



Interoffice Memorandum

March 27, 2020

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

FROM: Joseph C. Kunkel, P.E., Director, Public Works Department

CONTACT PERSON: Humberto L. Castillero, P.E., PTOE, Interim Manager  
Traffic Engineering Division

PHONE NUMBER: (407) 836-7891

SUBJ: **Locally Funded Agreement between State of Florida Department of Transportation and Orange County for Financial Management No. 439237-1-52-01 for State Road 535 (South Apopka-Vineland Road)**

Submitted for approval and execution is a funding agreement between State of Florida Department of Transportation ("Department") and Orange County for the upgrading of four signals from strain poles to galvanized mast arm structures as part of the resurfacing of State Road 535/South Apopka-Vineland Road from north of Lake Bryan Beach Boulevard to Vineland Avenue.

It is the Department's practice to build new signals using concrete strain poles, which was proposed for this project at the intersections of State Road 535 (South Apopka-Vineland Road) and Vistana Avenue; Vistana Center Drive; Meadow Creek Drive/Lake Vining Drive; and Chick-Fil-A driveway. The Traffic Engineering Division has requested that the Department upgrade from standard concrete strain poles to galvanized mast arm structures as additional improvements. The County's contribution for the full cost of the additional improvements is \$463,571.

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 Financial Management No. 439237-1-52-01 for State Road 535 (South Apopka-Vineland Road) and (2) Financial Management No. 439237-1-52-01 Resolution of the Orange County Board of County Commissioners regarding the Locally Funded Agreement with the State of Florida Department of Transportation concerning the resurfacing of State Road 535/South Apopka-Vineland Road from north of Lake Bryan Beach Boulevard to Vineland Avenue in the amount of \$463,571 to upgrade four signals from standard concrete strain poles to galvanized mast arm structures at the intersections of State Road 535 (South Apopka-Vineland Road) and Vistana Avenue; Vistana Center Drive; Meadow Creek Drive/Lake Vining Drive; and Chick-Fil-A driveway. District 1.**

JCK/HLC/FY/nad

Attachments

APPROVED BY ORANGE  
COUNTY BOARD OF COUNTY  
COMMISSIONERS

BCC Mtg. Date: April 21, 2020

FM#439237-1-52-01  
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Original Draft: 9/20/2019  
Revised: 3/19/2020

<b>Agency: Orange County</b>	<b>Fund: LF</b>	<b>Financial Management No.:</b>
<b>Vendor No: F596000773011</b>	<b>Contract Amount: \$463,571.00</b>	<b>439237-1-52-01</b>

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

This AGREEMENT, made and entered into this \_\_\_\_ day of 4/24/2020 | 2:45 PM EDT, 2020, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter referred to as the "DEPARTMENT") and the ORANGE COUNTY, a Charter County and a 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 described as: "Resurfacing of State Road 535/South Apopka-Vineland Road from North of Lake Bryan Beach Boulevard to Vineland Avenue", said project being known as Financial Management (FM) Number 439237-1-52-01, 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 standard strain pole structures to galvanized mast arm structures at the following Intersections of State Road 535: Vistana Drive; Vistana Center Drive; Meadow Creek Drive/Lake Vining Drive; and the Chick-Fil-A Driveway, in Fiscal Year 2020/2021, said Project being known as

FM#439237-1-52-01, and 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 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. 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 Resurfacing of State Road 535/South Apopka-Vineland Road from North of Lake Bryan Beach Boulevard to Vineland Avenue 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.

4. After construction is complete, the LOCAL GOVERNMENT agrees to inspect, maintain, repair and replace the galvanized mast arms in perpetuity in accordance with the terms of the Traffic Signal Maintenance and Compensation Agreement previously signed by the parties

hereto and as specified in Exhibit "A", Scope of Services. The parties agree that, upon installation, the galvanized 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. 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 Additional Improvements is **\$463,571.00 (Four Hundred Sixty Three Thousand Five Hundred Seventy One Dollars and No/100)**. This amount is based on the Estimate, 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, on or before, but no later than June 30, 2020, furnish the DEPARTMENT a lump sum contribution in the amount of **\$463,571.00 (Four Hundred Sixty Three Thousand Five Hundred Seventy One Dollars and No/100)** to be used for the estimated Project cost for locally funded project number 439237-1-52-01. The DEPARTMENT may utilize this contribution for payment of the cost of the Project.

(C) If the actual cost of the Additional Improvements 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) The DEPARTMENT and the LOCAL GOVERNMENT agree that the lump sum 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.

(F) Contact Persons:

**DEPARTMENT**

District 5 Local Programs  
D5-LocalPrograms@dot.state.fl.us  
719 South Woodland Boulevard  
DeLand, Florida 32720-6834  
386-943-5520

**LOCAL GOVERNMENT**

Humberto Castillero, P.E., PTOE  
Interim Manager  
Orange County Public Works – Traffic Engineering Division  
4200 South John Young Parkway  
Orlando, Florida 32839  
407-836-8022  
E-mail: Humberto.Castillero@ocfl.net

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 (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.”

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 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 \_\_\_\_\_ day of APR 21 2020, 2020, and the DEPARTMENT has executed  
this Agreement this \_\_\_\_\_ day of 4/24/2020 | 2:45 PM EDT, 2020.

**ORANGE COUNTY**

By: *Burton W. Brooks*  
Name: Burton W. Brooks  
Title: County Administrator

As approved by the Council on:  
APR 21 2020

Attest: *Katie Smith*

Legal Review

City Attorney

**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION**

DocuSigned by:  
By: *Loreen C. Bobo*  
Name: Loreen C. Bobo, P.E.  
Title: Director of Transportation Development

Attest:

DocuSigned by:  
*Norma Mejias*  
Executive Secretary

Legal Review:

DocuSigned by:  
Daniel McDermott

Financial Provisions Approval by  
Department of Comptroller on:

September 30, 2019



## Exhibit "A"

### SCOPE OF SERVICES Mast Arm Signal Upgrades

FM#: 439237-1-52-01

The LOCAL GOVERNMENT wishes to upgrade from standard strain pole structures to galvanized mast arm structures for a total of fifteen (15) mast arm structures at the following Intersections on State Road 535:

- Vistana Drive
- Vistana Center Drive
- Meadow Creek Drive/Lake Vining Drive
- Chick-Fil-A Driveway

The DEPARTMENT'S Contractor shall construct the Additional Improvements as part of the Resurfacing of State Road 535/Apopka-Vineland Road from North of Lake Bryan Beach Boulevard to Vineland Avenue contract at the above referenced intersections.

The LOCAL GOVERNMENT is responsible for the cost difference between the standard strain pole system and the galvanized mast arm structures. The LOCAL GOVERNMENT shall be responsible for preventive and periodic maintenance of the galvanized mast arm signals, in perpetuity, as stated in the Traffic Signal Maintenance and Compensation Agreement, contract ARX38, dated October 4<sup>th</sup>, 2016, and as amended from time to time.



## Exhibit "B"

### Estimate

FM# 439237-1-52-01

#### 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
649-21-3	Steel Mast Arm Assembly, Furnish & Install, 40'	3	\$ 38,475	\$ 115,425
649-21-6	Steel Mast Arm Assembly, Furnish & Install, 50'	2	\$ 43,605	\$ 87,210
649-21-10	Steel Mast Arm Assembly, Furnish & Install, 60'	9	\$ 46,133.96	\$ 415,205
649-21-15	Steel Mast Arm Assembly, Furnish & Install, 70'	1	\$ 54,378	\$ 54,378
			<b>Total</b>	<b>\$ 672,218</b>
634-4-4153	Span Wire Assembly, Furnish & Install, Two Point Box/Drop B	4	\$ 6,771.60	\$ 27,086
641-2-85	Prestressed Concrete Pole, Furnish & Install, Type P-VIII	16	\$ 11,347.56	\$ 181,561
			<b>Strain pole credit</b>	<b>\$ 208,647</b>
			<b>LFA Estimate</b>	<b>\$ 463,571</b>

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

## Exhibit "C"

### Resolution

FM# 439237-1-52-01