

**ON AND OFF SYSTEM CONSTRUCTION AND MAINTENANCE AGREEMENT
FOR ON AND OFF SYSTEM MULTI-USE TRAIL**

Between

**STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
("DEPARTMENT")**

And

**ORANGE COUNTY, FLORIDA,
("LOCAL GOVERNMENT")**

WHEREAS, this Agreement is entered into on _____ by and between the State of Florida, Department of Transportation, an Executive Agency of the State of Florida, herein "DEPARTMENT" and Orange County, herein "LOCAL GOVERNMENT"; and

WHEREAS, the State of Florida Legislature has approved and mandated the DEPARTMENT to complete the various projects included in the DEPARTMENT's Work Program; and

WHEREAS, included in the DEPARTMENT Work Program is Financial Project Number (FPN) 436433-1, construction of a multi-use trail along US 441/State Road 500, Clarcona Ocoee Road, and County Road 431 also known as Pine Hills Road, and County Road 424 also known as Beggs Road located in Orange County, Florida (the Project); and

WHEREAS, due to the direct impact of the Project on off-system roadways that are under the jurisdiction of the LOCAL GOVERNMENT it is necessary for the DEPARTMENT to enter onto the LOCAL GOVERNMENT's roadways and to construct certain improvements to said roadways; and;

NOW THEREFORE,

- 1) The recitals set forth above are hereby incorporated herein as if restated and set forth herein.
- 2) The parties agree that the DEPARTMENT shall undertake and complete project number FPN 436433-1-52-01, generally described as, construction of a multi-use trail along US 441/State Road 500, Clarcona Ocoee Road, and County Road 431 also known as Pine Hills Road, and County Road 424 also known as Beggs Road located in Orange County, Florida. The project shall include the tasks described in Exhibit "A" Scope of Services attached hereto and all other tasks associated with or arising out of the tasks listed therein. The LOCAL GOVERNMENT shall fully cooperate with and shall support the DEPARTMENT's work efforts in these regards. The LOCAL GOVERNMENT hereby grants to the DEPARTMENT, its Contractors, representatives, employees, and agents the right to enter onto LOCAL GOVERNMENT right of way to accomplish the tasks required by the Project. This right of entry shall continue in full force and effect throughout the period that the Project is ongoing. The DEPARTMENT shall have final decision-making

authority with respect to the design of the project, the design review process, the acquisition of property necessary for this Project and for the construction of the Project.

- 3) The LOCAL GOVERNMENT by virtue of the formal resolution, copy attached hereto as Exhibit "B", approving this agreement, consents to and authorizes the DEPARTMENT to act on behalf of, for the benefit of, and in the name of the LOCAL GOVERNMENT, to further do all acts necessary construction of improvements for the benefit of the LOCAL GOVERNMENT, providing Construction Engineering Inspection (CEI) Services, and securing all environment and regulatory permits.
- 4) To the extent necessary, the LOCAL GOVERNMENT hereby appoints the DEPARTMENT as its agent for purposes of construction, reconstruction, and relocation of utilities under section 337.403(1), Florida Statutes. The LOCAL GOVERNMENT agrees to fully cooperate with the DEPARTMENT in the construction, reconstruction and relocation of utilities that may be located within the existing or acquired right of way. The parties agree to meet on a periodic basis, as determined to be necessary by the DEPARTMENT, during the planning, design, construction, and post-construction phase to identify, plan and to relocate utilities. The responsibility for the costs associated with the relocation of utilities shall be based on Florida law as it relates to said matters. The parties acknowledge and agree that the DEPARTMENT will be utilizing federal highway interstate funds and as such, the cost of utility relocation will be considered a part of the cost of the project to be paid by the DEPARTMENT.
- 5) Except as otherwise provided in this agreement, the Parties acknowledge and agree that the right of way and the improvements and structures located inside DEPARTMENT right of way or on other DEPARTMENT owned property will remain the right of way and the property of the DEPARTMENT and that the right of way and the improvements and structures located inside LOCAL GOVERNMENT right of way or on other LOCAL GOVERNMENT owned property will remain the right of way and the property of the LOCAL GOVERNMENT.
- 6) The DEPARTMENT and the LOCAL GOVERNMENT shall cooperate with each other and keep each other well informed of the work efforts and progress hereunder. The DEPARTMENT shall have the sole authority with respect to make all decisions relating to, and including the need for, change orders and supplemental agreements associated with construction of the Project.
- 7) All payment and performance bonds shall be issued in favor of the DEPARTMENT. All warranties, if any, for improvements made outside of DEPARTMENT right of way and outside of other DEPARTMENT property shall be made in favor of the LOCAL GOVERNMENT.
- 8) The DEPARTMENT shall require its Contractor to provide insurance as required by the DEPARTMENT construction contract specifications.

9) Upon completion of the Project, but prior to the issuance of the Notice of Final Acceptance, the DEPARTMENT shall:

A. Submit to the LOCAL GOVERNMENT written notice that:

1. Project Contract Document requirements have been met.
2. Work has been inspected for compliance with Project Contract Documents.
3. Work has been completed in accordance with Project Contract Documents.
4. Equipment and systems have been tested in the presence of LOCAL GOVERNMENT'S representative and are operational.
5. All minor deficiencies have been corrected or completed and the Project is ready for final inspection.
6. All operation and maintenance manuals have been submitted and are acceptable.
7. Project record documents are complete and submitted.

B. LOCAL GOVERNMENT will make an inspection with the DEPARTMENT to verify the status of completion with reasonable promptness after receipt of such certification.

C. Should the parties agree that the Project is incomplete or defective:

1. The DEPARTMENT shall remedy any deficiencies, and send a second written notification to the LOCAL GOVERNMENT that the Project is complete.
2. If necessary, the LOCAL GOVERNMENT will re-inspect the Project with the DEPARTMENT.

D. Upon completion, the DEPARTMENT shall issue a Notice of Final Acceptance to the DEPARTMENT'S Contractor with a copy of said notice being provided to the LOCAL GOVERNMENT.

10) Upon issuance of the Notice of Final Acceptance, the LOCAL GOVERNMENT shall be immediately responsible for the perpetual maintenance of those portions of the Project that are located within the right of way limits of US 441/State Road 500 and County Roads 431, 424, and Clarcona Ocoee Road, as described in Exhibit "C," which is incorporated into this agreement. Notwithstanding the issuance of the Notice of Final Acceptance, the DEPARTMENT shall have the right to assure completion of any punch list by the contractor. The LOCAL GOVERNMENT agrees to cooperate and to support the DEPARTMENT'S efforts to secure permits necessary for and associated with the Project.

- 11) This agreement shall become effective as of the date both parties hereto have executed the agreement and shall continue in full force and effect until the project is completed by the DEPARTMENT and the improvements have been turned over to the LOCAL GOVERNMENT by the DEPARTMENT by formal notice from the DEPARTMENT. The DEPARTMENT reserves the right to unilaterally cancel its performance hereunder if it determines that it is in the best interest of the public to do so. This discretion shall include, but shall not be limited to, budgetary and bid cost considerations.
- 12) Pursuant to Section 287.058, Florida Statutes, 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 the LOCAL GOVERNMENT in conjunction with this agreement except for the obligation of the LOCAL GOVERNMENT to maintain the project and said agreement shall be perpetual as to that obligation.
- 13) In the event that any election, referendum, approval or permit, notice or other proceeding or authorization is required to be undertaken by the LOCAL GOVERNMENT to enter into this agreement or to undertake the project, the LOCAL GOVERNMENT will expeditiously initiate and consummate, as provided by law, all actions necessary with respect to any such matters with time being of the essence.
- 14) It is understood that the DEPARTMENT's participation in said project is subject to:
 - a) Legislative approval of the DEPARTMENT's appropriation request in the work program year that the project is scheduled.
 - b) Availability of funds based on the following limitations:
 - i. The DEPARTMENT's performance and obligations to pay under this agreement is contingent upon an annual appropriation by the Florida Legislature. If the DEPARTMENT's funding for this project is in multiple years, funds approved from the DEPARTMENT's Comptroller must be received every year prior to costs being incurred.
 - ii. In the event this agreement is in excess of \$25,000.00 and has a term of a period of more than one year, the provisions of §339.135(6)(a), Florida Statutes, are hereby incorporated. 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 executed only for the value of the services to be rendered or agreed to be paid 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 term for a period of more than one (1) year.”

- 15) This Agreement shall be governed by the laws of the State of Florida. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.
- 16) 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.
- 17) No modification of this Agreement shall be binding on the Parties unless reduced to writing and signed by a duly authorized representative of the Parties.
- 18) In the event of any legal action to enforce the terms of this Agreement each party shall bear its own attorney’s fees and costs.
- 19) All notices required pursuant to the terms hereof may be sent by first class United States Mail, facsimile transmission, hand delivery or express mail and shall be deemed to have been received by the end of five business days from the proper sending thereof unless proof of prior actual receipt is provided. Each party hereto shall have the continuing obligation to notify each other of the appropriate persons for notices to be sent to pursuant to the terms of this agreement. Unless otherwise notified in writing, notices shall be sent to the following:

To Orange County:
Cedric Moffett, Principal Planner
4801 West Colonial Drive
Orlando, Florida 32808

To the Department:
Jack Adkins, Director of Transportation Development
c/o Bitu Hooman
State of Florida, Department of Transportation
Director of Transportation Development
719 South Woodland Boulevard
DeLand, Florida 32720-6834

- 20) The individual identified as the person to receive notice hereunder shall have the authority to act on behalf of and to bind the LOCAL GOVERNMENT and the

DEPARTMENT, respectively, as to all determinations required to be made under the terms of this agreement.

To Orange County:
Cedric Moffett, Principal Planner
4801 West Colonial Drive
Orlando, Florida 32808

To the Department:
Jack Adkins, Director of Transportation Development
c/o Bitia Hooman
State of Florida, Department of Transportation
Director of Transportation Development
719 South Woodland Boulevard
DeLand, Florida 32720-6834

The remainder of this page intentionally left blank.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates exhibited, by the signatures below.

ORANGE COUNTY, FLORIDA

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____
Name:
Title:

By: _____
Name:
Title:

Date: _____

Date: _____

Attest: _____
By:
Title:

Approved as to form and legality:

Department Legal Review:

By: Local Government Attorney

Exhibit “A”
SCOPE OF SERVICES
FM#: 436433-1-52-01

The DEPARTMENT will Construct approximately 3.6 miles of 10 to 12-foot-wide 6” concrete multi-use trail. The trail will run from Hiawasse Rd. in Orlando heading east along Clarcona-Ocoee Road, turning north, and continuing along Pine Hills Road, turning east, and continuing along Beggs Road, turning north, and continuing along State Road 500/ U.S. 441 in Orange County, where it will connect with the existing Seminole Wekiva Trail. Additional improvements include reconstruction of the existing strain pole signalized intersections with mast arm signalized intersections at the intersection of Clarcona-Ocoee Road and Pine Hills Road, and the intersection of Pine Hills Road and Beggs Rd.

The DEPARTMENT’S plans for the above-described Project are identified as plans prepared by Moffatt & Nichol, Inc., dated April 26, 2024, for Project Financial Management Number 436433-1-52-01. A copy of the coversheet of the plans is attached hereto as Exhibit “A-2”, which plans are incorporated herein by reference.

The DEPARTMENT will undertake construction of the Project and will provide Construction Engineering Inspection (CEI) on behalf of the LOCAL GOVERNMENT.

Upon completion of the construction, all improvements will be transferred to the LOCAL GOVERNMENT and the LOCAL GOVERNMENT will be responsible for maintenance of the Project.

FPN #436433-1-52-01

Exhibit "A-1"
Contract Plans

CONTRACT PLANS COMPONENTS

- ROADWAY PLANS
- SIGNING AND PAVEMENT MARKING PLANS
- SIGNALIZATION PLANS
- LIGHTING PLANS

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

CONTRACT PLANS

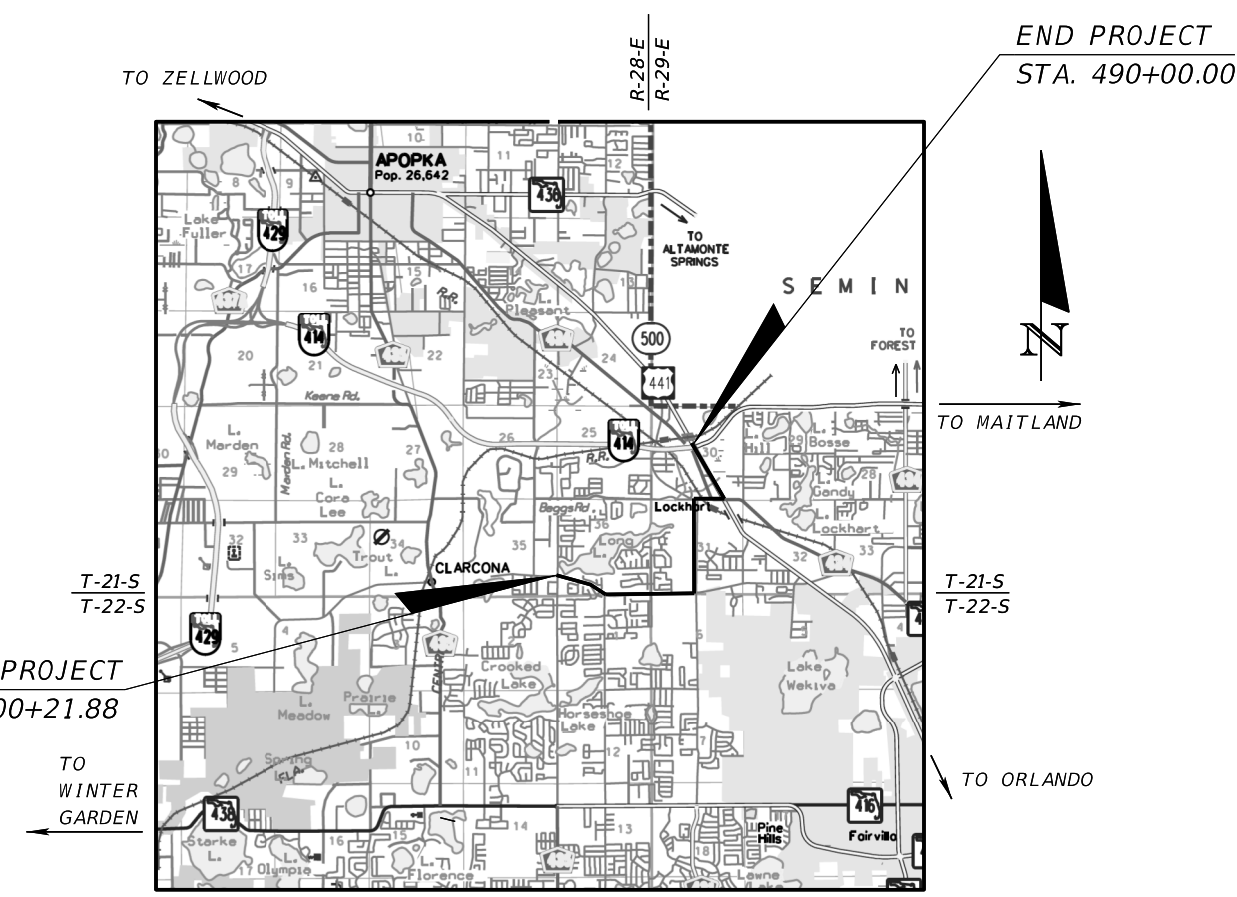
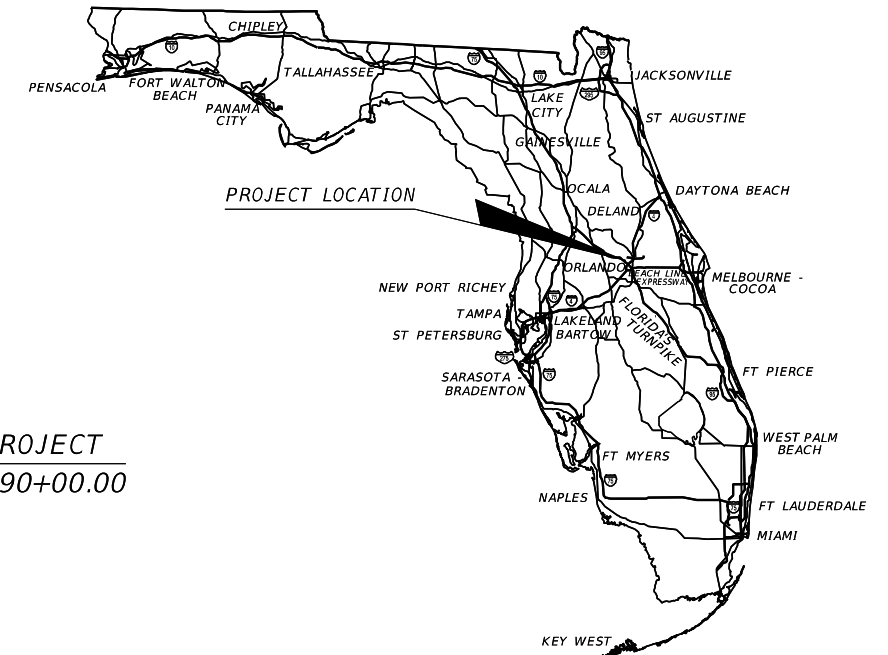
FINANCIAL PROJECT ID 436433-1-52-01

ORANGE COUNTY (TRAIL ID 75931013)

COAST TO COAST TRAIL - ORANGE COUNTY GAP SEGMENT #2

INDEX OF ROADWAY PLANS

| SHEET NO. | SHEET DESCRIPTION |
|-----------------|------------------------------------------|
| 1 | KEY SHEET |
| 2 | SIGNATURE SHEET |
| 3 - 6 | SUMMARY OF PAY ITEMS |
| 7 - 11 | TYPICAL SECTIONS |
| 12 | TYPICAL SECTION DETAILS |
| 13 - 14 | SUMMARY OF DRAINAGE STRUCTURES |
| 15 | OPTIONAL MATERIALS TABULATION |
| 16 | CURVE AND COORDINATE DATA |
| 17 | GENERAL NOTES |
| 18 - 28 | PLAN |
| 29 - 34 | PLAN-PROFILE |
| 35 | PLAN |
| 36 - 39 | DRIVEWAY PROFILES |
| 40 - 43 | INTERSECTION DETAIL |
| 44 - 48 | DRAINAGE STRUCTURES |
| 49 | DRAINAGE DETAILS |
| 50 | SPECIAL DETAIL |
| 51 | ROADWAY SOIL SURVEY |
| 52 - 93 | CROSS SECTIONS |
| 94 | STORMWATER POLLUTION PREVENTION PLAN |
| 95 - 108 | EROSION CONTROL PLAN |
| 109 - 124 | TEMPORARY TRAFFIC CONTROL PLANS |
| 125 - 139 | UTILITY ADJUSTMENTS |
| 140 - 164 | MISCELLANEOUS STRUCTURES |
| BW-1 - BW-2 | SHEET PILE WALL GENERAL NOTES |
| BW-3 | STEEL SHEET PILE WALL PLAN AND ELEVATION |
| BW-4 | STEEL SHEET PILE WALL DATA TABLE |
| BW-5 - BW-6 | SHEET PILE WALL DETAIL |
| BW-7 | REINFORCING BAR LIST |
| BW-8 | GRAVITY WALL DETAILS |
| BX-1 - BX-11 | EXISTING STRUCTURES PLANS |
| CTRL-1 - CTRL-3 | PROJECT NETWORK CONTROL SHEET |
| SQ-1 - SQ-28 | SUMMARY OF QUANTITIES |



GOVERNING STANDARD PLANS:

Florida Department of Transportation, FY2024-25 Standard Plans for Road and Bridge Construction and applicable Interim Revisions (IRs).

Standard Plans for Road Construction and associated IRs are available at the following website: <http://www.fdot.gov/design/standardplans>

APPLICABLE IRs: IR: N/A

GOVERNING STANDARD SPECIFICATIONS:

Florida Department of Transportation, FY 2024-25 Standard Specifications for Road and Bridge Construction at the following website: <http://www.fdot.gov/programmanagement/Implemented/SpecBooks>

PLANS UPDATE
04/26/2024

**ROADWAY PLANS
ENGINEER OF RECORD:**

REBECCA M. DAVIS , P.E.
P.E. NO.: 69131
1025 GREENWOOD BLVD. STE 371
LAKE MARY, FL 32746
(407) 562-2030
CONTRACT NO.: C9V36
VENDOR NO.: F951951343001

FDOT PROJECT MANAGER:

BITA HOOMAN

| CONSTRUCTION CONTRACT NO. | FISCAL YEAR | SHEET NO. |
|---------------------------|-------------|-----------|
| TBD | 25 | 1 |

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

FPN #436433-1-52-01

Exhibit "B"
Orange County Resolution

Exhibit “C” Maintenance Memorandum

1. The LOCAL GOVERNMENT acknowledges that the DEPARTMENT will require the LOCAL GOVERNMENT to maintain the entire Multi-Use Trail Project, as depicted in the Construction Plans and Specifications of FPN #436433-1, for the useful life of the Multi-Use Trail Project, according to the DEPARTMENT standards, which include, but are not limited to, the Americans with Disabilities Act, Design Standards, MRP Manual (Maintenance Rating Program Manual), and the Standard Specifications, and as amended from time to time.
2. Maintenance items to be maintained by the LOCAL GOVERNMENT shall include, but not be limited to vegetation management, trail heads, repair of slopes/erosion, removal of graffiti, signing, pavement markings, aesthetic features, and all other features of the Multi-Use Trail Project. The LOCAL GOVERNMENT shall maintain pavement surfaces free from residue accumulation, algae, vegetation, and other slip or trip hazards. The LOCAL GOVERNMENT shall trim landscaping, mow, sweep, edge and provide weed control along the Multi-Use Trail Project corridor on US 441/State Road 500 and County Roads 431, 424, and Clarcona Ocoee Road. The LOCAL GOVERNMENT shall ensure the safety of the Public by repairing slope erosion and maintaining signs, sign poles, striping, pavement symbols, traffic markings, detectable warning surfaces, pavers, crosswalks, and any other safety features within the Multi-Use Trail Project corridor in accordance with DEPARTMENT standards. The LOCAL GOVERNMENT shall maintain paint on railings, sign poles, structures, etc. within the Multi-use Trail Project corridor. Repairs to any Multi-Use Trail Project structural or safety feature shall be in kind and to DEPARTMENT standards. The LOCAL GOVERNMENT shall maintain and repair the Multi-Use Trail Project at its sole cost and expense, in a good and workmanlike manner, and with reasonable care.
3. The LOCAL GOVERNMENT shall pay utility bills for lighting, signals, and irrigation associated with the Multi-Use Trail Project.
4. The LOCAL GOVERNMENT shall conduct an annual inspection of the Multi-Use Trail Project to ensure that any and all safety deficiencies are addressed.
5. When the Multi-Use Trail Project is at the end of its useful life, the LOCAL GOVERNMENT shall prioritize the Replacement or Reconstruction of the Multi-Use Trail Project as if it was a new Project.
6. If at any time the LOCAL GOVERNMENT has not performed the maintenance responsibility on the Multi-Use Trail Project in accordance with this Agreement, the DEPARTMENT shall have the option of (a) notifying the LOCAL GOVERNMENT of the deficiency with a requirement that it be corrected within a specified time; or (b) the DEPARTMENT may perform the necessary maintenance at the LOCAL GOVERNMENT’S sole cost and expense, and send an invoice to the LOCAL GOVERNMENT, equal to the cost incurred by the

DEPARTMENT for such maintenance. Any action taken by the DEPARTMENT does not relieve any obligation of the LOCAL GOVERNMENT under the terms and conditions of this Agreement. Failure to perform maintenance of the Multi-Use Trail Project in accordance with this Agreement may impact DEPARTMENT funding participation in future LOCAL GOVERNMENT projects.

7. The DEPARTMENT may require the LOCAL GOVERNMENT to remove the Multi-Use Trail Project in whole or in part and restore the property to the condition that existed immediately prior to the effective date of this Agreement if the DEPARTMENT determines: (a) the Multi-Use Trail Project or project feature is not constructed or maintained in accordance with Section 1. of this Agreement, or (b) the LOCAL GOVERNMENT breaches a material provision (as determined by the DEPARTMENT) of this Agreement. Removal and restoration shall be completed by the LOCAL GOVERNMENT within 60 days of the DEPARTMENT'S written notice, or such time as the DEPARTMENT and the LOCAL GOVERNMENT mutually agree in writing. Removal and restoration shall be completed by the LOCAL GOVERNMENT in accordance with DEPARTMENT standards. Should the LOCAL GOVERNMENT fail to complete the removal and restoration work, the DEPARTMENT may complete the removal and restoration at the LOCAL GOVERNMENT'S sole cost and expense and send an invoice to the LOCAL GOVERNMENT, equal to the cost incurred by the DEPARTMENT for such removal and restoration.

8. This Agreement may be terminated under either of the following conditions: (a) by the DEPARTMENT, if the LOCAL GOVERNMENT fails to perform its duties under this Agreement, following ten (10) days written notice; or (b) by the DEPARTMENT, for refusal by the LOCAL GOVERNMENT to allow public access to public records subject to the provisions of Chapter 119, Florida Statutes.