

Agency: City of Leesburg Vendor No: F596000362	Fund: LF Contract Amount: \$61,065.00	Financial Management No.: 238395-4-52-01
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**LOCALLY FUNDED AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
CITY OF LEESBURG**

This **AGREEMENT**, made and entered into this ____ day of _____, 2011, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter referred to as the “DEPARTMENT”) and the CITY OF LEESBURG, a Florida Municipal Corporation (hereinafter referred to as the “LOCAL GOVERNMENT”),

WITNESSETH:

WHEREAS, the Parties have been granted specific legislative authority to enter into this Agreement pursuant to Section 339.12, Florida Statutes; and

WHEREAS, the LOCAL GOVERNMENT, by Resolution, a copy of which is attached hereto as Exhibit “C”, and made apart hereof, has authorized its officers to execute this Agreement on its behalf; and

WHEREAS, the DEPARTMENT is prepared, in accordance with its Adopted Five Year Work Program, to undertake the project described as: “Additional Lanes and Reconstruction of State Road 500 (US 441) from Dr. Martin Luther King Jr. Boulevard (County Road 460) to Lake Ella Road”, said project being known as Financial Management (FM) Number 238395-4-52-01, hereinafter referred to as the “Project”; and

WHEREAS, the Project is not revenue producing and is contained in the Adopted Work Program; and

WHEREAS, the implementation of the Project is in the interests of both the DEPARTMENT and the LOCAL GOVERNMENT and it would be most practical, expeditious, and economical for the LOCAL GOVERNMENT to provide the funds to: Upgrade from Concrete Strain Poles to Painted Galvanized Mast Arms Structures at the Intersection of State Road 500 (Citrus Boulevard) and Dr. Martin Luther King Jr. Boulevard (County Road 460), in Fiscal Year 2011/2012, said improvements shall hereinafter be referred to as the “Additional Improvements”; and

WHEREAS, in order to maintain uniformity throughout the Project and to provide for the Additional Improvements in a cost effective manner, the LOCAL GOVERNMENT desires to have said Additional Improvements made a part of the Project and to provide funding to the DEPARTMENT to be used for the Additional Improvements as described in "Exhibit A";

NOW, THEREFORE, in consideration of the mutual benefits to be derived from the joint participation of this Agreement, the parties agree as follows:

1. The terms of this Agreement shall begin upon the date of signature of the last party to sign and shall remain in full force and effect through completion of all services required of the LOCAL GOVERNMENT. The DEPARTMENT may, at any time and at any stage, amend or terminate the Project in whole or in part if the DEPARTMENT determines that such action is in the best interests of the public.

2. The DEPARTMENT shall cause the Additional Improvements described in Exhibit "A" to be incorporated into the DEPARTMENT'S Plans for the Project, and to be constructed as a part of said Project.

3. The DEPARTMENT shall perform necessary preliminary engineering, prepare any and all design plans, acquire all necessary right-of-way, perform the construction, provide all necessary engineering supervision, and otherwise perform all other necessary work, all as may be applicable for the Project as previously defined. The Project as previously defined may include some or all of the foregoing activities. Nothing herein shall be construed as requiring the DEPARTMENT to perform any activity which is outside the scope of the Project as previously defined. Except as specifically stated otherwise in this Agreement, all such activities shall be performed by such entities, at such times, in such manner, under such conditions, and pursuant to such standards as the DEPARTMENT, in its sole discretion, deems appropriate. The LOCAL GOVERNMENT shall not have any jurisdiction or control over the DEPARTMENT'S activities, except as specifically stated in this Agreement. The LOCAL GOVERNMENT shall be entitled to be advised of the progress of the Project at reasonable intervals upon request.

3. After construction is complete, the LOCAL GOVERNMENT agrees to inspect, maintain, maintain paint, repair and replace the steel mast arms in perpetuity in accordance with the terms of the Traffic Signal Maintenance and Compensation Agreement previously signed by the parties hereto. The parties agree that, upon installation, the steel mast arm structures shall be owned by the DEPARTMENT and the DEPARTMENT shall be entitled to inspect the mast arm structures at all times.

5. Participation by the LOCAL GOVERNMENT of the funds for the construction phase of the Project shall be made as follows:

(A) The DEPARTMENT'S current cost estimate for the Additional Improvements is **\$61,065.00 (Sixty One Thousand Sixty Five Hundred Dollars and No/100)** as specified in Exhibit "B", Cost Estimate, attached hereto.

(B) The LOCAL GOVERNMENT agrees that it will furnish the DEPARTMENT an advance deposit by April 29, 2011, in the amount of **\$61,065.00 (Sixty One Thousand Sixty Five Hundred Dollars and No/100)** for full payment of the estimated cost of the Additional Improvements. The advance deposit shall be the total estimated cost for the Additional Improvements. The DEPARTMENT may utilize this deposit for payment of the cost of the Project.

(C) The DEPARTMENT'S performance and obligation to construct the Project is contingent upon an annual appropriation by the Florida Legislature. The parties agree that in the event funds are not appropriated to the DEPARTMENT for the Project, this Agreement may be terminated, which shall be effective upon the DEPARTMENT giving written notice to the LOCAL GOVERNMENT to that effect.

(D) Both parties further agree that in the event the Additional Improvements are not constructed or this Agreement is terminated prior to commencement of construction of the Project, the funds provided by the LOCAL GOVERNMENT for construction of the Additional Improvements will be returned to the LOCAL GOVERNMENT. However, in the event the LOCAL GOVERNMENT decides not to participate in the Additional Improvements of the Project prior to construction, the LOCAL GOVERNMENT agrees to furnish the DEPARTMENT twenty-five percent (25%) of the estimated Additional Improvements cost to cover the extra cost associated with design plan revisions. The LOCAL GOVERNMENT will provide the twenty-five percent (25%) charge to the DEPARTMENT within fourteen (14) calendar days of notification that the LOCAL GOVERNMENT will not participate in this Agreement. If in the event the LOCAL GOVERNMENT has made the advance deposit required herein prior to their decision not to participate, the DEPARTMENT shall be entitled to retain twenty-five percent (25%) of the advance deposit amount and to remit the seventy-five percent (75%) balance to the LOCAL GOVERNMENT.

(E) If the accepted bid amount for the Additional Improvements is in excess of the advance deposit amount, the LOCAL GOVERNMENT will provide an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT or prior to posting of the accepted bid, whichever is earlier, so that the total deposit is equal to the bid amount. The DEPARTMENT will notify the LOCAL GOVERNMENT as soon as it becomes apparent the accepted bid amount is in excess of the advance deposit amount; however, failure of the DEPARTMENT to so notify the LOCAL GOVERNMENT shall not relieve the LOCAL GOVERNMENT from its obligation to pay for its full participation. If the LOCAL GOVERNMENT cannot provide the additional deposit within fourteen (14) days, a letter must be submitted to the DEPARTMENT'S Project Manager indicating when the deposit will be made. The LOCAL GOVERNMENT understands the request and approval of the additional time could delay the Project, and additional costs may be incurred due to delay of the Project.

(F) If the accepted bid amount for the Additional Improvements is less than the advance deposit amount, the DEPARTMENT will refund the amount that the advance deposit exceeds the bid amount if such refund is requested by the LOCAL GOVERNMENT in writing.

(G) Should Project modifications or changes to bid items occur that increase the LOCAL GOVERNMENT'S share of total Additional Improvements costs, the LOCAL GOVERNMENT will be notified by the DEPARTMENT accordingly. The LOCAL GOVERNMENT 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 its share of the Project. The DEPARTMENT shall notify the LOCAL GOVERNMENT as soon as it becomes apparent the actual costs will overrun the award amount; however, failure of the DEPARTMENT to so notify the LOCAL GOVERNMENT shall not relieve the LOCAL GOVERNMENT from its obligation to pay for its full participation during the Project and on final accounting as provided herein below.

(H) 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 LOCAL GOVERNMENT for a period of three (3) years after final close out of the Project. The LOCAL GOVERNMENT will be notified of the final cost of the Additional Improvements. Both parties agree that in the event the final accounting of total 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 LOCAL GOVERNMENT. If the final accounting is not performed within three hundred and sixty (360) days, the LOCAL GOVERNMENT is not relieved from its obligation to pay.

(I) In the event the final accounting of total Additional Improvements cost is greater than the total deposits to date, the LOCAL GOVERNMENT will pay the additional amount within forty (40) calendar days from the date of the invoice from the DEPARTMENT. The LOCAL GOVERNMENT agrees to pay interest at a rate as established pursuant to Florida Statutes, Section 55.03, on any invoice not paid within forty (40) calendar days until the invoice is paid.

(J) The payment of funds under this Locally Funded Agreement will be made directly to the DEPARTMENT for deposit.

(K) The DEPARTMENT and the LOCAL GOVERNMENT agree that the payment shall be an asset of the DEPARTMENT for the cost of the work.

(L) Contact Persons:

Florida Department of Transportation

Shirley Matthews	Sarah Van Gundy
JPA Coordinator/MS 521	Consultant Project Manager/MS 542
719 South Woodland Boulevard	719 South Woodland Boulevard
DeLand, Florida 32720-6834	DeLand, Florida 32720-6834
PH: (386) 943-5452	PH: (386) 943-5551
shirley.matthews@dot.state.fl.us	Sarah.VanGundy@dot.state.fl.us

City of Leesburg

Ray Sharp
Director of Environmental Services/Public Works
550 South 14th Street
Leesburg, Florida 34748
PH: (352) 435-9442
ray.sharp@leesburgflorida.gov

6. All tracings, plans, specifications, maps, models, reports, or other work product prepared or obtained under this Agreement shall be considered works made for hire for the DEPARTMENT and shall at all times be and remain the property of the DEPARTMENT without

restriction or limitation on their use. The LOCAL GOVERNMENT may, however, inspect those materials upon providing reasonable advance notice to the DEPARTMENT.

7. In the event this Agreement is in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) or has a term for a period of more than one year, the provisions of Chapter 339.135(6)(a), Florida Statutes, are hereby incorporated as follows:

“The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or 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 \$25,000.00 and which have a term for a period of more than one (1) year.”

8. The DEPARTMENT may unilaterally cancel this Agreement for refusal by the LOCAL GOVERNMENT to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by such party in conjunction with this Agreement.

9. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof, and incorporates and includes all proper negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein. 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.

10. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. Any provision herein determined by a court of competent jurisdiction, or any other legally constituted body having jurisdiction, to be invalid or unenforceable shall be severable and the remainder of this Agreement shall remain in full force and effect, provided that the invalidated or unenforceable provision is not material to the intended operation of this Agreement.

11. The LOCAL GOVERNMENT shall utilize the U.S. Department of Homeland Security's E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of;

A. All persons employed by the LOCAL GOVERNMENT during the term of the Contract to perform employment duties within Florida; and

B. All persons, including subcontractors, assigned by the LOCAL GOVERNMENT to perform work pursuant to the contract with the Department.

IN WITNESS WHEREOF, the LOCAL GOVERNMENT has executed this Agreement this _____ day of _____, 2011, and the DEPARTMENT has executed this Agreement this _____ day of _____, 2011.

CITY OF LEESBURG

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____
Name: _____
Title: _____

By: _____
Name: George S. Lovett
Title: Director of Transportation Development

Attest:

Attest:

Executive Secretary

Legal Review

City Attorney

Legal Review:

Financial Provision Approval by
Department of Comptroller on:

Exhibit "A"
SCOPE OF SERVICES
Mast Arm Signal Upgrades
FM# 238395-4-52-01

The LOCAL GOVERNMENT wishes to upgrade from concrete strain poles to painted galvanized mast arm structures (total of 4 mast arms) at the following intersection of SR 500 (Citrus Blvd):

- Dr. Martin Luther King Jr. Blvd. (CR-460)

The DEPARTMENT'S Contractor shall construct the Additional Improvements as part of the construction contract at the above referenced intersection.

The LOCAL GOVERNMENT is responsible for the cost difference between the strain pole structures the painted galvanized mast arm structures. The LOCAL GOVERNMENT shall be responsible for preventive and periodic maintenance (as explained below), in perpetuity, of the painted galvanized mast arm signals, as stated in the Traffic Signal Maintenance and Compensation Agreement, and as explained below.

Preventative Maintenance includes but is not limited to:

Repainting or spot painting; tightening of nuts and replacing nuts and bolts (not including anchor bolts); replace missing cap covers and access hole cover plates; cleaning; removal of soil built up around foundations (lighting, signs and connections); repair and/or removal of grout pads; vermin guard installation; tree trimming; response to traffic impact; wiring issues, including improper grounding; reattaching anchor bolt covers and access hole covers.

Periodic Maintenance includes but is not limited to:

Repair of cracks in mast arm structure; resetting of anchor bolts; repair or replacement of deteriorated anchor bolts; repair of arm; and replacement of mast arm; and address improper standoff distance.

The LOCAL GOVERNMENT shall be responsible for the replacement of the entire mast arm assembly in case the need to replace the mast arm(s) is due to the local government failure to

properly maintain the mast arm structure. The Department and/or its consultant will perform routine inspections (every five years) and non-routine inspections (at any time) on the subject mast arms. As a result of these inspections and according to the Procedure No 850-010-030-g (Bridge and other Structures Inspection and Reporting) the Department will issue Work Orders (WO) to the LOCAL GOVERNMENT to repair/replace any of the mast arm assembly items (structural and non structural). The LOCAL GOVERNMENT will be given a time frame to properly address the required repairs/replacements based on the Department's WO priority as follows:

- Priority 1(Emergency): Repair/replacement work must start immediately and shall be completed within 60 days of the WO date.
- Priority 2 (Urgent): Repair/replacement work requires immediate attention and shall be completed within 180 days of the WO date.
- Priority 3 (Routine): Shall be completed within 360 days of the WO date.
- Priority 4 (informational): There is no time limit to complete the work.

Exhibit “B”

Cost Estimate

FM# 238395-4-52-01

SUMMARY OF ESTIMATED BID PRICES FOR MAST ARMS

The estimate is based on Statewide and District Average Bid Price for the following items times an escalation to bring the cost up to the construction fiscal year.

ESTIMATED COST

Pay Item Number	Description	Quantity	Unit Price	Estimated Cost
Mast Arms:				
630-1-12	Conduit – Signals, F&I, Underground	400	\$3.50	\$1,400.00
635-1-11	Pull & Junction Boxes, F&I, Pull Box	4	\$300.00	\$1,200.00
649-31-304	Mast Arm, F&I WS-110, Signal Arm, W/O Lum-70.5	4	\$21,000.00	\$84,000.00
			Total Mast Arm	\$86,600.00
Strain Poles:				
630-1-12	Conduit – Signal, F&I, Underground	10	\$3.50	\$35.00
634-4-153	Span Wire Assembly, F&I, Two Point, Box	1	\$3,000.00	\$3,000.00
635-1-11	Pull & Junction Boxes, F&I, Pull Box	1	\$300.00	\$300.00
641-2-16	Prest CNC Pole, F&I, Typ P-VI	4	\$5,550.00	\$22,200.00
			Total Strain Pole	\$25,535.00
			Strain pole credit	\$25,535.00
			LFA Estimate	\$61,065.00

Note: This is only an estimate and is subject to change based on actual bid prices.

Exhibit "C"

Resolution

FM# 238395-4-52-01