

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 Pompano Beach located at 100 W. Atlantic Blvd., Pompano Beach, FL 33060, hereinafter called the PARTICIPANT.

WITNESSETH

WHEREAS, the DEPARTMENT and the PARTICIPANT are desirous of having the PARTICIPANT provide financial assistance to the DEPARTMENT for the milling and resurfacing of Hammondville Road from Powerline Road to East of SR-9/I-95 in Broward County, Florida (Financial Management (FM) Numbers 440746-1-52-01, 440746-1-62-01 and 440746-1-62-03, Funded in Fiscal Year 2019/2020) hereinafter referred to the "Project"; and

WHEREAS, hereto incorporate the following FM numbers to this Agreement are part of the Regional Complete Streets Initiative projects as follows:

- NW 31st Avenue, from SR-870/Commercial Blvd to McNab Road FMs 440746-2-52-01, 440746-2-62-01 and 440746-2-62-03.
- SR845/Powerline Road from SR816/Oakland Park Blvd to SR870/Commercial Blvd FMs 440746-3-52-01, 440746-3-62-01 and 440746-3-62-03.
- Lauderdale Lakes Greenway from NW 29th Avenue to NW 31st Avenue Intersection FMs 440746-4-52-01, 440746-4-62-01 and 440746-4-62-03.
- Riverland Road/SW 27th Avenue, from east of SR7/US441 (MP 0.231) to SW 34th Way (MP 0.771), SW 21st Street (MP 1.855) to Davie Blvd (MP 2.594), Davie Blvd (MP 0.00) to Broward Blvd (MP 1.038) in Broward County FMs 440746-5-52-01, 440746-5-62-01 and 440746-5-62-03.
- Riverland Road/SW 27th Avenue, from SW 34th Way (MP 0.77) to SW 21st Street (MP 1.855) in City of Fort Lauderdale, FMs 440746-5-52-01, 440746-5-62-01 and 440746-5-62-03.

as set forth in **Exhibit A** attached hereto and made a part hereof and hereinafter referred to as the "Complete Street Projects"; and

WHEREAS, the improvements are in the interest of both the PARTICIPANT and the DEPARTMENT; and

WHEREAS, the PARTICIPANT by Resolution No. _____ dated the _____ day of _____, 20____, a copy of which is attached hereto and made a part hereof, authorizes the Mayor of its Board of Commissioners or designee 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 DEPARTMENT shall have the sole responsibility for resolving claims and requests for additional work for the Project. The DEPARTMENT will make reasonable efforts to obtain the input in its PARTICIPANT decisions.
5. The total local contribution cost for construction of the Complete Street Projects is estimated to be EIGHT MILLION SEVENTY SIX THOUSAND SIX HUNDRED EIGHTEEN DOLLARS AND NO CENTS (\$8,076,618.00). The PARTICIPANT's payment for the Project is THREE MILLION SIX HUNDRED SEVENTY TWO THOUSAND ONE HUNDRED EIGHTY DOLLARS AND NO CENTS (\$3,672,180.00), which sum shall be paid to the DEPARTMENT. In the event the actual cost of the Project, without modifications, 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. In the event the actual cost of the Project is less than the funds provided and are not utilized in its entirety, the balance shall be utilized for the Complete Street Projects. Such Complete Street Projects are noted below:

FM #	Description	Agency	Amount (Phase 52/62)
440746-1	Hammondville Road	Pompano Beach	3,672,180.00
440746-2	NW 31st Avenue	Broward County	1,919,055.00
440746-3	Powerline Road	Oakland Park	698,087.00
440746-4	Greenway	Lauderdale Lakes	261,177.00
440746-5	Riverland Road	Broward County	601,441.00
		Fort Lauderdale	924,678.00
		Total Amount	8,076,618.00

- (A) The PARTICIPANT agrees that it will, within thirty days of the execution of this Agreement, furnish the DEPARTMENT with a check in the amount of is THREE MILLION SIX HUNDRED SEVENTY TWO THOUSAND ONE HUNDRED EIGHTY DOLLARS AND NO CENTS (\$3,672,180.00) towards the Complete Street Projects 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 Numbers 440746-1-52-01, 440746-1-62-01 and 440746-1-62-03. The DEPARTMENT shall utilize this amount towards costs of Project No's 440746-1-52-01, 440746-1-62-01 and 440746-1-62-03.

Payment shall be mailed to:

Florida Department of Transportation

Program Management Unit - Attention: Norma Corredor

3400 W. Commercial Boulevard

Fort Lauderdale, Florida 33309-3421

- (B) The PARTICIPANT's share of the accepted bid for the Project plus allowances, hereinafter referred to as "Total Accepted Bid". Allowances for this Complete Streets project are defined as Contingency percentage (20% of total project cost). If the PARTICIPANT's share of the Total Accepted Bid for the Project 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 Total Accepted Bid amount for the Project. The DEPARTMENT will notify the PARTICIPANT as soon as it becomes apparent the Total Accepted Bid amount for the Project 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, not to be unreasonably withheld, 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.
- (C) Should Project modifications occur that increase the PARTICIPANT's payment for the Project costs, 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 costs will exceed the 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. Funds due from the PARTICIPANT during 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 the

PARTICIPANT fails to make the additional payment within the time hereinabove set forth, in addition to any other remedy, the DEPARTMENT reserves the right to terminate this Agreement.

- (D) 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 and the resurfacing work complete when the final payment has been made to the Contractor, not when the construction work is complete. All Project and construction 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 resurfacing work. The PARTICIPANT will be notified of the final cost. If the final accounting is not performed within three hundred sixty (360) days, the PARTICIPANT is not relieved from its obligation to pay.
 - (E) In the event the final accounting of total Project costs indicate that the Project costs are 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.
- 6. Upon completion of the Project and the DEPARTMENT'S work, the PARTICIPANT shall be responsible for the maintenance of Hammondville Road from Powerline Road to East of SR-9/I-95 and 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 B**. The terms of this paragraph shall survive the termination of this Agreement.
 - 7. 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.
 - 8. 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.
 - 9. 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.
 - 10. 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.

11. 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.
12. This Agreement is governed by and construed in accordance with the laws of the State of Florida.
13. 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.
14. 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: Thuc Le
A second copy to: Office of the General Counsel

If to the PARTICIPANT:

City of Pompano Beach
100 West Atlantic Boulevard, Room 276
Pompano Beach, FL 33060
Attn: Horacio Danovich
With a copy to: Mark E. Berman, 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 Number _____, hereto attached.

CITY OF POMPANO BEACH:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: _____
REX HARDIN, MAYOR

BY: _____
NAME: _____ STACY L. MILLER
DIRECTOR OF TRANSPORTATION DEVELOPMENT

BY: _____
GREGORY P. HARRISON, CITY MANAGER

Witnesses:

ATTEST:

FDOT LEGAL REVIEW:

ASCELETA HAMMOND, CITY CLERK

BY: _____
OFFICE OF THE GENERAL COUNSEL

APPROVED AS TO FORM:

APPROVED:

BY: _____
MARK E. BERMAN, CITY ATTORNEY

BY: _____
DISTRICT PROGRAM MGMT ADMINISTRATOR

EXHIBIT “A”
SCOPE OF WORK
FM# 440746-1-52-01, 440746-1-62-01 & 440746-1-62-03

The Complete Street Projects will fill in gaps and extend the reach of the existing Broward Regional Complete Streets network. The Complete Street Projects will construct approximately nine miles of bicycle and pedestrian facilities, including buffered bike lanes, a multi-purpose path, new ADA-compliant sidewalks, pedestrian and vehicular lighting, and landscaping.

The five Complete Street Projects will provide a unique connection to the overall network. Recognizing the specific context of each project, detailed descriptions of the individual improvements are provided below:

Hammondville Road (FM) Numbers 440746-1-52-01, 440746-1-62-01 and 440746-1-62-03.

Resurface and reduce through lane widths to accommodate 7-foot buffered bike lanes in each direction from Powerline Road to I-95. Existing sidewalks requiring reconstruction will be retrofitted to ensure they comply with ADA standards. Drainage will be modified as necessary as part of this Project. Pedestrian and vehicular lighting will be provided, in addition to landscaping.

NW 31st Avenue (FM) Numbers 440746-2-52-01, 440746-2-62-01 and 440746-2-62-03.

Mill and resurface, reduce the width of three travel lanes from 12 feet to 10 or 11 feet to accommodate a continuous 5 feet bicycle lane from Commercial Blvd to Cypress Creek Road/NW 62nd Street and a 3' shoulder from Cypress Creek Road/NW 62nd Street to McNab Road due to narrow pavement and median widths. New mast arms will be included at three intersections.

Powerline Road (FM) Numbers 440746-3-52-01, 440746-3-62-01 and 440746-3-62-03.

Mill and resurface portions of the roadway to repurpose the outside travel lanes to accommodate a 7-foot buffered bicycle lane in both directions and provide sections of 4 feet landscape islands where feasible from Oakland Park Boulevard to Commercial Boulevard.

Lauderdale Lakes Greenway (FM) Numbers 440746-4-52-01, 440746-4-62-01 and 440746-4-62-03.

Extend the Lauderdale Lakes Greenway multi-purpose path including landscaping from NW 29th Avenue to the NW 31st Avenue intersection, providing continuous connection to the remainder of the Greenway.

Riverland Road/SW 27th Avenue (FM) Number 440746-5-52-01, 440746-5-62-01 and 440746-5-62-03.

Mill and resurface, reduce travel lane widths from 11 feet to 10 or 11 feet to accommodate bicycle lanes in both directions of Riverland Road from SR-7 to Davie Boulevard. Mill and resurface and repurpose the outside travel lanes to accommodate a 7-foot buffered bicycle lane in both directions from Davie Boulevard to Broward Boulevard. New mast arms will be included at two intersections.

EXHIBIT B

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

SECTION No.: 86036500
FM No.: 440746-1-52-01
AGENCY: City of Pompano Beach
C.R. No.: N/A

**DISTRICT FOUR
HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT**

THIS AGREEMENT, into this _____ day of _____, 20__, 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 Pompano Beach, 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 Dr. Martin Luther King, Jr. Boulevard, as part of the City Roadway System from Powerline Road to east of SR-9/Interstate 95; 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, 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, pursuant to such authority, the DEPARTMENT and the AGENCY agrees to have the DEPARTMENT construct certain improvements more particularly described as Financial Project ID 440746-1, which involves the milling and resurfacing of Dr. Martin Luther King Jr. Blvd; hereinafter referred to as the "Project", as more particularly described in **Exhibit A**; 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 dated _____ day of _____, 20_____, and all subsequent amendments thereto, the DEPARTMENT is milling and resurfacing Dr. Martin Luther King Jr. Blvd from Powerline Road to east of SR-9/Interstate 95; 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 _____ day of _____, 20__, 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) 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 milling and resurfacing to reduce existing lane widths and minor widening to accommodate bicycle lanes, address ADA issues, including lighting and mast arm signal improvements, and provide standard signage and pavement markings. The Department shall give the AGENCY ten (10) days notice before final acceptance.
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. Further 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. 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.

9. 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.

10. Signals: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to affect signal and interconnect connections for the Project.

11. 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.

12. 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.

13. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings as represented in the Request for Proposal (RFP) Conceptual plans/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.

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

15. LIST OF EXHIBITS

- **Exhibit A:** Project Scope

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

AGENCY

ATTEST:

CITY OF POMPANO BEACH, through its
BOARD OF CITY COMMISSIONERS

By: _____
Asceleta Hammond, City Clerk

By: _____
Lamar Fisher, Mayor

_____ day of _____, 20____

Approved as to form by Office of City Attorney

By: _____
Mark Berman, City Attorney

DEPARTMENT

ATTEST:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

Executive Secretary
(SEAL)

By: _____
Transportation Development Director

_____ day of _____, 20____

Approval :

Office of the General Counsel (Date)

SECTION No.: 86036500
FM No.: 440746-1-52-01
AGENCY: City of Pompano Beach
C.R. No.: N/A

EXHIBIT A

PROJECT SCOPE

All of the improvements are to be completed by DEPARTMENT within the AGENCY's existing right-of-way. The project limits fall within the City of Pompano Beach and the roadway is owned and maintained by City.

440746-1-52-01: Dr. Martin Luther King Jr. Boulevard from Powerline Road to east of SR-9/Interstate 95 in Broward County

Summary: Milling and resurfacing to reduce existing lane widths and minor widening to accommodate a 7' buffered bike lane in both directions. Includes lighting and mast arm signal improvements.

Americans with Disabilities Act (ADA)

The proposed signalization and the proposed pedestrian features will be designed to be in accordance with the Americans with Disabilities Act.

Intelligent Transportation Systems (ITS)

Restore traffic monitoring site affected by milling, resurfacing and widening operations.

Landscaping/Hardscaping

Install landscaping in median and landscape buffer. Coordinate with City of Pompano Beach for hardscape improvements to existing sidewalks.

Lighting

Install new lighting infrastructure to supplement existing lighting to meet current standards. Install pedestrian level lighting.

Railroad

Coordination with CSX Railroad will be required given the proposed milling and resurfacing on Dr. Martin Luther King Jr. Boulevard east and west of the railroad.

Roadway

Mill, resurface and widening roadway to accommodate buffered bike lanes.

Signalization

Replace existing signal assemblies with mast arm signal assemblies to accommodate lane modifications at: NW 6th Street and NW 16th Avenue

Signing and Marking

Provide new signs and pavement markings to match the planned improvements.