrees that placement on the list during the term of this Agreement may result in the termination of this Agreement.

13. **ATTORNEY FEES.** Each Party shall bear its own attorney's fees and costs.
14. **TRAVEL.** There shall be no reimbursement for travel expenses under this Agreement.
15. **PRESERVATION OF REMEDIES.** No delay or omission to exercise any right, power, or remedy accruing to either Party upon breach or default by either Party under this Agreement, will impair any such right, power or remedy of either party; nor will such delay or omission be construed as a waiver of any breach or default or any similar breach or default.
16. **MODIFICATION.** This Agreement may not be modified unless done so in a writing executed by both Parties to this Agreement.
17. **NON-ASSIGNMENT.** The Agency may not assign, sublicense, or otherwise transfer its rights, duties, or obligations under this Agreement without the prior written consent of the Department. Any assignment, sublicense, or transfer occurring without the required prior written approval of the Department will be null and void. The Department will at all times be entitled to assign or transfer its rights, duties, or obligations under this Agreement to another governmental agency in the State of Florida, upon giving prior written notice to the Agency. In the event that the Department approves transfer of the Agency's obligations, the Agency remains responsible for all work performed and all expenses incurred in connection with this Agreement.
18. **BINDING AGREEMENT.** This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and assigns. Nothing in this Agreement is intended to confer any rights, privileges, benefits, obligations, or remedies upon any other person or entity except as expressly provided for in this Agreement.
20. **ENTIRE AGREEMENT.** This Agreement, together with the attached exhibits and documents made a part by reference, embodies the entire agreement of the Parties. There are no provisions, terms, conditions, or obligations other than those contained in this Agreement. This Agreement supersedes all previous communication, representation, or agreement, either verbal or written, between the Parties. No amendment will be effective unless reduced to writing and signed by an authorized officer of the Agency and the authorized officer of the Department or his/her delegate.
21. **DUPLICATE ORIGINALS.** This Agreement may be executed in duplicate originals.

*The remainder of this page is intentionally left blank.*

Section No. \_\_\_\_\_ CAFA No. 2020-M-591 draft

**AGENCY**

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

As approved by the Council, Board, or

Commission on: \_\_\_\_\_

Attest: \_\_\_\_\_

Legal Review:

\_\_\_\_\_  
City or County Attorney

**DEPARTMENT**

State of Florida, Department of Transportation

By: \_\_\_\_\_

Print Name: Alan Hyman, PE

Title: Director of Transportation Operations

Date: \_\_\_\_\_

Legal Review:

\_\_\_\_\_

025-010-10  
ROADWAY DESIGN  
OGC - 05/17  
Page 8 of 12

Section No. \_\_\_\_\_ CAFA No. 2020-M-591 draft

**EXHIBIT "A"**

**PROJECT DESCRIPTION**

**I. SCOPE OF SERVICES**

**II. PROJECT PLANS**

The Agency is authorized to install the Project in accordance with the attached plans prepared by \_\_\_\_\_  
P.E./R.L.A./Architect and dated \_\_\_\_\_. Any revisions to these plans must be approved by the Department in  
writing.

025-010-10  
ROADWAY DESIGN  
OGC - 03/17  
Page 9 of 12

Section No. \_\_\_\_\_ CAFA No. 2020-M-591 draft

EXHIBIT "B"

SPECIAL PROVISIONS

625-010-10  
ROADWAY DESIGN  
CCC - 06/17  
Page 10 of 12

Section No. \_\_\_\_\_ CAFA No. 2020-M-591 draft

**EXHIBIT "C"**

**TERMS AND CONDITIONS FOR INSTALLATION OF THE PROJECT**

- 1) No work performed during Special Events.
- 2) No lane closures permitted without prior Department approval.

825-010-10  
ROADWAY DESIGN  
OGC - 08/17  
Page 11 of 12

Section No. \_\_\_\_\_ CAFA No. 2020-M-591 draft

EXHIBIT "D"

AGENCY RESOLUTION

Attached, following page.

Section No. \_\_\_\_\_ CAFA No. 2020-M-591 draft

## EXHIBIT "E"

NOTICE OF COMPLETION AND RESPONSIBLE PROFESSIONAL'S  
CERTIFICATE OF COMPLIANCENOTICE OF COMPLETIONCOMMUNITY AESTHETIC FEATURE AGREEMENT  
Between  
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
and \_\_\_\_\_

PROJECT DESCRIPTION: \_\_\_\_\_

In accordance with the Terms and Conditions of the Community Aesthetic Feature Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

RESPONSIBLE PROFESSIONAL'S CERTIFICATION OF COMPLIANCE

In accordance with the Terms and Conditions of the Community Aesthetic Feature Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish the Department a set of "as-built" plans certified by the Engineer of Record.

By: \_\_\_\_\_

SEAL:

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Legal, finance, Sky Wheeler TDC  
Dawn P., T. Strach, fileboard.