

Agency: Marion County Vendor No: F596000735013	Fund: LF Contract Amount: \$223,997.00	Financial Project No.: 453543-2-32-01
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**LOCALLY FUNDED AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
MARION COUNTY**

This **AGREEMENT**, made and entered into _____,
by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter referred to as the "DEPARTMENT") and the MARION COUNTY, a political subdivision of the State of Florida (hereinafter referred to as the "LOCAL GOVERNMENT"), (the Department and the Local Government may be referred to individually as a "Party" and collectively as the "Parties").

WITNESSETH:

WHEREAS, the Parties have been granted specific legislative authority to enter into this Agreement pursuant to Section 339.12, Florida Statutes; and

WHEREAS, the LOCAL GOVERNMENT, by Resolution, a copy of which is attached hereto, as Exhibit "B", and made apart hereof, has authorized its officers to execute this Agreement on its behalf; and

WHEREAS, the DEPARTMENT is prepared, in accordance with its Adopted Five-Year Work Program, to undertake the design services for the project described as: "Bellevue to Greenway Trail", said project being known as Financial Project Number (FPN) 453543-2-32-01, (hereinafter referred to as the "Project"); and

WHEREAS, the Project is not revenue producing and is contained in the Adopted Five-Year Work Program; and

WHEREAS, the implementation of the Project is in the interests of both the DEPARTMENT and the LOCAL GOVERNMENT and it would be most practical, expeditious, and economical for the LOCAL GOVERNMENT to provide a portion of the funds for the design services of the Project in Fiscal Year 2026/2027, said portion of the Project being known as FPN 453543-2-32-01, and said costs hereinafter referred to as the "Federal-Aid Funding Shortfall" and

WHEREAS, in order to maintain uniformity throughout the Project and to provide for the Federal-Aid Funding Shortfall in a cost effective manner, the LOCAL GOVERNMENT desires to

provide funding to the DEPARTMENT to be used for the Federal-Aid Funding Shortfall, as described in "Exhibit A".

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

1. The term of this Agreement shall begin upon the date of signature of the last party to sign and shall remain in full force and effect through completion of all services required of the LOCAL GOVERNMENT. The DEPARTMENT may, at any time and at any stage, amend or terminate the Project in whole or in part if the DEPARTMENT determines that such action is in the best interests of the public.

2. The DEPARTMENT shall undertake and complete the design services for the Project using the Federal-Aid Funding Shortfall described in Exhibit "A".

3. The DEPARTMENT shall perform the design services for the Project. Nothing herein shall be construed as requiring the DEPARTMENT to perform any activity which is outside the scope of the Project as previously defined. Except as specifically stated otherwise in this Agreement, all such activities shall be performed by such entities, at such times, in such manner, under such conditions, and pursuant to such standards as the DEPARTMENT, in its sole discretion, deems appropriate. The LOCAL GOVERNMENT shall not have any jurisdiction or control over the DEPARTMENT'S activities, except as specifically stated in this Agreement. The LOCAL GOVERNMENT shall be entitled to be advised of the progress of the Project at reasonable intervals upon request.

4. Contribution by the LOCAL GOVERNMENT of the funds for the Design phase of the Project shall be made as follows:

(A) The LOCAL GOVERNMENT and the DEPARTMENT agree to share the cost for design services of the Project. The LOCAL GOVERNMENT agrees to provide the Federal-Aid Funding Shortfall for the design services and the DEPARTMENT agrees to provide the remaining federal funds for the federal participating share of the design services, up to **\$265,000.00 (Two Hundred Sixty-Five Thousand Dollars And No/100)**.

(B) The share of the LOCAL GOVERNMENT shall be, at a minimum, the stated percentage of the actual Federal-Aid Funding Shortfall for the project. However, in the event the federal government fails to provide an amount which is equal to the anticipated federal participating share, the LOCAL GOVERNMENT shall be responsible for 100% of the funds required to make up the shortfall, including cost overruns and/or supplemental agreements not paid by federal funds. The DEPARTMENT is only responsible for the stated federal participating share as described in paragraph 4(A).

The Project is off the "State Highway System", therefore, in accordance with Section 339.08(1), F.S., State funding cannot be used for payments of non-participating costs on this Project.

(C) Should such shortfalls occur, due to a determination that said costs are non-participating, the LOCAL GOVERNMENT agrees to provide, without delay adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the shortfall. The DEPARTMENT shall notify the LOCAL GOVERNMENT as soon as it becomes apparent there is a shortfall; however, failure of the DEPARTMENT to so notify the LOCAL GOVERNMENT shall not relieve the LOCAL GOVERNMENT from its obligation to pay for its full participation of the Federal-Aid Funding Shortfall during the project and on final accounting, as provided herein below.

(D) The estimated total cost as set forth in the DEPARTMENT'S adopted work program for this Project is **\$488,997.00 (Four Hundred Eighty-Eight Thousand Nine Hundred Ninety-Seven Dollars and No/100)**. The estimated LOCAL GOVERNMENT share for 100% of the funding shortfall portion of the project is **\$223,997.00 (Two Hundred Twenty-Three Thousand Nine Hundred Ninety-Seven Dollars and No/100)**.

(E) The LOCAL GOVERNMENT agrees that it will, on or before but no later than **within at least fourteen (14) calendar days of the execution of this Agreement**, furnish the DEPARTMENT an advance deposit in the amount of **\$223,997.00 (Two Hundred Twenty-Three Thousand Nine Hundred Ninety-Seven Dollars and No/100)**. The deposit shall be the total estimated Federal-Aid Funding Shortfall.

(F) If the Federal-Aid Funding Shortfall costs are in excess of the advance deposit amount, the LOCAL GOVERNMENT will provide, without delay, an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT, so that the total deposit is equal to the Federal-Aid Funding Shortfall. The DEPARTMENT will notify the LOCAL GOVERNMENT as soon as it becomes apparent the Federal-Aid Funding Shortfall costs are in excess of the advance deposit amount. However, failure of the DEPARTMENT to so notify the LOCAL GOVERNMENT shall not relieve the LOCAL GOVERNMENT from its obligation to pay for its full participation on final accounting as provided herein below. If the LOCAL GOVERNMENT cannot provide the additional deposit within fourteen (14) days, a letter must be submitted to and approved by the DEPARTMENT's project manager indicating when the deposit will be made. The LOCAL GOVERNMENT understands the request and approval of the additional time could delay the project, and additional costs may be incurred due to delay of the project.

(G) If the Federal-Aid Funding Shortfall costs are less than the advance deposit amount, the DEPARTMENT will refund the amount that the advance deposit exceeds the LOCAL GOVERNMENT's share of the Federal-Aid Funding Shortfall costs if such refund is requested by the LOCAL GOVERNMENT in writing.

(H) Should project modifications occur that increase the Federal-Aid Funding Shortfall costs, the LOCAL GOVERNMENT will be notified by the DEPARTMENT accordingly. The LOCAL GOVERNMENT agrees to provide, without delay, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the Federal-Aid Funding Shortfall Costs. The DEPARTMENT shall notify the LOCAL GOVERNMENT as soon as it becomes apparent the Federal-Aid Funding Shortfall Costs will overrun the advance deposit amount. However, failure of the DEPARTMENT to so notify the LOCAL GOVERNMENT shall not relieve the LOCAL GOVERNMENT from its obligation to pay for its full participation on final accounting as provided herein below.

(I) The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three-hundred and sixty (360) calendar days of final payment to the Consultant. All project cost records and accounts shall be subject to audit by a representative of the LOCAL GOVERNMENT for a period of three (3) years after final close out of the project. The LOCAL GOVERNMENT will be notified of the final cost. The Parties agree that in the event the final accounting of total project costs pursuant to the terms of this Agreement is less than the total deposits to date, a refund of the excess will be made by the DEPARTMENT to the LOCAL GOVERNMENT. If the final accounting is not performed within three-hundred and sixty (360) calendar days, the LOCAL GOVERNMENT is not relieved from its obligation to pay.

(J) In the event said final accounting of total project costs is greater than the total deposits to date, the LOCAL GOVERNMENT will pay the additional amount within forty (40) calendar days from the date of the invoice. The LOCAL GOVERNMENT agrees to pay interest at a rate as established pursuant to Section 55.03, Florida Statutes, on any invoice not paid within the forty (40) calendar days until the invoice is paid.

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(K) Contact Persons:

DEPARTMENT

District 5 Local Government Agreements
719 South Woodland Boulevard, M.S. 4-520
DeLand, Florida 32720
(386) 943-5623
D5-LGA@dot.state.fl.us

LOCAL GOVERNMENT

Douglas Hinton, P.E., PSM
Deputy County Engineer
Marion County
412 SE 25th Avenue
Ocala, Florida 34471
(352) 671-8382
douglas.hinton@marionfl.org

5. All tracings, plans, specifications, maps, models, reports, or other work product prepared or obtained under this Agreement shall be considered works made for hire for the DEPARTMENT and shall at all times be and remain the property of the DEPARTMENT without restriction or limitation on their use. The LOCAL GOVERNMENT may, however, inspect those materials upon providing reasonable advance notice to the DEPARTMENT.

6. In the event this Agreement is in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) or has a term for a period of more than one (1) year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated as follows:

The department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The department shall require a statement from the Comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the department which are for an amount in excess of \$25,000.00 and which have a term for a period of more than one (1) year.

7. The DEPARTMENT may unilaterally cancel this Agreement for refusal by the LOCAL GOVERNMENT to 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 such party in conjunction with this Agreement.

8. This Agreement constitutes the complete and final expression of the Parties with respect to the subject matter hereof, and incorporates and includes all proper negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein. 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.

9. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. Any provision herein determined by a court of competent jurisdiction, or any other legally constituted body having jurisdiction, to be invalid or unenforceable shall be severable and the remainder of this Agreement shall remain in full force and effect, provided that the invalidated or unenforceable provision is not material to the intended operation of this Agreement.

10. The DEPARTMENT and the LOCAL GOVERNMENT acknowledge and agree to the following:

- (A) The LOCAL GOVERNMENT 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 LOCAL GOVERNMENT during the term of the contract; and
- (B) The LOCAL GOVERNMENT shall expressly require any contractors and subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the contractor/subcontractor during the contract term.

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IN WITNESS WHEREOF, the LOCAL GOVERNMENT has executed this Agreement on _____, and the DEPARTMENT has executed this Agreement on _____.

**BOARD OF COUNTY COMMISSION OF
MARION COUNTY, FLORIDA**

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____

By: _____

Name: Carl Zalak, III

Name: _____

Title: Chairman

Title: _____

Attest:

Attest:

Gregory C. Harrell, Clerk

Executive Secretary

For Use of Marion County Only,
Approved as to Form

Legal Review:

Matthew G. Minter
County Attorney

DEPARTMENT Attorney

Financial Provisions Approval by
Department of Comptroller on:

October 5, 2020

EXHIBIT "A"

SCOPE OF SERVICES

The scope of the project proposes the construction of a shared use path and sharrow from the Belleview to Greenway Trail located in Marion County. The project begins at the intersection of US Highway 441 and Southeast 102nd Place and continues along 102nd Place to Southeast 52nd Court where it turns right onto Southeast 52nd Court. It then continues to Southeast 110th Street, continuing along to 109th Place running to 109th Street. The project then runs along 109th Street to Southeast Lillian Circle at Lake Lillian Park. The total length of project is 1.95 miles.

Roadway improvements include a shared use path along the south side of Southeast 102nd Place from the intersection of US Highway 441 and 102nd Place to the intersection of 102nd Place and 52nd Court. A sharrow is proposed along 52nd Court, 110th Street, 109th Place, and 109th Street. Drainage improvements include ditches, mitered end sections, and ditch bottom inlets.

All pedestrian facilities and amenities shall adhere to current Americans with Disabilities Act (ADA) standards. The design services shall include survey, subsurface utility exploration, and geotechnical work. Permitting, utility coordination, and transit coordination are anticipated. Right of way acquisition is not anticipated. Marion County (LOCAL GOVERNMENT) shall design the project within the limits of its right of way or easements.

The LOCAL GOVERNMENT shall be responsible for the preparation and submittal of a technical memorandum providing the supporting documentation, as well as any independent reports needed, for all items on the Type 1 Categorical Exclusion (CE) Checklist. The LOCAL GOVERNMENT shall not be responsible for filling out the actual form. FDOT will prepare the checklist using the supplied information. All Principal Investigators for the archaeological, historical, and architectural sections of the Type 1 CE shall meet the minimum requirements stated in the Florida Administrative Code (Chapter 1A-46) and the Code of Federal Regulations, 36 C.F.R. 61.

The LOCAL GOVERNMENT will be responsible for providing funds for any Federal-Aid Funding Shortfalls or Non-Participating Costs including the initial amount **\$223,997.00 (Two Hundred Twenty-Three Thousand Nine Hundred Ninety-Seven Dollars and No/100).**

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EXHIBIT “B”

RESOLUTION

The Resolution, or other official authorization, authorizing entry into this Agreement is attached and incorporated into this Agreement.