

## LOCAL FUNDING INTERLOCAL AGREEMENT

This Agreement made by and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the State of Florida, Department of Transportation, whose address for purposes of this Agreement is 11201 North McKinley Drive, Tampa, Florida, 33612-6403, (the "DEPARTMENT"), and Pinellas County, a political subdivision of the State of Florida, whose address for purposes of this Agreement is 315 Court Street, Clearwater, Florida 33756 (the "COUNTY"); and

### WITNESSETH

WHEREAS, the DEPARTMENT is authorized to enter into agreements with governmental entities in accordance with Sections 163.01, 334.044 and 339.12, Florida Statutes; and

WHEREAS the COUNTY has authorized its officers to execute this Local Funding Interlocal Agreement ("Agreement" or "LFA") on its behalf; and

WHEREAS the DEPARTMENT has funded project number 433880-1-52-01 which is identified in its Five-Year Adopted Work Program as "Gateway Express FM SR 690 at US 19 and SR 686 EXT at CR 611 to West of I-275" ("the PROJECT"); and

WHEREAS, the COUNTY has planned capital outlays for County project number 000297A which planned outlays were contemplated to be spent in the area of the DEPARTMENT'S plans for the PROJECT; and

WHEREAS, the COUNTY has important prior public uses in place that must be accommodated to alleviate or address all impacts from the PROJECT, including but not limited to the operation of and access to the St. Pete/Clearwater International Airport and its federal grant requirements and regulatory permits of third party governmental entities; and

WHEREAS, the DEPARTMENT and the COUNTY have determined that it would be in the best interest of the general public and to the economic advantage of both parties to coordinate and cooperate in their efforts to facilitate development of the PROJECT; and

WHEREAS, the decision of the DEPARTMENT to significantly advance in time the PROJECT requires the utilization of all COUNTY planned capital outlays to meet the funding needs of the DEPARTMENT'S advanced timeline; and

WHEREAS, the total contemplated funding under this Agreement from the COUNTY shall be solely for construction of the Project, and is intended to satisfy all outstanding COUNTY formal or informal commitments, not previously covered in an existing agreement between the parties or expended in support of DEPARTMENT

projects, for any COUNTY contributions to the DEPARTMENT'S PROJECT. This paragraph is not intended to suggest that typical COUNTY obligations, such as utility relocations where the COUNTY is responsible for such cost, will not be accomplished by other COUNTY funds.

WHEREAS, in order to complete the PROJECT, the COUNTY is prepared to provide financial assistance as provided in Exhibit "A" (Project Budget).

WHEREAS, the COUNTY agrees to deposit funds with the Department of Financial Services, in accordance with Exhibit A, in the total amount of \$55,750,000.00 (Fifty-Five Million Seven Hundred and Fifty Thousand Dollars) for the construction of the PROJECT.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

The forgoing "Whereas" clauses, and referenced Schedules, Exhibits or Attachments therein and hereinafter, are hereby incorporated into this Agreement.

## **SECTION 1 GENERAL OBLIGATIONS OF THE DEPARTMENT**

- 1.1 The DEPARTMENT shall be responsible for the design, construction, and maintenance of the PROJECT, which is in the DEPARTMENT's Five-Year Adopted Work Program as FPN 433880-1-52-01, in accordance with the terms as described in Exhibit "B".
- 1.2 The DEPARTMENT shall keep complete records and accounts in order to record complete and correct entries as to all costs, expenditures, and other items incidental to the cost of the PROJECT.
- 1.3 Exhibit "B" further delineates the DEPARTMENT's responsibility.

## **SECTION 2 GENERAL OBLIGATIONS OF THE COUNTY**

- 2.1 The COUNTY shall provide \$55,750,000.00 for the construction of the PROJECT in accordance with the provisions hereunder in Section 3, Financial Provisions.
- 2.2 The COUNTY shall provide the DEPARTMENT, its agents, employees, and

consultants, any requested information that is available and necessary for completing the PROJECT.

- 2.3 The COUNTY owns certain utilities that may be affected by the PROJECT: Roosevelt Boulevard from 49<sup>th</sup> Street in front of the Airport to north of Ulmerton Road; 118<sup>th</sup> Avenue (CR 296) from US 19 to Roosevelt Boulevard; the flyover at 49<sup>th</sup> Street North Bayside Bridge at Roosevelt Boulevard; and Ulmerton Road from 49<sup>th</sup> Street to 38<sup>th</sup> Street. The COUNTY will be responsible for any relocation costs associated with those utilities. All other utilities, if any, will be addressed separately.
- 2.4 Exhibit "B" further delineates the COUNTY's responsibilities.

### **SECTION 3 FINANCIAL PROVISIONS**

- 3.1 The parties recognize and accept the funding restrictions set forth in Section 339.135 (6)(a), and Sections 129.06 and 129.07, Florida Statutes, which may affect each of the parties' obligations. Those provisions are as follows:
- (a) 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 and which have a term for a period of more than 1 year. Section 339.135 (6)(a), Florida Statutes.
  - (b) Pursuant to Florida Statutes §§129.06 and 129.07, in the event sufficient budgeted funds are not available for a new COUNTY fiscal year (October 1 – September 30), the COUNTY shall timely notify Department of such occurrence prior to the end of the then current COUNTY fiscal year and this Agreement shall terminate without penalty or expense on the last day of the then current COUNTY fiscal year.
  - (c) The parties agree that in the event funds are not appropriated to the DEPARTMENT or the COUNTY for the PROJECT, this Agreement shall be terminated effective upon either party giving notice to the other to that effect.

- 3.2 The COUNTY agrees that it will make payments to the DEPARTMENT in accordance with Exhibit A. The DEPARTMENT shall utilize this contribution for payment of the construction costs of the PROJECT. If the actual cost of the project is less than the funds provided the excess will be applied to other eligible capital phases on the project.
- 3.3 The payment of funds to the DEPARTMENT under this Locally Funded Agreement will be made directly to the DEPARTMENT for deposit. The payment of funds to the COUNTY for right of way acquisition shall be made directly to the COUNTY.
- 3.4 If, before completion, the DEPARTMENT abandons or discontinues the PROJECT and terminates its construction contract, or if, for any reason, the commencement, prosecution, or timely completion of the construction contract by the DEPARTMENT is rendered improbable, infeasible, impossible, or illegal, the COUNTY may, by written notice to the DEPARTMENT, suspend and withhold any or all of its future payment obligations under this Agreement. Any monies received from the COUNTY which have not been expended for construction of the PROJECT shall be returned to the COUNTY after cancellation of the PROJECT and termination of the contract by the DEPARTMENT.
- 3.5 Vendors/Contractors of the DEPARTMENT:
- (a) Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Vendor/Contractor during the term of the contract; and
  - (b) Shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

#### **SECTION 4 COMMENCEMENT AND TERMINATION OF AGREEMENT**

- 4.1 This Agreement shall take effect upon being executed by the parties and shall be terminated, except as otherwise provided herein, upon the earlier of the mutual consent of the parties; or three hundred sixty (360) days after final payment has been made to the contractor and reimbursements, if any, made to the COUNTY.

#### **SECTION 5 MISCELLANEOUS PROVISIONS**

- 5.1 Any amendment to or modification of this Agreement or any alteration, extension,

supplement, or change of time or scope of work shall be in writing and signed by both parties.

- 5.2 Any notice or other document which either party is required to give or deliver to the other shall be given in writing and served either personally or mailed to:

**TO DEPARTMENT:**

Robin Parrish  
Local Program Coordinator  
11202 N. McKinley Drive  
M.S. 7-350  
Tampa, Florida 33612-6456

**TO COUNTY:**

Mr. Ivan Fernandez, P.E.  
Technical Services  
Staff Director  
Public Works  
14 S. Ft. Harrison Ave.  
Clearwater, Florida 33756

- 5.3 If any word, clause, sentence, or paragraph of the Agreement is held invalid, the remainder of the Agreement would continue to conform to the intent of this Agreement.
- 5.4 This Agreement shall be governed and construed in accordance with the laws of the State of Florida.
- 5.5 Nothing herein shall be construed to create any third party beneficiary rights in any person not a party to this Agreement.

**SECTION 6  
ENTIRE AGREEMENT**

This document, along with its Schedules, Exhibits and Attachments referenced herein, embodies the whole Agreement of the parties. There are no promises, terms, conditions, or allegations other than those contained herein and this document shall supersede all previous communications, representations and/or agreements, whether written or verbal between the parties hereto. This Agreement may be modified only in writing executed by all parties.

IN WITNESS WHEREOF, the COUNTY has caused by Agreement to be executed in its behalf this \_\_\_\_ day of \_\_\_\_\_, 2016, by the Chairman of the Board of County Commissioners, authorized to enter into and execute same by the County Commission on the \_\_\_\_ day of \_\_\_\_\_, 2016, and the DEPARTMENT has executed this Agreement through its District Director of Transportation Development for District Seven, Florida Department of Transportation, this \_\_\_\_ day of \_\_\_\_\_, 2016.

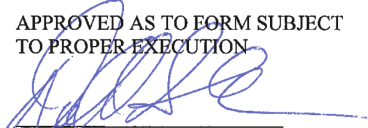
**PINELLAS COUNTY**

ATTEST \_\_\_\_\_ (SEAL) BY: \_\_\_\_\_  
CLERK CHAIRMAN, BOARD OF  
COUNTY COMMISSIONERS

\_\_\_\_\_  
DATE

\_\_\_\_\_  
ATTORNEY  
PINELLAS COUNTY

APPROVED AS TO FORM SUBJECT  
TO PROPER EXECUTION

  
Donald S. Crowell  
Managing Assistant County Attorney

**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION**

ATTEST \_\_\_\_\_ (SEAL) BY: \_\_\_\_\_  
EXECUTIVE SECRETARY DEBBIE HUNT  
DIRECTOR OF TRANSPORTATION  
DEVELOPMENT, DISTRICT SEVEN

\_\_\_\_\_  
DATE

\_\_\_\_\_  
ATTORNEY  
DEPARTMENT OF TRANSPORTATION