

STATE OF FLORIDA Department OF TRANSPORTATION
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM
AGREEMENT**

Financial Project No: <u>440093 3 34 01</u>	Contract No. _____	Vendor No.: <u>F596000800203</u>	CSFA No. and Title: <u>55.038</u> Florida Shared-Use Nonmotorized (SUN) Trail Network Program
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THIS FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM GRANT AGREEMENT (“Agreement”) is entered into this 13th day of April 2022, by and between the State of Florida Department of Transportation, (“Department”), and Pinellas County, (“Recipient”). The Department and the Recipient are sometimes referred to in this Agreement as a “Party” and collectively as the “Parties”.

RECITALS

- A. The Department is authorized under Section 339.81, Florida Statutes, to enter into this Agreement.
- B. The Florida Shared-Use Nonmotorized Trail Network Program is included in the Department’s work program for the purposes of funding and maintaining projects within the network.
- C. The purpose of this Agreement is to provide for the Department’s participation in the design services of the Pinellas Trail Loop, Phase 4 from 126th Avenue N to Ulmerton Road project, as further described in **Exhibit “A”, Project Description and Responsibilities** (“Project”), state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed. The Project is or shall be a component of the Florida Shared-Use Nonmotorized Trail Network and it would be more practical, expeditious, and economical for the Recipient to perform the Project.
- D. The Recipient by Resolution No. _____ adopted on _____, 20____, a copy of which is attached hereto and made a part hereof as **Exhibit “E”, Recipient Resolution**, 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. **Incorporation of Recitals:** The recitals set forth above are true and correct and are incorporated into this Agreement.
- 2. **Term of Agreement:** This Agreement shall commence upon full execution by both Parties (“Effective Date”) and continue through June 30, 2023. If the Recipient does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Recipient and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department. Unless terminated earlier, work on the Project shall commence no later than: the 31st day of May 2022 or

[Type here]

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within N/A days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

- 3. Amendments, Extensions and Assignment:** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred or otherwise encumbered by the Recipient under any circumstances without the prior written consent of the Department.
- 4. Termination or Suspension of Project:** The Department may, by written notice to the Recipient, suspend any or all of the Recipient's obligations under this Agreement for the Recipient's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected. The Department may also terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.
 - a.** If the Department terminates the Agreement, the Department shall notify the Recipient of such termination in writing within thirty (30) days of the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
 - b.** The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
 - c.** If the Agreement is terminated before performance is completed, the Recipient shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Recipient.
 - d.** In the event the Recipient fails to perform or honor the requirements and provisions of this Agreement, the Recipient shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.
- 5. Project Cost:**
 - a.** The estimated total cost of the Project is **\$293,627.00**. This amount is based upon the schedule of funding in **Exhibit "B", Schedule of Financial Assistance**. The schedule of funding may be modified by mutual agreement of the Parties.
 - b.** The Department agrees to participate in the Project cost up to the maximum amount of **\$293,627.00** and as more fully described in **Exhibit "B", Schedule of Financial Assistance**. The Parties agree that the Department's participation may be increased or reduced upon a determination of the actual bid amounts of the Project by the execution of a supplemental agreement. The Recipient agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.
- 6. Compensation and Payment:**
 - a.** The Department shall reimburse the Recipient for costs incurred to perform services described in the Project Description and Responsibilities in **Exhibit "A"**, and as set forth in the Schedule of Financial Assistance in **Exhibit "B"**.

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- b. The Recipient shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project, identified as Financial Project Number 440093 3 34 01, and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A"**, Project Description and Responsibilities. Any changes to the deliverables shall require written approval in advance by the Department.
- c. Invoices shall be submitted no more often than monthly by the Recipient in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable and verifiable deliverables as established in **Exhibit "A"**. Deliverables must be received and accepted in writing by the Department's Project Manager prior to reimbursements. The Department will identify the Department's Project Manager to the Recipient in writing. Requests for reimbursement by the Recipient shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the Department. The Recipient shall use the format for the invoice and progress report that is approved by the Department.
- d. Supporting documentation must establish that the deliverables were received and accepted in writing by the Recipient and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A"** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit H- Contract Payment Requirements**.
- e. Travel expenses are not compensable under this Agreement.
- f. Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under s. 334.044 (29), Florida Statutes. If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within five days after notice from the Department, provide the Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract noncompliance. If the corrective action plan is unacceptable to the Department, the Recipient will not be reimbursed to the extent of the non-performance. The Recipient will not be reimbursed until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the Recipient may bill the Department for the unpaid reimbursement request(s) during the next billing period. If the Recipient is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.
- g. Recipients providing goods and services to the Department should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to **Section 55.03(1), F.S.**, will be due and payable, in addition to the invoice amount, to the Recipient. Interest penalties of less than one (1) dollar will not be enforced unless the Recipient requests payment. Invoices that have to be returned to a Recipient because of

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Recipient preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- h. The Recipient shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Recipient's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- i. Upon request, the Recipient agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.
- j. If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Recipient owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- k. The Recipient must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- l. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Recipient. See **Exhibit "B"** for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Recipient, in writing, when funds are available.
- m. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"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 1 year, but any contract so made shall be executory only for the value of the services to be rendered or

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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 and which have a term for a period of more than 1 year."

- n. Any Project funds made available by the Department pursuant to this Agreement which are determined by the Department to have been expended by the Recipient in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Recipient files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- o. In determining the amount of the payment, the Department will exclude all Project costs incurred by the Recipient prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in **Exhibit "B"** for the Project, costs agreed to be borne by the Recipient or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

7. General Requirements:

The Recipient shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

- a. In the event the Recipient proceeds with any phase of the Project utilizing its own forces, the Recipient will only be reimbursed for direct costs (this excludes general overhead).
- b. The Recipient shall certify to Department that the Recipient's design consultant and/or construction contractor has secured the necessary permits. If the Recipient fails to provide such certification to Department by April 1, 2023, the Department may, at its discretion, terminate this Agreement.
- c. The Recipient shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained.
- d. In the event the cost of the Project is greater than \$250,000.00 and the Project involves construction on the Department's right-of-way, the Recipient shall provide the Department with written notification of either its intent to:
 - i. Award the construction of the Project to a Department prequalified contractor which is the lowest and best bidder in accordance with applicable state and federal statutes, rules, and regulations. The Recipient shall then submit a copy of the bid tally sheet(s) and awarded bid contract, or
 - ii. Construct the Project utilizing existing Recipient employees, if the Recipient can complete said Project within the time frame set forth in this Agreement.
- e. The Recipient shall be responsible for assuring that the Project complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards.
- f. The Recipient shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Recipient will make best efforts to obtain the Department's input in its decisions.

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- g. If this box is selected, then the following provision is incorporated into this Agreement:

A portion of the Project will be located on the Department's right-of-way and the Recipient shall be responsible for ensuring that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Department standards and that the work is performed in accord with **Exhibit "F", Terms and Conditions of Construction**, attached to and incorporated into this Agreement.

8. Contracts of the Recipient

- a. Except as otherwise authorized in writing by the Department, the Recipient shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.
- b. It is understood and agreed by the parties to this Agreement that participation by the Department in a project with the Recipient, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Recipient's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Recipient shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

9. Design and Construction Standards and Required Approvals: In the event the Project includes construction the following provisions are incorporated into this Agreement:

- a. The Recipient shall hire a qualified contractor using the Recipient's normal bid procedures to perform the construction work for the Project. The Recipient must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or exhibit past project experience in the last five years that are comparable in scale, composition, and overall quality of the site identified within the scope of services of this Project.
- b. Construction Engineering Inspection (CEI) services will be provided by the Recipient by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project.
- c. The Recipient understands that it is responsible for the preparation of all design plans for the Project. The Recipient shall hire a qualified consultant for the design phase of the Project using the Recipient's normal procurement procedures to perform the design services for the Project.
- d. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Recipient for the design phase or other non-construction phases of the Project. If the Project

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involves a construction phase, the Recipient shall not begin the construction phase of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Recipient shall request a Notice to Proceed from the Department's Construction Project Manager, Marcia Haines, at (813) 975-6134 or from an appointed designee. Any work performed prior to the execution of this Agreement is not subject to reimbursement.

- e. The Recipient will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Construction Project Manager prior to commencing construction of the Project.
- f. The Recipient shall require the Recipient's contractor to post a payment and performance bond in accordance with Section 337.18(1), Florida Statutes.
- g. The Recipient shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Recipient and Department standards.
- h. Upon completion of the work authorized by this Agreement, the Recipient shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto and incorporated herein as **Exhibit "C", Engineers Certification of Completion**. 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.

10. Maintenance Obligations: The following provisions are incorporated into this Agreement:

- a. The Recipient has agreed by resolution to execute a Maintenance Memorandum of Agreement ("MMOA") in which Recipient agrees to maintain the entire Project as depicted in the construction plans and specifications for the useful life of the Project, and such resolution is attached and incorporated into this Agreement as **Exhibit "E"**. The Recipient shall execute the MMOA concurrently with execution of this Agreement. The MMOA is attached and incorporated into this Agreement as **Exhibit "G"**. The terms of the MMOA, **Exhibit "G"**, shall survive the termination of this Agreement. The Parties acknowledge and agree that the design plans for the Project may not yet be finalized and are subject to review by the Department. Upon completion of the Project, the Parties shall amend the MMOA to attach the latest version of the construction plans for the Project to the MMOA in order to show the extent of the Project to be maintained.

11. State Single Audit: The administration of resources awarded through the Department to the Recipient by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official. The Recipient shall comply with all audit and audit reporting requirements as specified below.

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Recipient's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this

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Agreement. By entering into this Agreement, the Recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS) or the Auditor General.

- b. The Recipient, a nonstate entity as defined by Section 215.97(2), Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement is subject to the following requirements:
- i. In the event the Recipient meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit “D”** to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Recipient to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
 - ii. In connection with the audit requirements, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
 - iii. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Recipient must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Recipient’s audit period for each applicable audit year. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Recipient’s resources (i.e., the cost of such an audit must be paid from the Recipient’s resources obtained from other than State entities).
 - iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

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Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, FL 32399-0405
Email: FDOTSingleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

- v. Any copies of financial reporting packages, reports or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
 - vi. The Recipient, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Recipient in correspondence accompanying the reporting package.
 - vii. Upon receipt, and within six months, the Department will review the Recipient's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Recipient fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
 - viii. As a condition of receiving state financial assistance, the Recipient shall permit the Department, or its designee, DFS or the Auditor General access to the Recipient's records including financial statements, the independent auditor's working papers and project records as necessary. Records related to unresolved audit findings, appeals or litigation shall be retained until the action is complete or the dispute is resolved.
- c. The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department, or its designee, DFS or the Auditor General access to such records upon request. The Recipient shall ensure that the audit working papers are made available to the Department, or its designee, DFS or the Auditor General upon request for a period of five years from the date the audit report is issued unless extended in writing by the Department.

12. Notices and Approvals:

- a. All notices (except invoices) 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 and the Agreement Administrators 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.

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STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

Marcia Haines
Local Programs Coordinator
Phone: 813 975 6134
Email: marcia.haines@dot.state.fl.us

RECIPIENT:

David D. Fechter, AICP, CPPB
Public Works Department
Phone: 727 464 3019
Email: ddflechter@co.pinellas.fl.us

- b. All approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

13. Restrictions, Prohibitions, Controls and Labor Provisions:

- a. 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 36 months from the date of being placed on the convicted vendor list.
- b. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide 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.
- c. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Recipient.
- d. No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.
- e. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.

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- f. The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

14. Indemnification and Insurance:

- a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Recipient guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Recipient or any subcontractor, in connection with this Agreement. Additionally, the Recipient agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

“To the fullest extent permitted by law, the Recipient's contractor/consultant shall indemnify and hold harmless the Recipient and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Recipient's sovereign immunity.”

- b. The Recipient shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultants have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using “leased employees” or employees obtained through professional employer organizations (“PEO's”), ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent Contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.
- c. If the Recipient is a state agency or subdivision of the State of Florida and elects to self-perform the Project, then the Recipient may self-insure. If the Recipient is not a state agency or subdivision of the State of Florida or if the Recipient is a state agency or subdivision of the State of Florida that elects to hire a contractor or consultant to perform the Project, then the Recipient shall, or cause its contractor or consultant to carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. Cause the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an “occurrence” basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess

**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM
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policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible. Pay all deductibles as required by the policy. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Recipient is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

- d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, you shall, in addition to the insurance coverage required pursuant to 7-13.2 above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to paragraph 15.C above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have. The Railroad Protective Liability Coverage described above is not required if the Recipient is a government entity that elects to self-perform the Project and utilizes self-insurance.
- e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the policy/ies procured pursuant to paragraph 11.c above. This provision does not apply if the Recipient is a government entity that elects to self-perform the Project and utilizes self-insurance.

15. Miscellaneous:

- a. The Recipient will be solely responsible for compliance with all applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Recipient will be responsible for securing any applicable permits. The Recipient shall include in all contracts and subcontracts for amounts in excess of \$150,000, a provision requiring compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).
- b. The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.

**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM
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- c. In no event shall the making by the Department of any payment to the Recipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Recipient and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- d. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- e. The Recipient and the Department agree that the Recipient, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- f. By execution of the Agreement, the Recipient represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- g. Nothing in the Agreement shall require the Recipient to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Recipient will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Recipient to the end that the Recipient may proceed as soon as possible with the Project.
- h. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- i. If the Project is procured pursuant to Chapter 255 for construction services and at the time of the competitive solicitation for the Project 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Recipient must comply with the requirements of Section 255.0991, Florida Statutes. The Recipient shall:
 - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Recipient during the term of the contract; and
 - ii. 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.
- j. The Department reserves the right to unilaterally cancel this Agreement for failure by the Recipient to comply with the provisions of Chapter 119, Florida Statutes. The Recipient shall:
 - i. Keep and maintain public records required by the Department to perform the service.
 - ii. Upon request from the Department's custodian of public records, provide the Department with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

STATE OF FLORIDA Department OF TRANSPORTATION
**FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM
AGREEMENT**

- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Recipient does not transfer the records to the Department.
- iv. Upon completion of the Agreement, transfer, at no cost, to the Department, all public records in possession of the Recipient or keep and maintain public records required by the Department to perform the service. If the Recipient transfers all public records to the Department upon completion of the Agreement, the Recipient shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Recipient keeps and maintains public records upon completion of the Agreement, the Recipient shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Department, upon request from the Department's custodian of public records, in a format that is compatible with the information technology systems of the Department.
- v. Failure by the Recipient to comply with Chapter 119, Florida Statutes, shall be grounds for immediate unilateral cancellation of this Agreement by the Department.
 - i. IF THE RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: Jennifer Nakasu: (813) 975-6484 or jennifer.nakasu@dot.state.fl.us
- k. The Recipient agrees to comply with Section 20.055(5), F.S., and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), F.S.
- l. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Recipient agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

16. Exhibits.

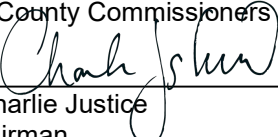
- a. Exhibits A, B, C, D, E, G and H are attached to and incorporated into this Agreement.
- b. A portion or all of the Project will utilize the Department's right-of-way and therefore Exhibit F, Terms and Conditions of Construction, is attached and incorporated into this Agreement.
- c. **Exhibit List**
 - Exhibit A: Project Description and Responsibilities
 - Exhibit B: Schedule of Financial Assistance Schedule
 - Exhibit C: Engineer's Certification of Compliance
 - Exhibit D: Audit Requirements for Awards of State Financial Assistance
 - Exhibit E: Recipient Resolution
 - *Exhibit F: Terms and Conditions of Construction
 - Exhibit G: Maintenance Memorandum of Agreement
 - Exhibit H: Contract Payment Requirements

*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

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IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

RECIPIENT Pinellas County
Board of County Commissioners

By: 
Name: Charlie Justice
Title: Chairman


STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: _____
Name: Richard Moss, P.E.
Title: Director of Transportation Development



Legal Review:

ATTEST: KEN BURKE, CLERK

By: 

APPROVED AS TO FORM

By: Joseph Morrissey
Office of the County Attorney

FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM AGREEMENT

EXHIBIT A PROJECT DESCRIPTION AND RESPONSIBILITIES

This exhibit forms an integral part of the Florida Shared-Use Nonmotorized Trail Network Program Agreement between the State of Florida, Department of Transportation and Pinellas County.

A. Project Description This project consists of the design activities of the Pinellas Trail Loop, Phase 4 from 126th Avenue N to Ulmerton Road.

B. Project Location: Pinellas County

Illustration/graphic/map of project area is applicable and attached to this Exhibit A.

C. Project Scope. 0.726 miles; from MP 6.473 to MP 7.199. Trail Id: 15931003

This project consists of the design activities of the Pinellas Trail Loop, Phase 4 from 126th Avenue N to Ulmerton Road. The project connects into existing and committed trail segments/infrastructure to create a complete trail loop within the County.

Project start: May 31, 2022

60% plans: September 30, 2022

90% plans January 31, 2023

Final plans and Bid Package: April 1, 2023

D. Deliverable(s):

The project location is classified as an off the State Highway System. Due to work being performed on Ulmerton Road, this project will be implemented as an on the State Highway System.

The Recipient will submit all design phases to the Department for review and approval.

The Recipient shall submit a Consultants' Competitive Negotiation Act (CCNA) certification for any consultant work to be performed.

The Recipient shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained.

Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage of Commercial General Liability by the consultant or contractor as described in Section 14 (c) of this agreement.

The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

The Agency will be responsible for documenting to the Department that the project, as designed, qualifies as one of the types of Non-Major State Action (NMSA) project per FDOT's PD&E Manual. This documentation must be approved by the district prior to any construction related activity, including advertisement.

E. Unallowable Costs (including but not limited to): _____

FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM AGREEMENT

EXHIBIT B

SCHEDULE OF FINANCIAL ASSISTANCE

A. Fund Type and Fiscal Year:

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
440093 3 34 01	Non-federal STFF	088849	2022	131521	55.038	Florida Shared-Use Nonmotorized (SUN) Trail Program – Wheels on Road Fund	\$293,627.00
Total Financial Assistance							\$293,627.00

B. Estimate of Project Costs by Grant Phase:

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	\$	\$	\$	\$			
Planning	\$	\$	\$	\$			
Environmental/Design/Construction	\$293,627.00	\$	\$	\$293,627.00	100%		
Totals	\$293,627.00	\$	\$	\$293,627.00			

*Shifting items between these grant phases requires execution of an Amendment to the Florida Shared-Use Nonmotorized Trail Network Program Grant Agreement.

BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line-item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Marcia Haines

Department Grant Manager Name

Signature

Date

STATE OF FLORIDA Department OF TRANSPORTATION
FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM AGREEMENT

EXHIBIT C

ENGINEER'S CERTIFICATION OF COMPLIANCE

NOTICE OF COMPLETION

FLORIDA SHARED-USE NONMOTORIZED (SUN) TRAIL PROGRAM
GRANT AGREEMENT
Between
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and PINELLAS COUNTY

PROJECT DESCRIPTION: This project consists of the design activities of the Pinellas Trail Loop, Phase 4 from 126th Avenue N to Ulmerton Road.

FINANCIAL MANAGEMENT ID# 440093 3 34 01

In accordance with the Terms and Conditions of the Shared-Use Nonmotorized (SUN) Trail Program Grant Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of _____, 20__.

By: _____

Name: _____

Title: _____

ENGINEER'S CERTIFICATION OF COMPLIANCE

In accordance with the Terms and Conditions of the Shared-Use Nonmotorized (SUN) Trail Program Grant 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 FDOT a set of final design plans certified by the Engineer of Record/CEI.

By: _____, P.E.

SEAL:

Name: _____

Date: _____

STATE OF FLORIDA Department OF TRANSPORTATION
FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM AGREEMENT

EXHIBIT D

AUDIT REQUIREMENTS FOR AWARDS OF STATE FINANCIAL ASSISTANCE

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:

Awarding Agency: Florida Department of Transportation

State Project Title: FLORIDA SHARED-USE NONMOTORIZED (SUN) TRAIL NETWORK PROGRAM

CSFA Number: 55.038

***Award Amount:** \$293,627.00

*The award amount may change with supplemental agreements.

Specific project information for CSFA Number 55.038 is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number 55.038 are provided at: <https://apps.fldfs.com/fsaa/searchCompliance.aspx>

The State Projects Compliance Supplement is provided at: <https://apps.fldfs.com/fsaa/compliance.aspx>

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EXHIBIT E

AGENCY RESOLUTION

PLEASE SEE ATTACHED

STATE OF FLORIDA Department OF TRANSPORTATION
FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM AGREEMENT

EXHIBIT G

MAINTENANCE MEMORANDUM OF AGREEMENT

The Recipient has agreed by resolution to execute a Maintenance Memorandum of Agreement (“MMOA”) in which Recipient agrees to maintain the entire Project as depicted in the construction plans and specifications for the useful life of the Project, and such resolution is attached and incorporated into this Agreement as **Exhibit “E”**. The Recipient shall execute the MMOA concurrently with execution of this Agreement. The MMOA is attached and incorporated into this Agreement as **Exhibit “G”**. The terms of the MMOA, **Exhibit “G”**, shall survive the termination of this Agreement. The Parties acknowledge and agree that the design plans for the Project may not yet be finalized and are subject to review by the Department. Upon completion of the Project, the Parties shall amend the MMOA to attach the latest version of the construction plans for the Project to the MMOA in order to show the extent of the Project to be maintained.

FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM AGREEMENT**EXHIBIT H****CONTRACT PAYMENT REQUIREMENTS****Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts**

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

Salaries: Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

Fringe benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

Other direct costs: Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

Indirect costs: If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

Contracts between state agencies may submit alternative documentation to substantiate the reimbursement request, which may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM AGREEMENT**EXHIBIT F****CONSTRUCTION TERMS AND CONDITIONS**

The provisions contained in this Exhibit "F" apply to any and all portions of the Project that are constructed on the Department's right-of-way.

1. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction and Department Design Standards and Manual of Uniform Traffic Control Devices ("MUTCD"). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, the FDOT Design Manual ("FDM"), the Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book") and the Department Traffic Engineering Manual. The Recipient will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Recipient shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Recipient shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.
2. The Recipient shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Recipient shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is Rolando Sanchez at (813) 975-6928 or rolando.sanchez@dot.state.fl.us.
3. The Recipient 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 the Department Standard Specifications, section 102. The Recipient 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 the Department Design Standards, Index 600 series. Any MOT plan developed by the Recipient that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
4. The Recipient 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.
5. The Recipient will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
6. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Recipient, except as may otherwise be provided in separate agreements. The Recipient shall not acquire any right, title, interest or estate in Department 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 Recipient's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be

FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM AGREEMENT

construed to, grant credit for any future transportation concurrency requirements pursuant to chapter 163, Florida Statutes.

7. The Recipient shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, Department RIGHT-OF-WAY.
8. The Recipient shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.
9. The Recipient shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, Environmental Protection Agency, the Army Corps of Engineers, the United States Coast Guard and local governmental entities.
10. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Recipient. The Recipient shall bear all construction delay costs incurred by the Department.
11. The Recipient shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
12. The Recipient will be solely responsible for cleanup or restoration required to correct any environmental or health hazards that may result from construction operations.
13. The Recipient will be required to maintain the Project at least until final acceptance by the Department and the Recipient shall be obligated to maintain the Project beyond final acceptance in accordance with this Agreement and a Maintenance Memorandum of Agreement between the Department and Recipient. The acceptance procedure will include a final "walk-through" by Recipient and Department personnel. Upon completion of construction, the Recipient will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Recipient shall remove its presence, including, but not limited to, all of the Recipient's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department 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.
14. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Recipient. The Recipient shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Recipient and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Recipient 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, within its discretion may: 1) provide the Recipient with written authorization granting such additional time as the Department deems appropriate to correct the

FLORIDA SHARED-USE NONMOTORIZED TRAIL NETWORK PROGRAM AGREEMENT

deficiency(ies); or 2) correct the deficiency(ies) at the Recipient 's sole cost and expense, without Department liability to the Recipient 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 Recipient with an invoice for the costs incurred by the Department and the Recipient shall pay the invoice within thirty (30) days of the date of the invoice.

15. The Recipient shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Recipient shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.
16. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Recipient to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Planning and Environmental Management Office (PL&EM) must be contacted immediately at 954-777-4601.
17. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
18. Restricted hours of operation will be from 5:00 AM to 9:00 PM, Monday - Sunday, unless otherwise approved by the Operations Engineer, or designee.
19. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Florida Department of Transportation
District Seven
Kris Carson, Public Information Officer
Kristen.carson@dot.state.fl.us
813-975-6202