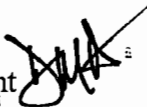




Interoffice Memorandum

November 8, 2019

TO: Mayor Jerry L. Demings  
and the Board of County Commissioners

FROM: Diana M. Almodovar, P. E., Interim Director, Public Works Department 

CONTACT PERSON: Christine N. Lofye, P.E., Manager   
Traffic Engineering Division

PHONE NUMBER: (407) 836-7891

SUBJ: **Locally Funded Agreement between the State of Florida Department of Transportation and Orange County for Financial Management No. 412994-8-82-43 for Railroad Improvements at Landstreet Road Grade Crossing (A797.60)**

Submitted for approval and execution is a funding agreement between the State of Florida Department of Transportation ("Department") and Orange County for railroad improvements at Landstreet Road grade crossing (A797.60), consisting of installation of a "pre-signal" to reduce the incidence of vehicles stopping on the railroad tracks.

The Department will design, replace, and upgrade the existing Central Florida Rail Corridor southwest railroad warning signal cantilever bridge to accommodate traffic signal heads. Orange County will then provide new preemptive signals on the cantilever bridge before the railroad crossing and coordinate this signal with the existing signal at Orange Avenue. Orange County agrees to contribute 50% of the total estimated project costs, including both design and construction. The County's contribution is \$118,451.

Staff recommends approval and execution of the Locally Funded Agreement and Resolution.

**Action Requested: Approval and execution of (1) Locally Funded Agreement between the State of Florida Department of Transportation and Orange County for Financial Management No.: 412994-8-82-43 for railroad improvements at Landstreet Road grade crossing and (2) Financial Management Number 412994-8-82-43 Resolution of the Orange County Board of County Commissioners regarding the Locally Funded Agreement with the State of Florida Department of Transportation concerning certain railroad improvements at Landstreet Road grade crossing (A797.60). District 4.**

DMA/CNL

Attachments

Agency: Orange County	Fund: LF	Financial Management No.:
Vendor No: F596000773011	Contract Amount: \$118,451.00	412994-8-82-43

**LOCALLY FUNDED AGREEMENT  
BETWEEN  
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
AND  
ORANGE COUNTY**

This AGREEMENT, made and entered into this 18<sup>th</sup> day of December, 2019, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter referred to as the "DEPARTMENT") and ORANGE COUNTY, a Charter County and political subdivision of the State of Florida, (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 or "Railroad Improvements" described as: "a) replace/upgrade the existing CFRC southwest Railroad Warning Signal Cantilever Bridge at Landstreet Road grade crossing (A797.60) in Orange County and b) the supply and installation of the Traffic Signal Heads on the new Railroad Warning Signal Cantilever Bridge plus the Preemption connection to Orange Avenue", said Project being known as Financial Management (FM) Number 412994-8-82-43, hereinafter referred to as the "Project" or "Railroad Improvements"; 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 50% of the funds for completion of the Project in Fiscal Year 2019/2020.; and

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 term 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, as detailed in Exhibit "A." 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 perform necessary preliminary engineering, prepare any and all design plans for the new Railway Warning Signal Cantilever Bridge including the additional structural loads (including but not limited to, dead load and wind load ) for the traffic signal heads, acquire all necessary right-of-way, if any, perform the construction including directional bore under the railroad tracks from the southwest quadrant (location of new Railway Warning Signal Cantilever Bridge) to the southeast quadrant on the CFRC right of way, provide all necessary engineering supervision, and otherwise perform all other necessary work, all as may be applicable for the Project as previously defined with the exception of the preparation of any programming/operational pre-signal design plans (including but not limited to electrical and communication) related to the supply and installation of the Traffic Signal Heads on the new Railroad Warning Signal Cantilever Bridge and the Preemption connection to Orange Avenue traffic signal cabinet to be completed by Orange County. The Department's contractor shall obtain a right of way utilization permit and a Maintenance of Traffic permit, with Orange County waiving the permit fees, for work outside of the rail corridor. 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 DEPARTMENT agrees to inspect, maintain, maintain paint, repair and replace the Railroad Warning Signal Cantilever Bridge in perpetuity and the LOCAL GOVERNMENT agrees to inspect, maintain, maintain paint, repair and replace the Traffic Signal Heads and Preemption connection to Orange Avenue in perpetuity. The parties agree that, upon installation, the Railroad Warning Signal Cantilever Bridge shall be owned by the DEPARTMENT and the DEPARTMENT shall be reasonably entitled to inspect the Railroad Warning Signal Cantilever Bridge at all times and the Traffic Signal Heads on the Railroad Warning Signal Cantilever Bridge shall be owned by the LOCAL GOVERNMENT and the LOCAL GOVERNMENT shall be reasonably entitled to inspect the Traffic Signal Heads at all times.

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

(A) The DEPARTMENT'S current estimate of cost for the Project is **\$236,900.00 (Two Hundred Thirty-Six Thousand Nine Hundred Dollars and No/100)**. This amount is based on the Estimated Costs, Exhibit "B" attached hereto. 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.

(B) The LOCAL GOVERNMENT agrees that it will, **within 45 days of the DEPARTMENT'S execution of the Agreement**, furnish the DEPARTMENT a contribution in the amount of **\$118,451.00 (One Hundred Eighteen Thousand Four Hundred Fifty-One Dollars and No/100)** for full payment of 50% of the estimated total Project cost of the Railroad Improvements. The lump sum contribution is equal to 50% of the total estimated cost for the Project. The DEPARTMENT may utilize this deposit for payment of the cost of the Project. If the cost of the Project exceeds the LOCAL GOVERNMENT'S contribution the DEPARTMENT agrees to fund the excess costs.

(C) If the actual cost of the project is less than the funds provided the excess will be applied to other phases on the project.

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

(E) Both parties further agree that in the event the Railroad 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 Railroad Improvements will be returned to the LOCAL GOVERNMENT.

(F) The DEPARTMENT and the LOCAL GOVERNMENT agree that the contribution shall be an asset of the DEPARTMENT and that it constitutes a full and final payment for the cost of the work, without any requirement for a subsequent accounting for the use of the contribution.

(G) Contact Persons:

**DEPARTMENT**

District 5 Local Programs  
719 South Woodland Boulevard, MS 4-520  
DeLand, Florida 32720-6834  
(386) 943-5486  
[D5-LocalPrograms@dot.state.fl.us](mailto:D5-LocalPrograms@dot.state.fl.us)

**LOCAL GOVERNMENT**

Christine Lofye, P.E., Manager  
Orange County Public Works Department  
Traffic Engineering Division  
4200 S. John Young Parkway  
Orlando, Florida 32839-9205  
(407) 836-7890  
[Christine.Lofye@ocfl.net](mailto:Christine.Lofye@ocfl.net)

5. 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.

6. 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 (1) 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 one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of \$25,000.00 and which have a term for a period of more than one (1) year.”

7. The DEPARTMENT may unilaterally cancel this Agreement for refusal by the LOCAL GOVERNMENT to allow reasonable 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.

8. 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.

9. 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.

10. The DEPARTMENT and the LOCAL GOVERNMENT acknowledge and agree to the following:

- (A) The LOCAL GOVERNMENT 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 LOCAL GOVERNMENT during the term of the contract; and
- (B) The LOCAL GOVERNMENT shall expressly require any contractors and 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 contractor/subcontractor during the contract term.

IN WITNESS WHEREOF, the LOCAL GOVERNMENT has executed this Agreement this 3<sup>rd</sup> day of December, 2019, and the DEPARTMENT has executed this Agreement this 18<sup>th</sup> day of December, 2019.

**ORANGE COUNTY**

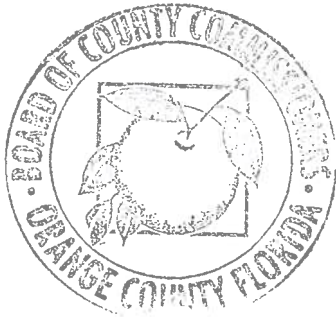
**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION**

By: *Jerry L. Demings*  
Name: Jerry L. Demings  
Title: Mayor

By: *[Signature]*  
Name: Charles M. Heffinger, Jr., P.E.  
Title: CFRC SunRail Chief Operations Officer

Attest: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: *Noelia Perez*  
*for* Deputy Clerk  
Print Name: Noelia Perez



FDOT Legal Review:  
*[Signature]*  
FDOT Attorney

Financial Provisions Approval by  
Department of Comptroller on:

October 18, 2019

Exhibit "A"  
SCOPE OF SERVICES  
LANDSTREET ROAD  
GRADE CROSSING  
(A797.60) IN ORANGE  
COUNTY  
FM# 412994-8-82-43

The DEPARTMENT and the LOCAL GOVERNMENT wish to replace/upgrade the existing CFRC southwest RAILROAD WARNING SIGNAL CANTILEVER BRIDGE at the Landstreet Road grade crossing and will include the supply and installation of TRAFFIC SIGNAL HEADS on the RAILROAD WARNING SIGNAL CANTILEVER BRIDGE cantilever arm plus the Preemption connection to Orange Avenue.

The DEPARTMENT'S Contractor shall construct the Railroad Warning Signal Cantilever Bridge at the Landstreet Road highway-rail grade crossing including directional bore under the railroad tracks from the southwest quadrant (location of new Railway Warning Signal Cantilever Bridge) to the southeast quadrant on the CFRC right of way.

The LOCAL GOVERNMENT shall be responsible for the supply and installation of the Traffic Signal Heads on the new Railroad Warning Signal Cantilever Bridge plus the Preemption connection to Orange Avenue.



**Exhibit "B"**  
**Estimate**  
**FM# 412994-8-82-43**

**SUMMARY OF ESTIMATED BID PRICES FOR RAILROAD WARNING SIGNAL CANTILEVER REPLACEMENT/UPGRADE, TRAFFIC SIGNAL HEADS plus PREEMPTION connection to ORANGE AVENUE.**

The estimate is based on a Railroad Warning Signal Cantilever Bridge replacement/upgrade from the Department and a Traffic Signal Heads and Preemption connection to Orange Avenue estimate from Orange County for the cost of construction in fiscal year 2020.

A. Railroad Warning Signal Cantilever Replacement/Upgrade Estimate	\$ <u>207,438.85</u>
B. Traffic Signals Heads supply/install plus Preemption connection to Orange Avenue Estimate	\$ <u>29,461.95</u>
C. Total Project Cost (A + B)	\$ <u>236,900.80</u>
D. TOTAL LFA ESTIMATE = (50% x C)	\$ <u>118,450.40</u>
E. ROUNDED TOTAL DUE=	\$ <u>118,451.00</u>

Exhibit "C"  
Resolution  
FM# 412994-8-82-43