

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION LOCALLY FUNDED AGREEMENT

THIS Locally Funded Agreement ("Agreement"), entered into this ____ day of _____, 20____, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and the City of Hollywood located at 2600 Hollywood Boulevard, Hollywood, Florida, 33021 hereinafter called the PARTICIPANT.

WITNESSETH

WHEREAS, the DEPARTMENT and the PARTICIPANT are desirous of having the DEPARTMENT make certain improvements in connection with the DEPARTMENT's Right-of-way services to be performed on Johnson Street from East of North 31st Avenue to North 8th Avenue in Broward County, Florida. (Financial Management (FM) Number 434672-1-31-02, Funded in Fiscal Year 2016/2017); and

WHEREAS, the PARTICIPANT has requested that the DEPARTMENT perform the following additional work (FM No's 434672-1-31-02, 434672-1-32-03, 434672-1-3B-01, 434672-1-C2-20), for In-House Quality Assurance reviews, control survey map, legal descriptions, title reports and document preparation for the parcel acquisition and Cultural Resource Assessment, respectively, as set forth in **Exhibit A** attached hereto and made a part hereof and hereinafter referred to as the Project; and

WHEREAS, the document preparation is 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. _____ adopted on _____, 20____, 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 Right-of-way services for Johnson Street from East of North 31st Avenue to North 8th Avenue, is estimated to be THREE HUNDRED NINETEEN THOUSAND FOUR HUNDRED FIFTY THREE DOLLARS AND

NO CENTS (\$319,453.00). The PARTICIPANT'S share for the Project is estimated at THREE HUNDRED NINETEEN THOUSAND FOUR HUNDRED FIFTY THREE DOLLARS AND NO CENTS (\$319,453.00), which sum shall be paid to the DEPARTMENT. In the event the actual cost of the Project results in a decrease to the PARTICIPANT's share, the difference shall be refunded or applied to future phases (Right of Way and/or Construction) as mutually agreed by the DEPARTMENT and 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	FY 17 Amount
434672-1-31-02	In House Support (Quality Assurance Reviews, Document Preparation	\$30,000.00
434672-1-32-03	Control Survey Map, R/W Map, Legal Descriptions	\$117,560.00
434672-1-3B-01	Base Title Reports & Title Updates	\$114,675.00
434672-1-C2-20	Cultural Resources Assessment, Section 4F Coordination	\$57,218.00
	Total	\$319,453.00

- 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 THREE HUNDRED NINETEEN THOUSAND FOUR HUNDRED FIFTY THREE DOLLARS AND NO CENTS (\$319,453.00) 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 and the Project not constructed.

Remittance shall be made payable to the Department of Financial Services, Revenue Processing. Payment shall be clearly marked to indicate that it is to be applied to FM No. 434672-1-31-02, 434672-1-32-03, 434672-1-3B-01, 434672-1-C2-20. The DEPARTMENT shall utilize this amount towards costs of Project No. 434672-1-31-02, 434672-1-32-03, 434672-1-3B-01, 434672-1-C2-20.

Payment shall be mailed to:

Florida Department of Transportation

Program Management Services Unit- Attention: Norma C. Corredor

3400 W. Commercial Boulevard

Fort Lauderdale, Florida 33309-3421

- C. The PARTICIPANT's share of the accepted bid for the Project (hereinafter referred to as "Accepted Bid") and the Department's Improvements 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 and not construct the Project.

- 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 or the difference will be applied to future phases (Right of Way and/or Construction) which would be pursuant to future agreements. 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 or applied to future phases (Right of Way and/or Construction) as mutually agreed by the DEPARTMENT and 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. Payments of funds under this Agreement will be sent directly to the Department of Financial Services, Division of Treasury for deposit as provided in the attached 3 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. 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.
 - 6. 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.
 - 7. Except as otherwise set forth herein, this Agreement shall continue in effect and be binding to both the PARTICIPANT and the DEPARTMENT until the maps, legal descriptions, quality assurance check prints, checklists, electronic media files and any documents are completed as evidenced by the written acceptance of the DEPARTMENT, or June 30, 2020 whichever occurs first.
 - 8. 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.
 - 9. 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.

10. This Agreement is governed by and construed in accordance with the laws of the State of Florida.
11. 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.
12. 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 Hollywood
2600 Hollywood Boulevard
Hollywood, Florida 33021
Attn: Luis Lopez, P.E. City Engineer
Second copy: Dr. Wazir A. Ishmael, City Manager
With a copy to: City Attorney

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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. _____, hereto attached.

CITY OF HOLLYWOOD

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: _____
NAME: _____
TITLE: _____

BY: _____
STACY L. MILLER, P.E.
DIRECTOR OF TRANSPORTATION DEVELOPMENT

ATTEST:

LEGAL REVIEW:

CLERK

(SEAL)

BY: _____
OFFICE OF THE GENERAL COUNSEL

APPROVED:

APPROVED:

BY: _____
CITY ATTORNEY

BY: _____
DISTRICT PROGRAM MGMT. ADMINISTRATOR

EXHIBIT A
SCOPE OF SERVICES
Johnson Street from East of North 31st Avenue to North 8th Avenue
Right-of-Way Program Tasks

1. **MAPPING.** The DEPARTMENT will be responsible for the preparation of control survey map, right of way map, and legal descriptions as required for this project in accordance with all applicable DEPARTMENT Manuals, Procedures, Handbooks, District specific requirements, and Florida Statutes. All maps, surveys, and legal descriptions will be prepared under the direction of a Florida Professional Surveyor and Mapper (PSM) to DEPARTMENT size and format requirements utilizing DEPARTMENT approved software, and will be designed to provide a high degree of uniformity and maximum readability. The DEPARTMENT will submit maps, legal descriptions, quality assurance check prints, checklists, electronic media files and any other documents as required for this project to the DEPARTMENT for review at stages of completion as negotiated.
2. **Alignment.** The Department will provide the baseline of survey
3. **Section and 1/4 Section Lines.** The Department will provide the right of way survey files
4. **Subdivisions / Property Lines.** The Surveyor will establish these lines from field monumentation evidence and title reports
5. **Existing Right of Way.** The Department will provide the existing right of way lines CADD file
6. **Topography.** The Department will provide the topo CADD file
7. **Parent Tract Properties and Existing Easements.** The Surveyor will establish these lines from field monumentation evidence and title reports
8. **Proposed Right of Way Requirements.** The ENGINEER OF RECORD (EOR) will provide the proposed requirements. The PSM is responsible for calculating the final geometry. Notification of Final Right of Way Requirements along with the purpose and duration of all easements will be specified in writing.
9. **Limits of Construction.** The limits of construction DGN file as provided by the EOR will be imported or referenced to the master CADD file. Additional labeling will be added as required. The PSM is required to advise the EOR of any noted discrepancies between the limits of construction line and the existing/proposed right of way lines, and for making adjustments as needed when a resolution is determined.
10. **Jurisdictional/Agency Lines.** These lines may include, but are not limited to, jurisdictional, wetland, water boundaries, and city/county limit lines.
11. **Control Survey Cover Sheet**
12. **Control Survey Key Sheet**
13. **Control Survey Detail Sheet**

14. Right of Way Map Cover Sheet
15. Right of Way Map Key Sheet
16. Right of Way Map Detail Sheet
17. Reference Point Sheet. This sheet(s) will be included with the Control Survey Map, Right of Way Map and Maintenance Map.
18. Project Network Control Sheet. This sheet depicts the baseline, the benchmarks, the primary and secondary control points and their reference points including the type of material used for each point, their XYZ coordinates, scale factors and convergence angles.
19. Table of Ownerships Sheet
20. Title Search Map
21. Title Search Report
22. Legal Descriptions
23. Final Map/Plans Comparison. The PSM will perform a comparison of the final right of way maps with the available construction plans to review the correctness of the type of parcel to be acquired and the stations/offsets to the required right of way. The PSM will coordinate with the EOR to resolve any conflicts or discrepancies and provide documentation of the review.
24. Field Reviews
25. Technical Meetings
26. Quality Assurance/Quality Control
27. Supervision
28. Coordination
29. In-House Support
30. Cultural Assessment, Section 4F Coordination

Exhibit B

THREE PARTY ESCROW AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of Florida, Department of Transportation ("FDOT"), City of Hollywood ("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: Right-of-way services on Johnson Street from East of North 31st Avenue
to North 8th Avenue
Project #: 434672-1-31-02, 434672-1-32-03, 434672-1-3B-01, 434672-1-C2-20
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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IN WITNESS WHEREOF, the parties have duly executed the Agreement on the date(s) below.

For FDOT (signature)

Name and Title

59-3024028

Federal Employer I.D. Number

Date

For PARTICIPANT (signature)

Name

Title
F-596-000-338-040

Federal Employer I.D. Number

Date

FDOT Legal Review:

For Escrow Agent (signature)

Name and Title

Date