



Interoffice Memorandum

AGENDA ITEM

May 23, 2022

TO: Mayor Jerry L. Demings
–AND–
County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental, and Development Services

CONTACT PERSON: **Renzo Nastasi, AICP, Manager
Transportation Planning Division
(407) 836-8072**

SUBJECT: June 21, 2022 – Consent Item
Memorandum of Agreement between Orange County and
Central Florida Regional Transportation Authority d/b/a LYNX
for Transit Planning In Kind Services

Orange County completed the International Drive Transit Feasibility and Alternative Technology Assessment study which was approved by the Board on July 27, 2021. The study analyzed the potential implementation of a premium transit service as an urban circulator operating within the International Drive District along International Drive from Sand Lake Road to Sea Harbor Drive and within the Tradeshow Boulevard alignment between Universal Boulevard and Destination Parkway.

As the next step, a Project Development phase has been planned in partnership with Central Florida Regional Transportation Authority d/b/a LYNX. The Memorandum of Agreement (“MOA”) is intended to retain LYNX in-kind services due to its expertise in the transit industry and knowledge of the Federal Transit Authority Project Development process for New and Small Starts projects. The in-kind services provided shall not provide monetary compensation to LYNX for the services.

Following the approval of the MOA by the Board, a scope of services for the Project Development phase of the project will be finalized and followed by a Request for Proposals and consultant selection through the County procurement process.

If you have any questions, please feel free to contact me at (407) 836-8072.

ACTION REQUESTED: Approval and execution of Memorandum of Agreement between Orange County and Central Florida Regional Transportation Authority D/B/A LYNX for Transit Planning In Kind Services. District 6

JVW/RN/ep/fb
Attachment

MEMORANDUM OF AGREEMENT

between

ORANGE COUNTY

and

CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY
D/B/A LYNX

for

TRANSIT PLANNING IN KIND SERVICES

MEMORANDUM OF AGREEMENT

between

ORANGE COUNTY

and

CENTRAL FLORIDA REGIONAL TRANSIT AUTHORITY
d/b/a LYNX

for

TRANSIT PLANNING IN KIND SERVICES

This Memorandum of Agreement is made and entered into this 21 day of June, 2022, by and between **ORANGE COUNTY**, a charter county and political subdivision of the State of Florida (hereinafter referred to as "**COUNTY**"), and the **CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY d/b/a LYNX**, a body politic and corporate, created by Part II, Chapter 343, Florida Statutes (hereinafter referred to as "**LYNX**").

WITNESSETH

WHEREAS, COUNTY has authority pursuant to Section 125.01, Florida Statutes, to enter into agreements; and

WHEREAS, LYNX has the authority pursuant to Chapter 343, Part III, Florida Statutes, to enter into agreements; and

WHEREAS, LYNX was created by the above-stated charter to perform functions necessary for the achievement of an integrated, efficient and well-balanced public transportation system in the Central Florida Region; and

WHEREAS, in 2021, COUNTY completed the International Drive Transit Feasibility and Alternative Technology Assessment (TFATA) (hereinafter referred to as "Study"); and

WHEREAS, the Study analyzed the potential of implementing a premium transit service as an urban circular operating within the International Drive (I-Drive) District along International Drive from Sand Lake Road to Sea Harbor Drive (hereinafter referred to as "Project"); and

WHEREAS, the Study also proposes roadway improvements to Tradeshow Boulevard as part of the Project, including the addition of travel and transit lanes between

Destination Parkway and Universal Boulevard; and

WHEREAS, the purpose was to address increasing transportation needs within the I-Drive District and the desire by **COUNTY** to implement a sustainable multimodal system that reflects and complements the surrounding environment; and

WHEREAS, an Implementation Plan was provided to guide the **COUNTY's** decisions around project delivery and **COUNTY** staff was authorized to initiate inter-agency coordination for funding, design, right-of-way acquisition and construction phases of the project; and

WHEREAS, **COUNTY** is putting together a consultant team to include technical reviews of proposer's questions and the proposals for the Project development; and

WHEREAS, **LYNX** has been approached by the **COUNTY** and agrees to provide Transit Planning in-kind services for the Project as the public transit authority for the Central Florida Region and the prospective operator of the completed Project; and

WHEREAS, the in-kind transit planning services provided by **LYNX** will be essential to the success of the Project due to its expertise in the transit industry and knowledge of the Federal Transit Authority (hereinafter referred to as "FTA") project development process for New & Small Starts projects; and

WHEREAS, this Memorandum of Understanding evidences the intentions of the respective parties to cooperate with each other in the furtherance of the public interest to implement a sustainable multimodal system; and

WHEREAS, this Memorandum of Agreement (hereinafter referred to as "Agreement") will be effective upon approval and execution by the **COUNTY** and **LYNX**.

NOW, THEREFORE, in consideration of the above recitals, the mutual terms, conditions, and covenants hereinafter set forth, **COUNTY** and **LYNX** agree as follows:

Section 1-SCOPE OF IN-KIND PLANNING SERVICES

- 1.1 **LYNX** shall furnish to **COUNTY** in-kind transit planning services for the Project as stated in the attached Exhibit "A" (hereinafter referred to as "Services"). **COUNTY** will not provide monetary compensation to **LYNX** for the Services. As the public transit authority for the Central Florida Region and the prospective operator of the completed Project, **LYNX** will benefit from the provision of Services to the **COUNTY**.

Section 2- TERM

- 2.1 The term of this Agreement shall commence on the date hereof and terminate upon such time as **LYNX** furnishes all Services to **COUNTY** for the Project in accordance with terms herein.

Section 3 - TERMINATION

- 3.1 This Agreement may be terminated for convenience by either party upon thirty (30) days written notice to the other party of an intent to terminate and the date on which such termination becomes effective.

Section 4- INDEMNIFICATION

- 4.1 **LYNX** and **COUNTY** are each a political subdivision or agency of the State of Florida as defined in Chapter 768.28, Florida Statutes or Chapter 343, Part II, Florida Statutes and each agrees to be fully responsible for the acts and omissions of its agents or employees, to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency, political subdivision of the State of Florida or an agency of the State to be sued by third parties in any matter arising out of this Agreement or any other contract.

Section 5 - GENERAL PROVISIONS

- 5.1 Neither **LYNX** nor **COUNTY** intend to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.
- 5.2 Whenever either party desires to give notice to the other related to termination, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. As for any other notice regarding services provided for under this Agreement, electronic communication is acceptable. For the present, the parties designate the following:

LYNX
LYNX CEO
455 N. Garland Ave
Orlando, FL 32801

With copy to:

LYNX
Myles O'Keefe, Manager of Strategic Planning
455 N. Garland Ave
Orlando, FL 32801

COUNTY:
Orange County Administrator's Office
Orange County Administration Building
201 South Rosalind Avenue, 5th Floor
Orlando, Florida 32801
Attention: County Administrator

DIVISION:
Manager, Transportation Planning
Planning, Environmental and Development Services
4200 S. John Young Parkway
Orlando, Florida 32839

- 5.3 Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party.
- 5.4 The rendition of services, standards of performance, discipline of employees and other matters incidental to the performance of services and control of personnel shall remain with **LYNX**. This Agreement does not make **LYNX's** agents, employees or legal representatives the officers or employees of **COUNTY** for any purpose whatsoever, and the employees and agents of **LYNX** are in no way authorized to make any contract, agreement, warranty or representation on behalf of the **COUNTY** or to create any obligation on behalf of the **COUNTY**.
- 5.5 Any costs or expenses, including reasonable attorney's fees, associated with the enforcement of the terms and conditions of this Agreement shall be borne by the respective parties, provided however, that this clause pertains only to the parties to this Agreement.

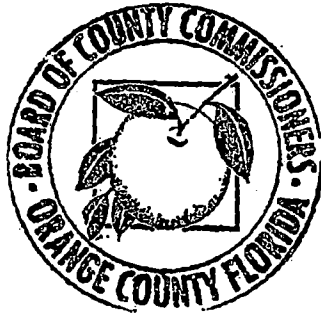
- 5.4 **COUNTY** and **LYNX** agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.
- 5.5 Failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 5.6 In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless **COUNTY** or **LYNX** elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.
- 5.7 The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete Agreement of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.
- 5.8 If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 5 of this Agreement shall prevail and be given effect.
- 5.9 This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of Orange County, Florida, the venue situs, and shall be governed by the laws of the State of Florida. To encourage prompt and equitable resolution of any litigation that may arise hereunder, each party hereby waives any rights it may have to a trial by jury of any such litigation.
- 5.10 No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Board of County Commissioners and the Board of Directors of **LYNX** or its Chief Executive Officer.

- 5.11 This document incorporates and includes all prior negotiations, correspondence, conversations, and agreements applicable to the matters contained herein and the parties agree that there are no commitments, or agreements concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
- 5.12 The truth and accuracy of each “Whereas” clause set forth above is acknowledged by the parties.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the authorized signatories named below have executed this Memorandum of Agreement on behalf of the parties as of the effective date.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners



By: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

Date: June 21, 2022

**CENTRAL FLORIDA REGIONAL
TRANSPORTATION AUTHORITY**

By: *James E. Hanson*
James E. Hanson, Esq., PE
Chief Executive Officer

Reviewed as to Form:

This Agreement has been reviewed as to form by LYNX Senior Staff Attorney. This confirmation is not to be relied upon by any person other than LYNX or for any other purpose.

By: *Carol L. Swartz*

Exhibit “A”

The International Drive (I-Drive) Transit Feasibility and Alternative Technology Assessment (TFATA) evaluated the potential of implementing a premium transit service as an urban circulator operating within the I-Drive District. The project purpose is to improve mobility options for a diverse set of travel markets within the rapidly growing I-Drive District, and to implement a sustainable multimodal system that reflects and complements the surrounding environment.

The I-Drive 2040 Strategic Vision Plan approved by the Orange County Board of County Commissioners in February 2016 includes a policy direction intended to further enhance and sustain the economic viability of the I-Drive District and the Orange County Convention Center (OCCC). Careful planning and design for an effective premium transit system with multiple transportation modes can achieve the intent and purpose of the Board’s direction and will be essential to the existing and future growth of the I-Drive District.

In its role as the regional transportation authority, and designated recipient for Federal Transit Administration funds for the Central Florida region, LYNX will support the continued efforts of Orange County to advance their plans for premium transit in the I-Drive corridor with staff serving as technical advisors. In this role, LYNX staff and consultants will provide services that include, but not limited to:

- Development and review of scopes of work, project objectives, and procurement materials;
- Provide technical input related to proposals received;
- Make available applicable professional service vendors;
- Participate in staff level meetings and discussions;
- Provide data research and analysis;
- Participate in public outreach events;
- Support and potentially present project updates to applicable boards and commissions;
- Coordinate with the Florida Department of Transportation (FDOT) District and Central Offices;
- Coordinate with MetroPlan Orlando; and
- Coordinate with the Federal Transit Administration (FTA).