



Interoffice Memorandum

December 14, 2016

TO: Mayor Teresa Jacobs and Board of County Commissioners

FROM: Mark V. Massaro, P.E., Public Works Director

CONTACT PERSON:  Deodat Budhu, P.E., Manager  
Roads and Drainage Division

PHONE NUMBER: (407) 836-7871

SUBJECT: **Joint Participation Agreement with the Florida Department of Transportation concerning the project described as "Construction Services to Alleviate Flooding in the Vicinity of State Road 50 Around Barry Street and Fairvilla Road"**

The project is in the interest of both the Florida Department of Transportation (FDOT) and Orange County (County) to complete a drainage construction project to alleviate flooding in the vicinity of State Road 50 around Barry Street and Fairvilla Road. The County will be upsizing the drainage pipes along Fairvilla Road and installing an additional 30-inch pipe under State Road 50. The project will also include approximately 12 new drainage structures along Fairvilla Road.

The FDOT will compensate the County in a lump sum contribution of up to Fifty Percent (50%) of the actual project cost but not to exceed \$50,000 (Fifty Thousand Dollars) for the construction of the drainage project.

The Orange County Attorney's Office have reviewed the resolution and joint participation agreement and found them acceptable.

**Action Requested:** Approval and execution of (1) Financial Management Number 439081-1-58-01 Resolution of the Orange County Board of County Commissioners regarding the Joint Participation Agreement with the State of Florida Department of Transportation concerning the project described as "construction services to alleviate flooding in the vicinity of State Road 50 around Barry Street and Fairvilla Road" and (2) Joint Participation Agreement between the State of Florida Department of Transportation and Orange County Financial Management No.: 439081-1-58-01. District 6.

MVM/gs/wsv

Attachments

Agency: Orange County	Fund: DS    Function: 215	Financial Management No.: 439081-1-58-01
Vendor No.: F596000773-011	Contract Amount: \$50,000.00	FLAIR Approp: 088716
Contract No: <i>AS467</i>		FLAIR Obj.: 563000
		Org. Code: 55054010508

**JOINT PARTICIPATION AGREEMENT**  
**BETWEEN**  
**THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**  
**AND**  
**ORANGE COUNTY**

This Agreement, made and entered into this 27<sup>th</sup> day of January, 2017, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION** (hereinafter referred to as the DEPARTMENT) and **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 No. 2017-M-01, dated the \_\_\_\_ day of JAN 10 2017, 2017, a copy of which is attached hereto as Exhibit "F" and made a part hereof, has authorized its officers to execute this Agreement on its behalf; and

WHEREAS, the DEPARTMENT is prepared, in accordance with its Five Year Work Program, to undertake the Project described as the "Construction services to alleviate flooding in the vicinity of State Road 50 around Barry Street and Fairvilla Road to include the installation of a 30-inch storm sewer under State Road 50 at Fairvilla Road", in Fiscal Year 2016/2017, said Project being known as FM #439081-1-58-01, hereinafter referred to as the "Project"; and

WHEREAS, the Project is on the State Highway System, is not revenue producing and is contained in the adopted Five Year Work Program; and

WHEREAS, the implementation of the Project is in the interest of both the DEPARTMENT and the LOCAL GOVERNMENT and it would be most practical, expeditious, and economical for the LOCAL GOVERNMENT to perform the services to complete the Project.

WHEREAS, the intent of this Agreement is to establish the terms and conditions of the funding and the production of this Project; 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. TERM**

A. The term of this Agreement shall begin upon the date of signature of the last party to sign. The LOCAL GOVERNMENT agrees to complete the Project by January 31, 2020, in accordance with the schedule described and contained in Exhibit "C" attached hereto. If the LOCAL GOVERNMENT does not complete the Project within the time period allotted, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the LOCAL GOVERNMENT and granted in writing by the DEPARTMENT prior to the expiration of the Agreement. Expiration of this Agreement will be considered termination of the Project. After the Project is complete, the term of this Agreement shall continue in effect and be binding on the parties in perpetuity for maintenance responsibilities of the LOCAL GOVERNMENT.

**2. SERVICES AND PERFORMANCES**

A. The LOCAL GOVERNMENT shall furnish the services to construct the Project which consists of: Upsizing of existing pipes along Fairvilla Road and installing an additional 30-inch pipe adjacent to the existing 18-inch cross drain under SR 50. The improvements will also include approximately 12 new drainage structures as well as the replacement of driveways along Fairvilla Road impacted during construction; and otherwise the LOCAL GOVERNMENT shall perform all other necessary work to complete the Project, as specified in Exhibit "A", Scope of Services, and Exhibit "G", Page 8 of Design Plans – Project Sketch, attached hereto and by this reference made a part hereof. Nothing herein shall be construed as requiring the LOCAL GOVERNMENT to perform any activity which is outside of the scope of services of the Project.

B. The LOCAL GOVERNMENT agrees to undertake the construction of the Project in accordance with all applicable federal, state and local statutes, rules and regulations, including DEPARTMENT standards and specifications.

C. This Agreement shall act to supersede the normal requirements of the LOCAL GOVERNMENT to secure separate DEPARTMENT permits for drive-way connection, right-

of-way utilization, storm-water discharge and utilities and this Agreement is deemed to constitute such permits.

D. The LOCAL GOVERNMENT shall be responsible for obtaining clearances/permits required for the construction of the Project from the appropriate permitting authorities.

E. The LOCAL GOVERNMENT understands that they are responsible for the preparation of all design plans for the Project, at the expense of the LOCAL GOVERNMENT, suitable for reproduction on 11 inch by 17 inch sheets, together with a complete set of specifications covering all construction requirements for the Project. Two (2) copies of the design plans, engineers estimate, permits, drainage and/or structural calculations, geotech, specifications and any other documentation that would relate to design, shall be provided to the DEPARTMENT'S Point of Contact, at the address listed on Page 10. The DEPARTMENT shall review the plans for conformance to the DEPARTMENT'S requirements and feasibility within forty-five (45) days of delivery by the LOCAL GOVERNMENT. The DEPARTMENT'S review shall not be considered an adoption of the plans nor a substitution for the engineer's responsibility for the plans. All changes requested by the DEPARTMENT shall be made by the LOCAL GOVERNMENT and final corrected plans shall be provided to the DEPARTMENT in a timely manner. The LOCAL GOVERNMENT shall provide a copy of the Final Bid documents to the DEPARTMENT. After approval of the plans and prior to commencing the work described herein, the LOCAL GOVERNMENT shall request a Notice to Proceed from the DEPARTMENT'S Point of Contact, address listed on Page 10, or from an appointed designee. Any work performed prior to the issuance of the Notice to Proceed is not subject to reimbursement.

F. The LOCAL GOVERNMENT shall hire a DEPARTMENT prequalified contractor using the LOCAL GOVERNMENT'S normal bid procedures to perform the construction work for the Project.

G. The LOCAL GOVERNMENT shall hire a DEPARTMENT Pre-qualified Consultant Construction Engineering Inspection firm (hereinafter "CCEI") to perform construction oversight including the obligation to assure that any and all verification testing is performed in accordance with the 2016 Standard Specifications for Road and Bridge Construction, as amended from time to time. The LOCAL GOVERNMENT'S Attorney shall certify to the DEPARTMENT that selection has been accomplished in compliance with the

Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes. The DEPARTMENT shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. The CCEI firm shall not be the same firm as that of the Engineer of Record for the Project.

H. The LOCAL GOVERNMENT shall require the LOCAL GOVERNMENT'S contractor to post a bond in accordance with Section 337.18(1), Florida Statutes.

I. The LOCAL GOVERNMENT shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable DEPARTMENT standards and that the work is performed in accord with the Terms and Conditions contained in Exhibit "D".

J. If the LOCAL GOVERNMENT utilizes its own work force for any services for the Project, all costs and expenses thereof shall not be subject to reimbursement.

K. Upon request, the LOCAL GOVERNMENT agrees to provide progress reports to the DEPARTMENT in the standard format used by the LOCAL GOVERNMENT and at intervals established by the DEPARTMENT. The DEPARTMENT will be entitled at all times to be advised, at its request, as to the status of the Project being constructed by the LOCAL GOVERNMENT and of details thereof. Either party to the Agreement may request and shall, within a reasonable time thereafter, be granted a conference with the other party.

L. Upon completion of the work authorized by this Agreement, the LOCAL GOVERNMENT shall notify the DEPARTMENT in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto as Exhibit "E". The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

M. Upon completion of the Project, the LOCAL GOVERNMENT shall be responsible for the perpetual maintenance of the facilities constructed under this agreement.

### **3. COMPENSATION AND REIMBURSEMENT**

A. Project Cost: The total estimated cost of the Project is \$246,350.00 (Two Hundred Forty-Six Thousand Three Hundred Fifty Dollars and No/100). The DEPARTMENT

agrees to compensate the LOCAL GOVERNMENT for services described in Exhibit A – Scope of Services. This amount is based on the Method of Compensation, Exhibit “B” attached hereto.

B. DEPARTMENT Participation: The DEPARTMENT agrees to compensate the LOCAL GOVERNMENT in a lump sum contribution not to exceed **\$50,000.00 (Fifty Thousand Dollars and No/100)** or up to Fifty Percent (50%) of the actual project costs incurred, whichever is less, excluding LOCAL GOVERNMENT overhead. The funding for this Project is contingent upon annual appropriation by the Florida Legislature. The LOCAL GOVERNMENT agrees to bear all expenses in excess of the DEPARTMENT’s participation.

C. The LOCAL GOVERNMENT shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project, identified as Project Number 439081-1-58-01, and the quantifiable, measurable, and verifiable units of deliverables are described more fully in Exhibit A – Scope of Services.

D. Invoices shall be submitted by the LOCAL GOVERNMENT in detail sufficient for a proper pre-audit and post-audit thereof, based on the quantifiable, measurable, and verifiable deliverables as established in Exhibit “A”, Scope of Services. Deliverables must be received and accepted in writing by the Department’s Project Manager or designee prior to payment.

E. Supporting documentation must establish that the deliverables were received and accepted in writing by the LOCAL GOVERNMENT and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Exhibit “A” – Scope of Services was met.

F. There shall be no reimbursement for travel expenses under this Agreement.

G. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes. If the DEPARTMENT determines that the performance of the LOCAL GOVERNMENT is unsatisfactory, the DEPARTMENT shall notify the LOCAL GOVERNMENT of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the DEPARTMENT. The LOCAL GOVERNMENT shall, within five (5) days after notice from the DEPARTMENT, provide the DEPARTMENT with a corrective action plan describing how the LOCAL GOVERNMENT will address all issues of contract non-performance, unacceptable performance, and failure to meet the minimum

performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the DEPARTMENT, the LOCAL GOVERNMENT shall be assessed a non-performance retainage equivalent to ten percent (10%) of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the LOCAL GOVERNMENT resolves the deficiency. If the deficiency is subsequently resolved, the LOCAL GOVERNMENT may bill the DEPARTMENT for the retained amount during the next billing period. If the LOCAL GOVERNMENT is unable to resolve the deficiency, the funds may be forfeited at the end of the Agreement term.

i) All costs charged to the Project by the LOCAL GOVERNMENT shall be supported by detailed invoices, proof of payments, contracts or vouchers evidencing in sufficient detail the nature and propriety of the charges.

H. The LOCAL GOVERNMENT providing goods and services to the DEPARTMENT should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than twenty (20) working days, upon receipt of an invoice. The DEPARTMENT has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

I. If a payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount to the LOCAL GOVERNMENT. Interest penalties of less than one dollar (\$1.00) will not be enforced unless the LOCAL GOVERNMENT requests payment. Invoices which have to be returned to the LOCAL GOVERNMENT because of LOCAL GOVERNMENT preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the DEPARTMENT.

J. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for the LOCAL GOVERNMENT who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

K. Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred

include the LOCAL GOVERNMENT'S general accounting records and the Project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the Project, and all other records of the contractor and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs. Any discrepancies revealed by any such audit shall be resolved by a corrected final billing from the LOCAL GOVERNMENT to the DEPARTMENT.

L. The LOCAL GOVERNMENT and their contractors/consultants/subcontractors/vendors agree to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

M. In the event this Agreement is in excess of \$25,000.00 (TWENTY-FIVE THOUSAND DOLLARS AND NO/100) and a term for a period of more than one (1) year, the provisions of Section 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.”

N. The DEPARTMENT'S performance and obligation to pay under this contract 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 notice to the LOCAL GOVERNMENT to that effect.

#### **4. COMPLIANCE WITH LAWS**



A. The LOCAL GOVERNMENT shall 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. Failure by the LOCAL GOVERNMENT to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the DEPARTMENT.

B. The LOCAL GOVERNMENT shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof. The LOCAL GOVERNMENT shall not discriminate on the grounds of race, color, religion, sex or national origin in the performance of work under this Agreement.

C. No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch, or a state agency.

D. The LOCAL GOVERNMENT and the DEPARTMENT agree that the LOCAL GOVERNMENT, its employees, and subcontractors are not agents of the DEPARTMENT as a result of this Contract.

## **5. TERMINATION AND DEFAULT**

A. This Agreement may be canceled by the DEPARTMENT in whole or in part at any time the interest of the DEPARTMENT requires such termination. The DEPARTMENT also reserves the right to seek termination or cancellation of this Agreement in the event the LOCAL GOVERNMENT shall be placed in either voluntary or involuntary bankruptcy. The DEPARTMENT further reserves the right to terminate or cancel this Agreement in the event an assignment is made for the benefit of creditors.

B. If the DEPARTMENT determines that the performance of the LOCAL GOVERNMENT is not satisfactory, the DEPARTMENT shall have the option of (a) immediately terminating the Agreement, or (b) notifying the LOCAL GOVERNMENT of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or (c) taking whatever action is deemed appropriate by the DEPARTMENT.

C. If the DEPARTMENT requires termination of the Agreement for reasons other than unsatisfactory performance of the LOCAL GOVERNMENT, the DEPARTMENT shall notify the LOCAL GOVERNMENT of such termination, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

D. If the Agreement is terminated before performance is completed, the LOCAL GOVERNMENT shall be paid only for that work satisfactorily performed for which costs can be substantiated. All work in progress within the DEPARTMENT's right-of-way will become the property of the DEPARTMENT and will be turned over promptly by the LOCAL GOVERNMENT.

## **6. MISCELLANEOUS**

A. In no event shall the making by the DEPARTMENT of any payment to the LOCAL GOVERNMENT constitute or be construed as a waiver by the DEPARTMENT of any breach of covenant or any default which may then exist, on the part of the LOCAL GOVERNMENT, and the making of such payment by the DEPARTMENT while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the DEPARTMENT with respect to such breach or default.

B. 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.

C. This Agreement shall be effective upon execution by both parties and shall continue in effect and be binding on the parties until the Project is completed, any subsequent litigation is complete and terminated, final costs are known, and legislatively appropriated reimbursements, if approved, are made by the DEPARTMENT.

D. **PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. An entity or affiliate who has been placed on the discriminatory vendor list may not

submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

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

i) 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

ii) 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.

F. All notices required pursuant to the terms hereof shall be sent by First Class United States Mail. Unless prior written notification of an alternate address for notices is sent, all notices shall be sent to the following addresses:

**Points of Contact:**

**DEPARTMENT**

Holly Lopenski  
Program Coordinator  
719 South Woodland Boulevard, M.S. 4-520  
DeLand, Florida 32720-6834  
PH: 386-943-5520  
[Holly.Lopenski@dot.state.fl.us](mailto:Holly.Lopenski@dot.state.fl.us)

Seta Koroitamudu  
Design Project Manager/MS 594  
420 West Landstreet Road  
Orlando, Florida 32824  
PH: (407) 384-4602  
[Seta.Koroitamudu@dot.state.fl.us](mailto:Seta.Koroitamudu@dot.state.fl.us)

Vince Vacchiano  
Construction Project Manager/MS 3-506  
719 South Woodland Boulevard  
DeLand, Florida 32720-6834  
PH: (386) 943-5406  
[vincent.vacchiano@dot.state.fl.us](mailto:vincent.vacchiano@dot.state.fl.us)

**LOCAL GOVERNMENT**

Mehul J. Parekh, P.E.  
Chief Engineer  
Roads & Drainage Division  
Orange County Public Works Department  
4200 South John Young Parkway  
Orlando, FL 32839  
PH: 407-836-7735  
Mehul.Parekh@ocfl.net

IN WITNESS WHEREOF, the LOCAL GOVERNMENT has executed this Agreement  
this \_\_\_\_ day of JAN 10 2017, 2017, and the DEPARTMENT has executed this Agreement  
this 27th day of January, 2017.

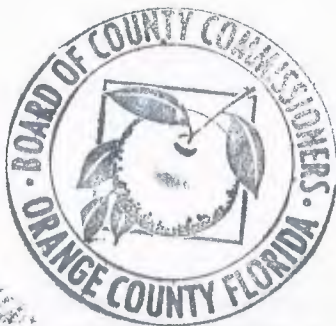
**ORANGE COUNTY, FLORIDA**  
By: **BOARD OF COUNTY COMMISSIONERS**

By: *Teresa Jacobs*  
Teresa Jacobs  
Orange County Mayor

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

By: *Katie Smith*  
Deputy Clerk

Print Name: Katie Smith



**STATE OF FLORIDA**  
**DEPARTMENT OF TRANSPORTATION**

By: *Frank J. O'Dea, P.E.*  
Frank J. O'Dea, P.E.  
Director of Transportation Development

Attest:

*Michael Hujar*  
Executive Secretary

Legal Review:

*[Signature]*  
FDOT Attorney

Financial Provisions Approved by  
the Office of Comptroller

*N/A*

Authorization Received From  
The Comptroller's Office As  
To Availability of Funds:

*1/13/2017*

## **Exhibit “A”**

### **SCOPE OF SERVICES**

#### **Financial Management Number: 439081-1-58-01**

The project area is located along Fairvilla Road and on SR 50 in west Orange County to primarily relieve flooding on Barry Street. The project extent is within Section 29, Township 22S, and Range 29E. The project is located in the jurisdiction of the South Florida Water Management District (SFWMD), on the very south side of the Little Wekiva Drainage Basin and borders the Shingle Creek Drainage Basin. The project is located within County Commissioner District 6 and is maintained by the John Young Maintenance Facility.

Residents in this area have sustained yard and street flooding for long periods during storm events. Currently a solution is being sought to alleviate this problem and the proposed solution for the project includes the upsizing of an existing 15-inch pipe to an 18-inch pipe (100 LF) along Fairvilla Road, six existing 18-inch pipes along Fairvilla Road to 30-inch pipes (680 LF), and the existing 18-inch SR 50 cross drain to include an additional 30-inch pipe (100 LF), to improve the northern hydraulic connection of the Fairvilla Road drainage network to the SR 50 storm sewer system, which ultimately discharges to Lake Lawne. The 30-inch pipe under SR 50 will be constructed via jack and bore to minimize impacts to SR 50 during construction. The improvements will also include approximately 12 new drainage structures as well as the replacement of driveways along Fairvilla Road impacted during construction. These improvements reduce stages along Fairmont Street, Fairvilla Road, Barry Street, and Irene Street. Minor increases are reflected in total volume and peak discharge to Lake Lawne. Utility coordination will be performed to resolve any identified conflicts with existing utilities. An environmental resource permit for construction will be obtained from SJRWMD.

The LOCAL GOVERNMENT shall assume perpetual maintenance responsibility for all drainage system improvements, including the proposed 30” pipe under SR 50, constructed within the scope of this Project. The LOCAL GOVERNMENT shall perform all ordinary restoration work to adjoining property made necessary due to the drainage system improvements, exclusive of property damage which cost of damages are to be the sole responsibility of the LOCAL

GOVERNMENT or its Contractor stated herein. The LOCAL GOVERNMENT shall perform all construction work associated with this Project. The LOCAL GOVERNMENT shall have responsibility for any adverse consequences of this Project including, but not limited to, handling of all complaints, correcting any deficiencies, and performance of any remedial work. The DEPARTMENT shall review such plans and shall perform such inspections as may be required by the Florida Department of Transportation.

In the event the LOCAL GOVERNMENT should, for whatever reason, fail to perform adequate maintenance as is necessary to ensure the integrity of the facilities constructed within the DEPARTMENT's right-of-way, the DEPARTMENT may, at its option, after thirty (30) days written notice to the LOCAL GOVERNMENT, perform the maintenance with its own forces or a contractor and receive reimbursement for such work from the LOCAL GOVERNMENT.

## **Exhibit “B”**

### **METHOD OF COMPENSATION**

#### **Financial Management Number: 439081-1-58-01**

For satisfactory completion of all services detailed in Exhibit “A” (Scope of Work) of this Agreement, the DEPARTMENT will compensate the LOCAL GOVERNMENT an amount not to exceed **\$50,000.00 (Fifty Thousand Dollars and No/100)**, or up to Fifty Percent (50%) of the actual project costs incurred, whichever is less, excluding LOCAL GOVERNMENT overhead.

The LOCAL GOVERNMENT may receive progress payments for actual costs incurred for deliverables based on a percentage of services that have been completed, approved and accepted to the satisfaction of the DEPARTMENT when properly supported by detailed invoices and acceptable evidence of payment. The final balance due under this Agreement will be reimbursed upon the completion of all Project services, receipt of final construction cost documentation and proper submission of a detailed invoice and when the Project has been inspected, approved and accepted to the satisfaction of the DEPARTMENT in writing.



## **Exhibit “C”**

### **ESTIMATED PROJECT PRODUCTION SCHEDULE** **Financial Management Number: 439081-1-58-01**

Plans to be finalized by the end of January, 2017

Duration of Procurement for Construction will be approximately 3 months after design plans are approved

Construction to begin approximately June, 2017

Construction to be completed by January 31, 2020

## **Exhibit "D"**

### **TERMS & CONDITIONS OF CONSTRUCTION** **Financial Management Number: 439081-1-58-01**

1. The LOCAL GOVERNMENT is authorized, subject to the conditions set forth herein, to enter DEPARTMENT right-of-way to perform all activities necessary for the construction of the Project (as described more fully in Exhibit "A"). The Project shall be constructed in accordance with construction plans and specifications to be approved by the DEPARTMENT and consistent with the requirements of the DEPARTMENT. The plans shall include an appropriate plan for maintenance of traffic. Should any significant (as defined by §4-3 of Standard Specifications for Road and Bridge Construction, 2016, and as amended from time to time) changes to the plans be required during construction of the Project, the LOCAL GOVERNMENT shall be required to notify the DEPARTMENT of the changes and receive approval from the DEPARTMENT prior to the changes being constructed. The DEPARTMENT reserves the right to adjust the plans to meet the requirements of permits. The LOCAL GOVERNMENT shall be responsible to maintain the area of the Project at all times during construction of the Project. All payment and performance bonds shall name the DEPARTMENT as an additional obligee. All warranties on any product or material used in construction of said Project shall be in favor of the obligee. The LOCAL GOVERNMENT shall assure that the Engineer of Record performs all necessary post-design services that may be required.

2. The LOCAL GOVERNMENT shall have the affirmative responsibility to locate all existing utilities, both aerial and underground and that all utility locations shall be represented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility. The LOCAL GOVERNMENT shall be obligated to design around any utility installation for which the conflict cannot be resolved. Said utility work shall be deemed to be undertaken on behalf of and for the benefit of the DEPARTMENT and the LOCAL GOVERNMENT shall assure that utility work schedules are obtained for the Project.

3. The work performed pursuant to this Agreement may require authorization under the Clean Water Act, by the U.S. Environmental Protection Agency for Storm Water Discharges from construction sites. The LOCAL GOVERNMENT is responsible for obtaining the National Pollutant Discharge Elimination System Permit and all other necessary permits for construction of the Project. When applicable, such permits will be processed in the name of the DEPARTMENT; however, in such event, the LOCAL GOVERNMENT will comply with all terms and conditions of such permit in construction of the subject facilities.

4. This Agreement shall act to supersede the normal requirements of the LOCAL GOVERNMENT to secure separate DEPARTMENT permits for drive-way connection, right-of-way utilization, storm-water discharge and utilities and this Agreement is deemed to constitute such permits.

5. It is expressly agreed by the parties that this Agreement creates a permissive use only and that neither the granting of the permission herein to use DEPARTMENT and/or LOCAL GOVERNMENT right-of-way nor the placing of facilities upon DEPARTMENT and/or

LOCAL GOVERNMENT land shall operate to create or vest any property right in the LOCAL GOVERNMENT except as otherwise provided in separate agreements.

6. The DEPARTMENT shall appoint and authorize a single individual to serve as the DEPARTMENT'S representative to coordinate and manage the DEPARTMENT review of LOCAL GOVERNMENT activities pursuant to this Agreement. The LOCAL GOVERNMENT shall provide a current construction schedule to the DEPARTMENT'S representative and shall notify the representative at least 48 hours in advance of starting proposed work and again immediately upon completion of work.

7. The LOCAL GOVERNMENT shall utilize only a DEPARTMENT prequalified prime contractor for the Project.

8. The LOCAL GOVERNMENT shall hire a DEPARTMENT Pre-qualified Consultant Construction Engineering Inspection firm (CCEI) to perform construction oversight including the obligation to assure that any and all verification testing is performed in accordance with the 2016 Standard Specifications for Road and Bridge Construction, as amended from time to time. The DEPARTMENT shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. The CCEI firm shall not be the same firm as that of the Engineer of Record for the Project.

9. The LOCAL GOVERNMENT shall require the LOCAL GOVERNMENT'S contractor to post a bond in accordance with Section 337.18, Florida Statutes.

10. The LOCAL GOVERNMENT shall not modify the intent of the design plans or the maintenance of traffic concept without appropriate submission by the Engineer of Record (the "Engineer") and approval by the DEPARTMENT. Provided, however, in the event of an emergency, the LOCAL GOVERNMENT shall immediately make any necessary changes and notify the DEPARTMENT and the Engineer of Record after the modifications.

11. The DEPARTMENT may request and shall be granted a conference with the LOCAL GOVERNMENT and at the LOCAL GOVERNMENT'S option, the LOCAL GOVERNMENT'S CEI firm, to discuss any part of the Project activities that the DEPARTMENT determines to be inconsistent with the approved design plans and specifications. The LOCAL GOVERNMENT will monitor the corrective action and provide the DEPARTMENT status reports at such intervals as are reasonable, based on the corrective action undertaken, and the DEPARTMENT may, but is not obligated to, review independently the progress of the corrective action. Provided however, if the DEPARTMENT determines a condition exists which threatens the public's safety, the DEPARTMENT may, at its discretion, issue an immediate stop work order.

12. The LOCAL GOVERNMENT shall have the continuous obligation to monitor the maintenance of traffic and construction operation during the course of the Project so that the safe and efficient movement of the traveling public is maintained. The LOCAL GOVERNMENT is further obligated to make such changes to the maintenance of traffic plans as may be necessary. During construction, the LOCAL GOVERNMENT shall take measures, including the placing and display of safety devices that are necessary in order to safely conduct the public through the Project area in accordance with the latest and current version of the Federal Highway Administration Manual on Uniform Traffic Control Devices for Streets and

Highways, and the DEPARTMENT'S 2016 Standard Specifications for Road and Bridge construction and the DEPARTMENT'S 2016 Roadway and Traffic Design Standards, and as those sources may be amended from time to time. The LOCAL GOVERNMENT may assign the responsibility of this paragraph to the Contractor or its' CEI for the construction of the Project.

13. Prior to the Project bidding, the LOCAL GOVERNMENT shall provide a project schedule that includes, at a minimum, the date the Project will be advertised for bid, the bid opening date, the award date and the date of the preconstruction conference.

14. It is understood and agreed that the rights and privileges herein set out are granted only to the extent of the DEPARTMENT'S right, title and interest in the land to be entered upon and used by the LOCAL GOVERNMENT. Any additional right or privilege required to undertake and to complete construction of the Project shall be secured by the LOCAL GOVERNMENT.

15. Upon completion of the work in accord with the Plans, the LOCAL GOVERNMENT shall furnish a set of "as-built" plans prepared in accordance with the FDOT Construction Project Administration Manual, Chapter 5.12 (FDOT Procedure #700-000-000). The "as-built" plans shall be certified by the Engineer of Record/CEI that the necessary improvements have been completed in accordance with the Plans as the same may be modified in accord with the terms of this Agreement. This certification shall include a statement that necessary inspections, tests, and physical measurements have been made, and that all materials entering into the work conform to the Plans, conform to the applicable specifications contained in the Standard Specifications for Road and Bridge Construction, 2016 edition as amended, or otherwise conform to or meet generally accepted professional practices. Additionally, the LOCAL GOVERNMENT shall assure that all post construction survey monumentation required by Florida Statutes is completed and evidence of such is provided to the DEPARTMENT in a manner acceptable to the DEPARTMENT. Upon acceptance of right-of-way documents, then the Project shall be deemed accepted by and turned over to the DEPARTMENT.

16. In the event contaminated soil is encountered by the LOCAL GOVERNMENT or anyone within the DEPARTMENT right of way, the LOCAL GOVERNMENT shall immediately cease work and notify the DEPARTMENT. The DEPARTMENT shall coordinate with the appropriate agencies and notify the LOCAL GOVERNMENT of any required action related thereto.

17. It is acknowledged by the parties that construction plans and specifications are still being prepared by the LOCAL GOVERNMENT as of the date of this Agreement. Construction of the Project will not commence until the DEPARTMENT has approved the construction plans and specifications as provided for in Paragraph 1 and all required right-of-way has been properly obtained and certified (if applicable) as such by the DEPARTMENT's Right of Way Manager.

18. If applicable, the LOCAL GOVERNMENT shall assure that load ratings are submitted on any vehicular bridge prior to the final submission of the structure plans for DEPARTMENT review. Structures shall not be opened to traffic until a signed and sealed final bridge load rating that meets the Florida legal loads standard is complete.

**Exhibit "E"**

**NOTICE OF COMPLETION**

**JOINT PARTICIPATION AGREEMENT**

Between

**THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
And ORANGE COUNTY**

**PROJECT DESCRIPTION: "Construction to Upsize Drainage Pipes on State Road 50 around  
Barry Street and Fairvilla Road"**

**FINANCIAL MANAGEMENT ID# 439081-1-58-01**

In accordance with the Terms and Conditions of the JOINT PARTICIPATION AGREEMENT,  
the undersigned hereby provides notification that the work authorized by this Agreement is  
complete as of \_\_\_\_\_, 20\_\_\_\_\_.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ENGINEER'S CERTIFICATION OF COMPLIANCE**

In accordance with the Terms and Conditions of the JOINT PARTICIPATION AGREEMENT,  
the undersigned hereby certifies that all work which originally required certification by a  
Professional Engineer has been completed in compliance with the Project construction plans and  
specifications. If any deviations have been made from the approved plans, a list of all  
deviations, along with an explanation that justifies the reason to accept each deviation, will be  
attached to this Certification. Also, with submittal of this certification, the LOCAL  
GOVERNMENT shall furnish the DEPARTMENT a set of "as-built" plans certified by the  
Engineer of Record/CEI.

By: \_\_\_\_\_, P.E.

SEAL:

Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit “F”**

**RESOLUTION**

**Financial Management Number: 439081-1-58-01**

Financial Management Number 439081-1-58-01

# RESOLUTION

*of the*

## ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS

*regarding the*

### JOINT PARTICIPATION AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION CONCERNING THE PROJECT DESCRIBED AS “CONSTRUCTION SERVICES TO ALLEVIATE FLOODING IN THE VICINITY OF STATE ROAD 50 AROUND BARRY STREET AND FAIRVILLA ROAD”

Resolution No. 2017 - M-01

**WHEREAS**, today, the Board of County Commissioners is approving a Joint Participation Agreement with the State of Florida Department of Transportation concerning a project described as “Construction Services to Alleviate Flooding in the Vicinity of State Road 50 around Barry Street and Fairvilla Road,” Financial Management Number 439081-1-58-01 (“JPA”); and

**WHEREAS**, a requirement of the JPA is that Orange County adopt a Resolution authorizing its officials to execute the JPA on its behalf.

**NOW, THEREFORE, BE IT RESOLVED BY THE ORANGE COUNTY  
BOARD OF COUNTY COMMISSIONERS:**

*Section 1. Authorization for County Mayor to Execute the JPA (Financial Management Number 439081-1-58-01).* The County Mayor is hereby authorized to execute the above referenced JPA with the FDOT on behalf of the Board of County

Commissioners and the County. Upon its execution, a copy of this Resolution shall be attached as Exhibit "F" to the JPA.

**Section 2. Effective Date.** This Resolution shall take effect on the date of its adoption.

ADOPTED this \_\_\_\_ day of JAN 10 2017, 2017.

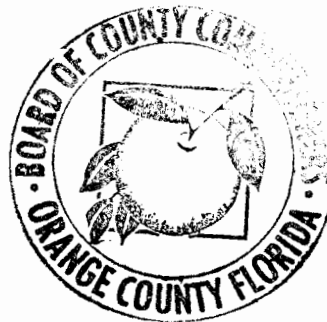
ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

By: *Teresa Jacobs*  
Teresa Jacobs, County Mayor  
*TJ*

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

By: *Katie Smith*  
Deputy Clerk  
**Katie Smith**

Print Name: \_\_\_\_\_





## **Exhibit “G”**

**Page 8 of Design Plans - Project Sketch**  
**Financial Management Number: 439081-1-58-01**

