

RESOLUTION NO. 2019-009

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE ATTACHED LOCALLY FUNDED AGREEMENT (LFA) AND THE SUPPORTING AGREEMENTS ATTACHED TO THE LFA BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) AND THE CITY OF COCONUT CREEK TO CONSTRUCT AND DELIVER THE MOBILITY PROJECT ALONG LYONS ROAD FROM THE C-14 CANAL TO THE SAWGRASS EXPRESSWAY IN ACCORDANCE WITH FDOT PROGRAM BULLETIN 15-03, INCLUDING THE ADDITIONAL WORK FOR PATTERNED PAVEMENT CROSSWALKS AND LIGHTING CONDUIT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on October 24, 2013, the City Commission of the City of Coconut Creek, Florida ("City Commission") passed Resolution No. 2013-112 in support of the Complete Streets Initiative to allow all users, including people who walk, bike, use transit and drive, to safely navigate our roadways; and

WHEREAS, on August 26, 2015, the City Commission passed Resolution No. 2015-045 in support of the Lyons Road Mobility Project ("Project") to include bicycle lanes, sidewalks, and pedestrian amenities along the Lyons Road corridor between Atlantic Boulevard and the Sawgrass Expressway; and

WHEREAS, said Project has been defined as an off-system prioritized project within the local right-of-way under the jurisdiction of the City of Coconut Creek and not located on the State Highway System; and

WHEREAS, the State of Florida Department of Transportation ("FDOT") is authorized to undertake the Project identified as Financial Project # 436319-1, within Coconut Creek municipal limits; and

WHEREAS, the City has requested that FDOT perform the following additional work to include patterned pavement crosswalks (FM No 436319-1-52-02) at all signalized crosswalks along Lyons Road from North of Atlantic Boulevard to the Sawgrass Expressway excluding Sample Road and lighting conduit (FM No 436319-1-52-03) along both sides of Lyons Road from north of Atlantic Boulevard to Winston Park Boulevard as set forth in Exhibit "1," attached hereto and made part hereof and hereinafter referred to as the Locally Funded Agreement (LFA); and

WHEREAS, this resolution will authorize the City Manager, or designee, to execute the Locally Funded Agreement (LFA) and additional agreements, including the Three Party Escrow Agreement (Exhibit "B") and the Highway Maintenance Memorandum of Agreement (Exhibit "C") and thereby endorse FDOT's delivery of said Project within the City's local jurisdiction; and

WHEREAS, FDOT provides for a public involvement process, and the City retains the final approval of the design to be constructed.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution. All exhibits attached hereto are incorporated herein and made a specific part of this resolution.

Section 2: That the City Commission of the City of Coconut Creek, Florida, hereby approves the Locally Funded Agreement (LFA), attached hereto and made a part hereof as Exhibit "1," that supports the Florida Department of Transportation (FDOT) to manage, construct, and deliver the Lyons Road Mobility Project identified by FDOT as FM No. 436319-1, along Lyons Road from the C-14 Canal to the Sawgrass Expressway in accordance with FDOT's Program Management Bulletin 15-03, including the work pattern crosswalks (FM No. 436319-1-52-02) and lighting conduit (FM No. 436319-1-52-03).

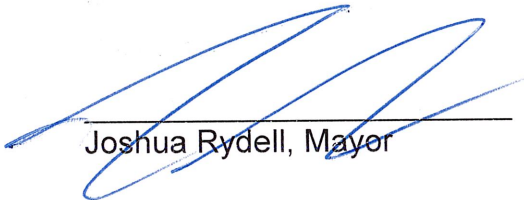
Section 3: That the City Manager, or designee, is hereby authorized to execute said LFA and associated agreements with FDOT for the Lyons Road Mobility Project.

Section 4: That the City Clerk is hereby directed to provide a copy of this resolution to FDOT.



Section 5: That if any clause, section, other part or application of this resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or in application, it shall not affect the validity of the remaining portion or applications of this resolution.

Section 6: That this resolution shall be in full force and effect immediately upon its adoption.

Adopted this 14th day of March, 2019.



Joshua Rydell, Mayor

Attest:


Leslie Wallace May, City Clerk

Rydell	<u>Aye</u>
Welch	<u>Aye</u>
Tooley	<u>Aye</u>
Sarbone	<u>Aye</u>
Belvedere	<u>Aye</u>

WSS/ae/mr

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FM No: 436319-1-52-01
436319-1-52-02
436319-1-52-03
FEID No: 591-227-491-009

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCALLY FUNDED AGREEMENT

THIS Locally Funded Agreement ("Agreement"), entered into this 28th day of March, 2019, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and the City of Coconut Creek located at 4800 W. Copans Road, Coconut Creek, FL 33063, hereinafter called the PARTICIPANT.

WITNESSETH

WHEREAS, the DEPARTMENT is constructing a mobility project along Lyons Road from Atlantic Blvd to Sawgrass expressway (FM) Number 436319-1-52-01, Funded in Fiscal Year 2019/2020) which requires a contribution from the PARTICIPANT; and

WHEREAS, the PARTICIPANT has requested that the DEPARTMENT perform the following additional work patterned pavement crosswalks (FM No. 436319-1-52-02) and lighting conduit (FM No 436319-1-52-03) as set forth in **Exhibit A**, attached hereto and made a part hereof and hereinafter referred to as the Project; and

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

WHEREAS, the PARTICIPANT by Resolution No. 2019-009 adopted on 14th of March, 2019, a copy of which is attached hereto and made a part hereof, authorizes the proper officials to enter into this Agreement.

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

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The DEPARTMENT shall be responsible for assuring that the Project complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards.
3. The PARTICIPANT agrees to make all previous studies, maps, drawings, surveys and other data and information pertaining to the Project available to the DEPARTMENT at no extra cost.
4. The total cost for the Project and the DEPARTMENT's work along Lyons Road from Atlantic Blvd to Sawgrass Expressway, is estimated to be TWELVE MILLION FIVE HUNDRED EIGHTY TWO THOUSAND ONE HUNDRED TWENTY ONE DOLLARS AND EIGHTY FOUR CENTS (\$12,582,121.84). The PARTICIPANT'S share for the Project and

the work along Lyons Road from Atlantic Blvd to Sawgrass Expressway is estimated to be ONE MILLION TWO HUNDRED FORTY FIVE THOUSAND THREE HUNDRED DOLLARS AND THIRTY NINE CENTS (\$1,245,300.39), which sum shall be paid to the DEPARTMENT. The PARTICIPANT'S contribution for Lyons Road mobility project (Financial Management (FM) Number 436319-1-52-01) is estimated at SIX HUNDRED THOUSAND DOLLARS AND NO CENTS (\$600,000.00), which sum shall be paid to the DEPARTMENT, and which payment in non-refundable.

The remaining portion of the PARTICIPANT'S contribution is TWO HUNDRED EIGHT THOUSAND FOUR HUNDRED SIXTY EIGHT DOLLARS AND SEVENTY NINE CENTS (\$208,468.79) for the patterned pavement crosswalks (Financial Management (FM) Number 436319-1-52-02) and FOUR HUNDRED THIRTY SIX THOUSAND EIGHT HUNDRED THIRTY ONE DOLLARS AND SIXTY CENTS (\$436,831.60) for the lighting conduit (Financial Management (FM) Number 436319-1-52-03) which sum shall be paid to the DEPARTMENT. In the event the actual cost of the Project associated with the DEPARTMENT'S patterned pavement and lighting conduit results in a decrease to the PARTICIPANT's share, the difference shall be refunded to the PARTICIPANT. In the event the actual cost of the Project results in a sum greater than that paid by the PARTICIPANT, then such sum shall be the sole responsibility of the PARTICIPANT and shall be paid to the DEPARTMENT.

- A. The funding the DEPARTMENT receives from the PARTICIPANT shall be allocated as follows:

Financial Management (FM) Numbers	Description	Amount
436319-1-52-01	Lyons Road mobility project	\$600,000.00
436319-1-52-02	Decorative crosswalks	\$208,468.79
436319-1-52-03	Lighting conduit installation	\$436,831.60
	Total	\$1,245,300.39

- B. The PARTICIPANT agrees that it will, within thirty (30) days of execution of this Agreement, furnish the DEPARTMENT with a check in the amount of ONE MILLION TWO HUNDRED FORTY FIVE THOUSAND THREE HUNDRED DOLLARS AND THIRTY NINE CENTS (\$1,245,300.39) towards the Project Costs.

In the event payment is not received by the DEPARTMENT within thirty (30) days of execution of this Agreement, this Agreement will be terminated.

Remittance shall be made payable to the Department of Transportation. Payment shall be clearly marked to indicate that it is to be applied to FM No's 436319-1-52-01, 436319-1-52-02 and 436319-1-52-03. The DEPARTMENT shall utilize this amount towards costs of Project No's 436319-1-52-01, 436319-1-52-02 and 436319-1-52-03.

Payment shall be mailed to:
 Florida Department of Transportation
 Program Management- Attention: Norma Corredor
 3400 W. Commercial Boulevard

- C. The PARTICIPANT's share of the accepted bid for the Project (hereinafter referred to as "Accepted Bid") and the Department's work plus allowances is hereinafter defined as the "Total Accepted Bid". If the PARTICIPANT's share of the Accepted Bid for the Project plus allowances is in excess of the advance deposit amount, the PARTICIPANT will provide an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT or prior to posting of the Total Accepted Bid, whichever is earlier, so that the total deposit is equal to the Accepted Bid amount for the Project plus allowances. The DEPARTMENT will notify the PARTICIPANT as soon as it becomes apparent the Accepted Bid amount for the Project plus allowances are in excess of the advance deposit amount; however, failure of the DEPARTMENT to so notify the PARTICIPANT shall not relieve the PARTICIPANT from its obligation to pay for its full participation. If the PARTICIPANT cannot provide the additional deposit within fourteen (14) calendar days, a letter must be submitted to and approved by the DEPARTMENT's Project Manager indicating the date the deposit will be made and the DEPARTMENT's written consent to the payment of the additional deposit on said date. The PARTICIPANT understands the request and approval of the additional time could delay the Project, and additional costs at the PARTICIPANT's expense may be incurred due to delay of the Project. In the event of non-payment, the DEPARTMENT reserves the right to terminate this Agreement.
- D. If the PARTICIPANT's share of the Accepted Bid for the Project plus allowances is less than the advance deposit amount, the DEPARTMENT will refund the amount that the advance deposit exceeds the PARTICIPANT's share of the Accepted Bid amount plus allowances if such refund is requested by the PARTICIPANT in writing.
- E. Should Project modifications occur that increase the PARTICIPANT's cost for the Project, the PARTICIPANT will be notified by the DEPARTMENT. The PARTICIPANT agrees to provide, without delay, in advance of the additional work being performed, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the cost of the Project. The DEPARTMENT shall notify the PARTICIPANT as soon as it becomes apparent the actual cost will exceed the PARTICIPANT's payment. However, failure of the DEPARTMENT to so notify the PARTICIPANT shall not relieve the PARTICIPANT from its obligation to pay for its full participation. Funds due from the PARTICIPANT, for the Project, not paid within forty (40) calendar days from the date of the invoice are subject to an interest charge at a rate established pursuant to Section 55.03, F.S.. In the event of non-payment, the DEPARTMENT reserves the right to terminate this Agreement.
- F. The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty (360) days of final payment to the Contractor. The DEPARTMENT considers the Project complete when the final payment has been made to the Contractor, not when the construction work is complete. All Project cost records and accounts shall be subject to audit by a representative of the PARTICIPANT for a period of three (3) years after final close out of the Project and the Department's Improvement. The

PARTICIPANT will be notified of the final cost. Both parties agree that in the event the final accounting of Project costs pursuant to the terms of this Agreement is less than the total deposits to date, a refund of the excess will be made by the DEPARTMENT to the PARTICIPANT. If the final accounting is not performed within three hundred sixty (360) days, the PARTICIPANT is not relieved from its obligation to pay.

- G. In the event the final accounting of Project costs is greater than the total deposits to date, the PARTICIPANT will pay the additional amount within forty (40) calendar days from the date of the invoice from the DEPARTMENT. The PARTICIPANT agrees to pay interest at a rate as established pursuant to Section 55.03, F.S., on any invoice not paid within forty (40) calendar days until the invoice is paid.
 - H. The payment of funds, once they are received by the DEPARTMENT from the PARTICIPANT, will be sent directly to the Department of Financial Services, Division of Treasury for deposit as provided in the attached Three Party Escrow Agreement between the PARTICIPANT, the DEPARTMENT and the State of Florida, Department of Financial Services, Division of Treasury, a copy of which is attached hereto and made a part hereof as **Exhibit B**.
- 5. The PARTICIPANT shall be responsible for the maintenance of the patterned pavement and lighting conduit being installed during the DEPARTMENT's work along Lyons Road from Atlantic Blvd to Sawgrass Expressway. However, and notwithstanding the foregoing, the PARTICIPANT shall comply with the provisions set forth in the District Four Highway Maintenance Memorandum of Agreement (HMMOA) a copy of which is attached hereto and made a part hereof as **Exhibit C**. The terms of this paragraph shall survive the termination of this Agreement.
 - 6. In the event it becomes necessary for either party to institute suit for the enforcement of the provisions of this Agreement, each party shall be responsible to pay their own attorney fees and court costs. Venue with respect to any such litigation shall be in Broward County.
 - 7. This Agreement and any interest herein shall not be assigned, transferred or otherwise encumbered by the PARTICIPANT under any circumstances without the prior written consent of the DEPARTMENT. However, this Agreement shall run to the DEPARTMENT and its successors.
 - 8. Except as otherwise set forth herein, this Agreement shall continue in effect and be binding to both the PARTICIPANT and the DEPARTMENT until the Project is completed as evidenced by the written acceptance of the DEPARTMENT, or June 30, 2023 whichever occurs first.
 - 9. The PARTICIPANT warrants that it has not employed or obtained any company or person, other than bona fide employees of the PARTICIPANT, to solicit or secure this Agreement, and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee employed by the PARTICIPANT. For breach or violation of this provision, the DEPARTMENT shall have the right to terminate the Agreement without

liability.

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

11. This Agreement is governed by and construed in accordance with the laws of the State of Florida.

12. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

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

If to the DEPARTMENT:

Florida Department of Transportation - District Four
3400 West Commercial Blvd.
Fort Lauderdale, Florida 33309-3421
Attn: Norma Corredor
With a copy to: Brad Salisbury, P.E.
A second copy to: Office of the General Counsel

If to the PARTICIPANT:

City of Coconut Creek
4800 W. Copans Road
Coconut Creek, Florida 33063
Attn: Sheila Rose, With a copy to: City Attorney

IN WITNESS WHEREOF, this Agreement is to be executed by the parties below for the purposes specified herein. Authorization has been given to enter into and execute this Agreement by Resolution No. 2019-009, hereto attached.

CITY OF COCONUT CREEK

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: Mary C. Blasi
NAME: Mary C. Blasi
TITLE: City Manager

BY: [Signature]
for STACY L. MIILLER, P.E.
DIRECTOR OF TRANSPORTATION DEVELOPMENT

ATTEST:

FDOT LEGAL REVIEW:

City Heather Wallace May
CLERK (SEAL)

BY: [Signature]
OFFICE OF THE GENERAL COUNSEL

APPROVED:

APPROVED:

BY: Devill C. Lyb
CITY ATTORNEY

BY: [Signature]
DISTRICT PROGRAM MGMT. ADMINISTRATOR

EXHIBIT A
SCOPE OF SERVICES
FM Nos 436319-1-52-01, 436319-1-52-02 and 436319-1-52-03

The DEPARTMENT shall install the patterned pavement crosswalks along Lyons Road from Atlantic Blvd to Sawgrass Expressway at the following signalized nine (9) intersections noted below:

- NW 6th Manor
- Coconut Creek Parkway
- Lyons Plaza
- Hammock Blvd/Westgate Dr.
- W Copans Road
- NW 34th Street
- Wiles Road
- Winston Park Boulevard
- St. Andrews (Future Signal)

In addition, the DEPARTMENT shall install a lighting conduit system along both sides of Lyons Road from north of Atlantic Blvd to Winston Park Blvd.

THREE PARTY ESCROW AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of Florida, Department of Transportation ("FDOT"), City of Coconut Creek ("Participant"), and the State of Florida, Department of Financial Services, Division of Treasury ("Escrow Agent"), and shall become effective upon the Agreement's execution by Escrow Agent.

WHEREAS, FDOT and Participant are engaged in the following project ("Project"):

Project Name: Patterned pavement and lighting conduit at all signalized crosswalks
along Lyons Road from Atlantic Blvd to Sawgrass Expressway
Project #'s: 436319-1-52-02 and 436319-1-52-03
County: Broward

WHEREAS, FDOT and Participant desire to establish an escrow account for the project.

NOW THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree to the following:

1. An initial deposit will be made into an interest bearing escrow account established hereunder for the purposes of the Project. The escrow account will be opened with the Escrow Agent on behalf of FDOT upon Escrow Agent's receipt and execution of this Agreement.
2. Other deposits to the escrow account may be made during the life of this Agreement.
3. Deposits will be delivered in accordance with instructions provided by the Escrow Agent to the FDOT for deposit into the escrow account. A wire transfer or ACH deposit is the preferred method of payment and should be used whenever possible.
4. FDOT's Comptroller or designee shall be the sole signatory on the escrow account with the Escrow Agent and shall have sole authority to authorize withdrawals from the account. Withdrawals will only be made to FDOT or the Participant in accordance with the instructions provided to the Escrow Agent by FDOT's Comptroller or designee.
5. Moneys in the escrow account will be invested in accordance with section 17.61, Florida Statutes. The Escrow Agent will invest the moneys expeditiously. Income is only earned on the moneys while invested. There is no guaranteed rate of return. Investments in the escrow account will be assessed a fee in accordance with Section 17.61(4)(b), Florida Statutes. All income of the investments shall accrue to the escrow account.
6. Unless instructed otherwise by FDOT, all interest accumulated in the escrow account shall remain in the account for the purposes of the Project.
7. The Escrow Agent agrees to provide written confirmation of receipt of funds to FDOT.

FDOT agrees to provide a copy of such written confirmation to Participant upon request.

8. The Escrow Agent further agrees to provide quarterly reports to FDOT concerning the escrow account. FDOT agrees to provide a copy of such quarterly reports to Participant upon request.
9. The Escrow Agent shall not be liable for any error of judgment or for any act done or omitted by it in good faith, or for anything which it may in good faith do or refrain from doing in connection herewith.
10. Escrow Agent shall have no liability for any claim, cost, expense, damage or loss due to the acts or omissions of FDOT and Participant, nor from any separate agreements between FDOT and Participant and shall have no responsibility to monitor or enforce any responsibilities herein or in any separate agreements associated with this Agreement between FDOT and Participant.
11. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida.
12. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
13. This Agreement shall terminate upon disbursement by the Escrow Agent of all money held by it in the escrow account in accordance with the instructions given by FDOT's Comptroller or designee and notification from FDOT to Escrow Agent that the account is to be closed.

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OPERATIONAL STATE OF FLORIDA
INFRASTRUCTURE MANAGEMENT
2019 APR 10 AM 10:39

IN WITNESS WHEREOF, the parties have duly executed the Agreement on the date(s) below.

Jason D. Adank
For FDOT (signature)

Jason D. Adank, CPA
Deputy Comptroller, GAO

Name and Title

59-3024028
Federal Employer I.D. Number

4-8-19
Date

Mary C. Blasi
For PARTICIPANT (signature)

Mary C. Blasi
Name

City Manager
Title

F-591-227-491-009
Federal Employer I.D. Number

March 18, 2019
Date

FDOT Legal Review:

Harry King

[Signature]
For Escrow Agent (signature)

James Collins, Director
Name and Title

4/10/19
Date

APPROVED AS TO FORM:

Terrill C. Pyburn
Terrill C. Pyburn, City Attorney

ATTEST:

Leslie Wallace May
Leslie Wallace May, City Clerk

2019 APR 10 AM 10:39

RECEIVED
OFFICE OF THE STATE CLERK
MUTUAL MANAGEMENT

EXHIBIT C

**HIGHWAY MAINTENANCE MEMORANDUM
OF
AGREEMENT (HMMOA)**

SECTION No.: 86000009, 86000222
FM No.: 436319-1
AGENCY: City of Coconut Creek
C.R. No.: N/A

**DISTRICT FOUR
HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT**

THIS AGREEMENT, into this 28th day of March, 2019, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the DEPARTMENT, and **CITY OF COCONUT CREEK**, a political subdivision of the State of Florida, or a municipal corporation existing under the Laws of Florida, hereinafter called the AGENCY collectively referred to as Parties.

WITNESSETH:

WHEREAS, the AGENCY has jurisdiction over Lyons Road, as part of the City roadway system from Coconut Creek Parkway to Sample Road; and

WHEREAS, pursuant to Sections 339.07, 339.08 and 339.12, Florida Statutes and Federal funding provisions the DEPARTMENT is authorized to undertake projects within the AGENCY's geographical limits and the AGENCY agrees to have this improvement constructed; and

WHEREAS, pursuant to such authority, the DEPARTMENT and the AGENCY agrees to have the DEPARTMENT construct certain improvements more particularly described as Financial Project ID 436319-1, which involves intermittent widening to accommodate bike lanes, sidewalk installation, restriping, installation of patterned pavement crosswalks, conduit for lighting and drainage improvements; hereinafter referred to as the "Project", as more particularly described in **Exhibit A**; and

WHEREAS, in accordance with Title 23, U.S. Code, Section 116 and Federal Highway Administration regulations issued pursuant thereto, there must be an agreement with the AGENCY to maintain the Project; and

WHEREAS, the DEPARTMENT may not spend state funds for Off-system projects; and

WHEREAS, pursuant to that certain Local Funding Agreement between the AGENCY and the DEPARTMENT related to FM No. 436319-1, and all subsequent amendments thereto, the DEPARTMENT is responsible for installation of all roadway elements of the project including pavement, sidewalks, drainage elements, crosswalks, and light poles; and

WHEREAS, upon acquisition of the necessary right-of-way, if needed, the DEPARTMENT will proceed to construct the Project; and

WHEREAS, the Parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and

WHEREAS, the AGENCY by Resolution on the 14th day of March, 2019, a copy of which is attached hereto and by this reference made a part hereof, desires to enter into this Agreement and authorizes its officers to do so;

NOW THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Parties covenant and agree as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The DEPARTMENT has undertaken and obtained the approval of Federal participation for the Project. The AGENCY is responsible for additional Project costs determined to be Federal Aid Non-Participating.
3. The AGENCY shall allow the DEPARTMENT and its contractors to enter onto the existing AGENCY property to construct this Project. No further permit or agreement from the Agency shall be required to construct this Project. The AGENCY shall satisfy any tree permit obligation imposed by Broward County.
4. The AGENCY shall continue to maintain the existing roadway and any property owned by AGENCY until the DEPARTMENT begins construction of the Project. The AGENCY shall continue to be responsible for mowing and litter removal during the duration of the Project.
5. Upon "final acceptance" by the DEPARTMENT of the Project (as "final acceptance" is described in the Standard Specifications for Roadway and Bridge Construction dated 2018, as amended), and Notice thereof to the AGENCY, the AGENCY shall maintain the Project, at its own cost, in accordance with the following Federally and State accepted standards: (a) FDOT Design Manual (FDM), current edition (b) Florida Green Book dated 2016, as amended; (c) Governing standards and specifications: FDOT Design Standards dated FY 2017-18, as amended; (d) Standard Specifications for Roadway and Bridge Construction dated 2018, as amended by contract documents; and (e) Manual on Uniform Traffic Control Devices (MUTCD), current edition, or as amended. Maintenance of said Project includes, but is not limited to maintaining all roadway elements including asphalt pavement, sidewalks, curb ramps, drainage elements, light poles and patterned pavement crossings. Additionally, upon "final acceptance", the DEPARTMENT shall convey all acquired property interests to the AGENCY. The DEPARTMENT shall give the AGENCY ten (10) days notice before "final acceptance".
 - a. The AGENCY grants herein to the DEPARTMENT all rights necessary to enter and construct the Project.
6. No additional right of way is required for the PROJECT. The PROJECT can be completed within the AGENCY's public right of way.

7. Warranties: The DEPARTMENT shall transfer any applicable warranties to the AGENCY upon DEPARTMENT'S final acceptance of the Project.
8. Environmental permitting: If requested by the DEPARTMENT, the AGENCY shall sign as a joint applicant and be responsible for the permits related to the Project. Furthermore, the AGENCY shall be in compliance with all permits after the construction is complete and the right of way is transferred to the AGENCY. To the extent permitted by law, the AGENCY shall indemnify the DEPARTMENT for any violations by the AGENCY of any permits issued to the DEPARTMENT or jointly to the AGENCY and the DEPARTMENT after construction is complete.
9. The AGENCY shall execute all documentation required by the permitting agencies in a timely manner to accept transfer of the Project. For various occupancy permits the AGENCY shall be the applicant.
10. Nothing herein is intended to serve as a waiver of sovereign immunity by the AGENCY under Section 768.28, *Fla. Stat.*, nor shall anything included herein be construed as consent to be sued by any third parties in any matter arising out of this Agreement. The foregoing indemnification and release shall survive the termination or expiration of this Agreement.
11. Utilities: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to accomplish utility relocations for this Project. This shall include, but not be limited to, entering into utility subordination agreements with the affected utility owners, thereby assuming liability for future utility relocations within the AGENCY right of way and proposed right of way. This shall also include having the AGENCY require the Utility to relocate or adjust if the utility is there by permit, as necessary.
 - a. AGENCY'S Utilities: The AGENCY shall relocate and adjust its own utilities including connection with utility customers.
12. Signals: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to affect signal and interconnect connections for the Project.
13. Drainage: The drainage system shall be modified as needed to complete the scope of work including regrading drainage swales and installing drainage structures.
14. Unforeseen issues: If unforeseen issues shall arise, the AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to construct the Project, including but not limited to, executing documents and allowing the DEPARTMENT or its contractor to enter into any real property owned, possessed and/or controlled by the AGENCY or any other occupancy right the AGENCY may have.
15. E-verify requirements: The AGENCY:
 - 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 AGENCY during the term of

the contract; and

- shall expressly require any contractors 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 during the contract term.

16. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings as represented in the Final Proposed Construction plans. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements, whether oral or written.

17. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

18. Whenever either party desires to give legal notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified for giving notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving notice, to wit:

AGENCY: Mary C. Blasi, City Manager
City of Coconut Creek, Florida
4800 West Copans Road
Coconut Creek, FL 33063
Telephone: (954) 973-6720

DEPARTMENT: Steven C. Braun, District Design Engineer
Florida Department of Transportation
3400 West Commercial Blvd
Fort Lauderdale, FL 33309
Telephone: (954) 777-4143

19. LIST OF EXHIBITS

- **Exhibit A:** Project Scope

[This space intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year provided below.

AGENCY

ATTEST:

City of Coconut Creek, through its
CITY COMMISSION


Leslie Wallace May, City Clerk

By: 
Mary C. Blasi, City Manager

18th day of March, 20 19

Approved as to form by Office of City Attorney

By: 
Terrill C. Pyburn, City Attorney

DEPARTMENT

ATTEST:

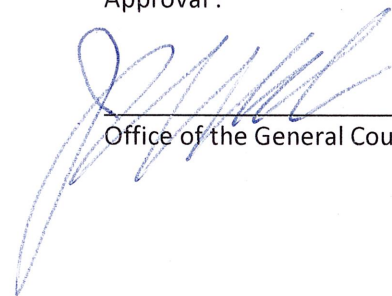
STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

Executive Secretary
(SEAL)

By: 
Transportation Development Director

28th day of March, 20 19

Approval :

 3/27/19
Office of the General Counsel (Date)

SECTION No.: 86000009, 86000222
FM No.: 436319-1
AGENCY: City of Coconut Creek
C.R. No.: N/A

EXHIBIT A

PROJECT SCOPE

All of the improvements are to be completed by the DEPARTMENT within the AGENCY's existing right-of-way, and all acquired property interests to be acquired by the DEPARTMENT for AGENCY.

Roadway

Widen, mill and resurface, and restripe pavement for bike lane installation. Fill in missing sidewalk gaps. Install patterned pavement crosswalks at all signalized intersections listed below.

- Lyons Plaza
- Hammock Blvd/Wynmoor Way
- NW 34th Street

ADA

Curb ramps to be upgraded as needed. All crosswalks to be upgraded to comply with current standards.

Drainage

The drainage system is to be modified as needed due to roadway widening.

Lighting

Light poles shall be relocated from C-14 Canal to Coconut Creek Community Center due to roadway widening. Lighting conduit will be installed on Lyons Road at the following limits noted below contingent upon the City of Coconut Creek meeting the obligations required as part of the Local Fund Agreement for 436319-1-52-03.

- Coconut Creek Parkway to Sample Road

Signing and Pavement Markings

Restriping, bike lane markings, and signage proposed. Replace existing signs where needed, and which do not conform to current Design Standards. Install any additional signage necessary to conform to current Design Standards. Construct pavement markings in accordance with current design standards.