

Memorandum



Date: May 5, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Agenda Item No. 3(B)(10)

Resolution No. R-353-20

Subject: Resolution Authorizing the County Mayor or County Mayor's Designee to Execute a Public Transportation Grant Agreement with the Florida Department of Transportation for up to \$100,000,000 State Fiscal Year 2020 New Starts Transit Program funding for the South Corridor Rapid Transit Project

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the terms of and authorize the County Mayor or County Mayor's Designee to execute a Public Transportation Grant Agreement (Agreement), in substantially the form attached hereto, with the Florida Department of Transportation (FDOT) to provide up to \$100,000,000 in State Fiscal Year (SFY) 2020 New Starts Transit Program (NSTP) funding for the planning, design and construction of the South Corridor Rapid Transit Project, hereinafter referred to as "the Project." It is further recommended that the Board authorize the receipt and expenditure of funds, as specified in the Agreement.

Scope

The South Corridor Project will traverse Commission Districts 7, 8 and 9 represented by Commissioner Xavier L. Suarez, Commissioner Daniella Levine Cava and Commissioner Dennis C. Moss, respectively. The impact of the project benefits the riding public and is therefore, countywide in nature.

Fiscal Impact/Funding Source

The estimated project cost is \$303,460,000. Under the NSTP, any Project costs incurred before acceptance into the Small Starts Project Development are not included as part of the Project. FDOT, through this Agreement, has agreed to participate in funding the Project and has budgeted and committed SFY 2020 NSTP funds not to exceed \$100,000,000, which represent 50 percent of the non-federal share of the Project cost. The County will match FDOT's share of the project cost, plus approximately \$3.46 million in pre-project development cost, bringing the County's participation to \$103,460,000 of the estimated project cost using Charter County Transportation System Surtax. The project is included in the County's Fiscal Year (FY) 2019-20 Adopted Budget and Multi-Year Capital Plan (Project No. 2000000973). The balance of project funding is being pursued through the Federal Transit Administration's (FTA) Small Starts Grant Program.

It is anticipated that Charter County Transportation Surtax (Surtax) funds may be used as the matching funds for this project. At the appropriate time, the contract intended to be funded with said matching Surtax funds, as well as any required amendments to the Five Year Plan, will be forwarded to the Citizens' Independent Transportation Trust for its review and recommendation and subsequently to this Board for its approval.

Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners
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Track Record/Monitor

The Grant Manager for this Agreement is Ed Carson, Manager, Grants Administration, Department of Transportation and Public Works.

Background

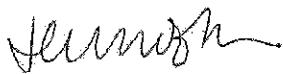
The South Dade Transitway Rapid Transit Project is a key element of the Strategic Miami Area Rapid Transit (SMART) Plan adopted by the Miami-Dade County Transportation Planning Organization (TPO) in 2016. On August 30, 2018, the TPO approved Resolutions No. R 31-18 and 32-18 which selected the Bus Rapid Transit (BRT) alternative as the Locally Preferred Alternative and amended the Transportation Improvement Program and 2040 Long Range Transportation Plan to program \$100,000,000 local funds for the Project, respectively.

On August 23, 2019, the County submitted a Small Starts application to the FTA for \$99,999,999 in federal funding for the Project. On February 10, 2020 the FTA released their Annual Report on Funding Recommendations, where the South Corridor Project received a rating of “High”, further advancing the project towards a construction grant agreement.

On October 25, 2019, a Memorandum of Understanding, attached as Exhibit M of this Agreement, was executed between the County and FDOT, whereby both parties agreed to participate in funding the Project with the understanding that the County shall be responsible for ensuring the proper project management, execution, administration and financial management of all phases of the Project and that FDOT’s responsibilities are limited to the terms outlined in the MOU.

The County is currently in the process of procuring a Design/Build Firm for the development of the Project. FDOT has requested that the County include, as part of the Design Criteria Package, two FDOT Safety Improvement Projects along the South Dade Transitway (one at the intersection of SW 136th Street and US-1 and a portion of the improvements at Quail Roost Drive west of US-1). The County and FDOT will enter into separate agreements for the additional costs of implementing the two FDOT Safety Improvement Projects, these FDOT-funded agreements will be submitted to the Board as a separate item.

The Project is to be developed within the existing public right-of-way between the Dadeland South Metrorail Station and SW 344th Street in Florida City and will include 14 new BRT stations at existing station locations and modifications to two existing terminals, one at the SW 344th Street Park-and-Ride and one at the Dadeland South Metrorail station. Improvements and modifications will include milling and resurfacing along sections of the 20-mile corridor, reconstruction of approximately 45 intersections with the implementation of new signalization with preemption, rail-like traffic control devices and Intelligent Transportation Systems. Revenue service is expected to begin by Summer 2022. The estimated completion date of the Project is Fall 2022.



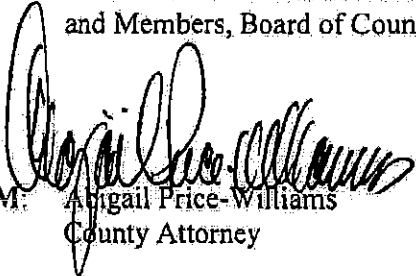
Jennifer Moon
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: May 5, 2020

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 3(B)(10)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 3(B)(10)
5-5-20

RESOLUTION NO. _____ **R-353-20**

RESOLUTION APPROVING TERMS OF AND AUTHORIZING COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO EXECUTE A PUBLIC TRANSPORTATION GRANT AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION TO PROVIDE STATE FISCAL YEAR 2020 NEW STARTS TRANSIT PROGRAM FUNDING UP TO \$100,000,000.00 FOR PLANNING, DESIGN AND CONSTRUCTION OF THE SOUTH CORRIDOR (SOUTH DADE TRANSIT) RAPID TRANSIT PROJECT WHICH WAS INCLUDED IN THE ORIGINAL PEOPLE’S TRANSPORTATION PLAN; AUTHORIZING THE RECEIPT AND EXPENDITURE OF FUNDS AS SPECIFIED IN THE AGREEMENT; AND AUTHORIZING RECEIPT AND EXPENDITURE OF ANY ADDITIONAL FUNDS SHOULD THEY BECOME AVAILABLE

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board approves the Public Transportation Grant Agreement (“Agreement”) between Miami-Dade County and the State of Florida Department of Transportation (“FDOT”), in substantially the form attached hereto and made a part hereof, to provide up to \$100,000,000.00 in State Fiscal Year 2020 New Starts Transit Program (NSTP) funds for the planning, design and construction of the South Dade Transit Rapid Transit Project.

Section 2. This Board further authorizes the County Mayor or County Mayor’s designee, to execute this Agreement and any time extensions and to receive and expend the NSTP

funds as specified in this Agreement and any additional NSTP funds should they become available, so long as no additional County matching funds are required.

Section 3. The County staff is authorized to furnish such additional information as FDOT may require in connection with the application for this project.

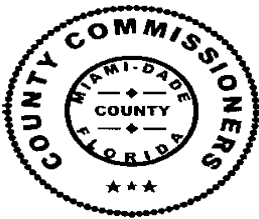
The foregoing resolution was offered by Commissioner **Audrey M. Edmonson** , who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Chairwoman	aye		
Rebeca Sosa, Vice Chairwoman	aye		
Esteban L. Bovo, Jr.	absent	Daniella Levine Cava	aye
Jose "Pepe" Diaz	aye	Sally A. Heyman	aye
Eileen Higgins	aye	Barbara J. Jordan	aye
Joe A. Martinez	aye	Jean Monestime	aye
Dennis C. Moss	aye	Sen. Javier D. Souto	aye
Xavier L. Suarez	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 5th day of May, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK



By: Melissa Adames
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to read "B. Libhaber", written over a horizontal line.

Bruce Libhaber

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**PUBLIC TRANSPORTATION
 GRANT AGREEMENT**

Form 725-000-01
 STRATEGIC
 DEVELOPMENT OGC
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Financial Project Number(s): (item-segment-phase-sequence) 444901-1-98-01 444901-1-98-02 444901-1-98-03	Fund(s): Work Activity Code/Function: 215 Federal Number/Federal Award Identification Number (FAIN) – Transit only: Federal Award Date: Agency DUNS Number: N/A	NSTP FLAIR Category: 088774 Object Code: 740100 Org. Code: 55062020629 Vendor Number: F598000573129
Contract Number: G1H79 CFDA Number: N/A CFDA Title: N/A CSFA Number: N/A CSFA Title: N/A		

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into _____ by and between the State of Florida, Department of Transportation, ("Department"), and Miami-Dade Department of Transportation and Public Works, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as Exhibit "D", Agency Resolution and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 341.051(6), Florida Statutes, to enter into this Agreement.

2. **Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Miami-Dade Dept. of Transportation and Public Works will develop and construct the South Corridor (South Dade Transitway) Rapid Transit Project, as further described in Exhibit "A", Project Description and Responsibilities, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.

3. **Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

- Aviation
- Seaports
- Transit
- Intermodal
- Rail Crossing Closure
- Match to Direct Federal Funding (Aviation or Transit)
(Note: Section 15 and Exhibit G do not apply to federally matched funding)
- Other

4. **Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

- X Exhibit A: Project Description and Responsibilities
- X Exhibit B: Schedule of Financial Assistance
 - *Exhibit B1: Deferred Reimbursement Financial Provisions
 - *Exhibit B2: Advance Payment Financial Provisions
 - *Exhibit C: Terms and Conditions of Construction
- Exhibit D: Agency Resolution
- X Exhibit E: Program Specific Terms and Conditions
- X Exhibit F: Contract Payment Requirements
- *Exhibit G: Audit Requirements for Awards of State Financial Assistance

X

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**PUBLIC TRANSPORTATION
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- *Exhibit H: Audit Requirements for Awards of Federal Financial Assistance
*Additional Exhibit(s): - Exhibit L - FTA NEPA Concurrence Letter

- Exhibit M - Memorandum of Understanding between FDOT District 6 and Miami-Dade County for the South Corridor (South-Dade Transitway) Rapid Transit Project.

*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

5. **Time.** Unless specified otherwise, all references to "days" within this Agreement refer to calendar days.
6. **Term of Agreement.** This Agreement shall commence upon full execution by both Parties ("Effective Date") and continue through December 31, 2022. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

- a. If this box is checked the following provision applies:

Unless terminated earlier, work on the Project shall commence no later than the day of, or within days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

7. **Amendments, Extensions, and Assignment.** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.
8. **Termination or Suspension of Project.** The Department may, by written notice to the Agency, suspend any or all of the Department's obligations under this Agreement for the Agency's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.
- a. Notwithstanding any other provision of this Agreement, if the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
- c. If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department's maximum financial assistance. If any portion of the Project is located on the Department's right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.
- d. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.

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- e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.

9. Project Cost:

- a. The estimated total cost of the Project is \$300,000,000. This amount is based upon Exhibit "B", **Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in Exhibit "B", **Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.
- b. The Department agrees to participate in the Project cost up to the maximum amount of \$100,000,000 and, the Department's participation in the Project shall not exceed 33.33% of the total eligible cost of the Project, and as more fully described in Exhibit "B", **Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

10. Compensation and Payment:

- a. **Eligible Cost.** The Department shall reimburse the Agency for allowable costs incurred as described in Exhibit "A", **Project Description and Responsibilities**, and as set forth in Exhibit "B", **Schedule of Financial Assistance**.
- b. **Deliverables.** The Agency 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 and the quantifiable, measurable, and verifiable units of deliverables are described more fully in Exhibit "A", **Project Description and Responsibilities**. Modifications to the deliverables in Exhibit "A", **Project Description and Responsibilities** requires a formal written amendment.
- c. **Invoicing.** Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in Exhibit "A", **Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.
- d. **Supporting Documentation.** Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in Exhibit "A", **Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in Exhibit "F", **Contract Payment Requirements**.
- e. **Travel Expenses.** The selected provision below is controlling regarding travel expenses:
- X Travel expenses are NOT eligible for reimbursement under this Agreement.

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Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

- f. **Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within sixty (60) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract noncompliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

- g. **Invoice Processing.** An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

If a payment is not available within 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 Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency 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.

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

- h. **Records Retention.** The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the 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 years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency'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.
- i. **Progress Reports.** Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department 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 and of details thereof.

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- j. **Submission of Other Documents.** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department may require as listed in Exhibit "E", **Program Specific Terms and Conditions** attached to and incorporated into this Agreement.
- k. **Offsets for Claims.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- l. **Final Invoice.** The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- m. **Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See Exhibit "B", **Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.
- n. **Limits on Contracts Exceeding \$25,000 and Term more than 1 Year.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 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 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 and which have a term for a period of more than 1 year."
- o. **Agency Obligation to Refund Department.** Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- p. **Non-Eligible Costs.** In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred

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after the expiration of the Agreement, costs that are not provided for in Exhibit "A", Project Description and Responsibilities, and as set forth in Exhibit "B", Schedule of Financial Assistance, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the Project commencement and final Invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved in writing by the Department. Specific unallowable costs may be listed in Exhibit "A", Project Description and Responsibilities.

11. General Requirements. The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

a. Necessary Permits Certification. The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.

b. Right-of-Way Certification. If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.

c. Notification Requirements When Performing Construction on Department's Right-of-Way. In the event the cost of the Project is greater than \$250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:

- i. Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or
- ii. Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.

d. If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).

e. If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):

- i. Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).
- ii. Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.
- iii. Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.

f. Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards. The Agency shall comply and require its contractors and subcontractors to comply with all terms:

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and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

- g. Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

12. Contracts of the Agency:

- a. Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.
- b. Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in Exhibit "B", **Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in Exhibit "A", **Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.
- c. Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, **Consultants' Competitive Negotiation Act**. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the **Consultants' Competitive Negotiation Act**.
- d. Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors

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and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

13. Maintenance Obligations. In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:

- a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

14. Sale, Transfer, or Disposal of Department-funded Property:

- a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.

- b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:

- i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.
- ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.
- iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.
- iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.

- c. The terms of provisions "a" and "b" above shall survive the termination of this Agreement:

- i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.
- ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

15. Single Audit. The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

Federal Funded:

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by

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Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

- b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:
- i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. Exhibit "H", Audit Requirements for Awards of Federal Financial Assistance, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
 - ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.
 - iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from the Agency's resources obtained from other than Federal entities).
 - iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.

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- v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency's audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:
1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
 2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
 3. Wholly or partly suspend or terminate the Federal award;
 4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
 5. Withhold further Federal awards for the Project or program;
 6. Take other remedies that may be legally available.
- vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us

State Funded:

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.
- b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:

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- i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "G", Audit Requirements for Awards of State Financial Assistance, to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
- ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (i.e., the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).
- iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0405
FDOTSingleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

- v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as

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applicable.

- vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.
 - vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
 - viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

16. Notices and Approvals. Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

17. Restrictions, Prohibitions, Controls and Labor Provisions:

- a. **Convicted Vendor List.** 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, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide 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.

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- c. **Non-Responsible Contractors.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.
- d. **Prohibition on Using Funds for Lobbying.** No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.
- e. **Unauthorized Aliens.** The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. **Procurement of Construction Services.** If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.
- g. **E-Verify.** The Agency shall:
 - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and
 - ii. Expressly require any 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 subcontractor during the contract term.
- h. **Design Services and Construction Engineering and Inspection Services.** If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

18. Indemnification and Insurance:

- a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any subcontractor, in connection with this Agreement. Additionally, to the extent permitted by law and as limited by and pursuant to the provisions of Section 768.28, Florida Statutes, the Agency shall indemnify and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Agency's sovereign immunity. Additionally, the Agency agrees to include the following indemnification in all

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contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Agency's sovereign immunity."

- b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.

- c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

- d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.
- e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

19. Miscellaneous:

- a. **Environmental Regulations.** The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.
- b. **Non-Admission of Liability.** In no event shall the making by the Department of any payment to the Agency 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 Agency 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.
- c. **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- d. **Agency not an agent of Department.** The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- e. **Bonus or Commission.** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- f. **Non-Contravention of State Law.** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that

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appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

- g. Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- h. Federal Award Identification Number (FAIN).** If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).
- i. Inspector General Cooperation.** The Agency agrees 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.
- j. Law, Forum, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

AGENCY Miami-Dade Department of
Transportation and Public Works

By: _____

Name: _____

Title: _____

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: _____

Name: _____

Title: D6 - Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
Legal Review:

Tel: raymond.freeman@dot.state.fl.us

**FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL**

G1H79

12/10/2019

CONTRACT INFORMATION

Contract:	G1H79
Contract Type:	GD - GRANT DISBURSEMENT (GRANT)
Method of Procurement:	G - GOVERNMENTAL AGENCY (287.057,F.S.)
Vendor Name:	MIAMI-DADE COUNTY FLORIDA
Vendor ID:	F598000573129
Restrictive Date of This Agreement:	12/09/2019
Ending Date of This Agreement:	12/31/2022
Contract Total/Budgetary Ceiling:	cl = \$100,000,000.00
Description:	South Corridor - South Dade Transitway - Rapid Transit Project

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 12/10/2019

Action:	Original
Reviewed or Approved:	APPROVED
Organization Code:	55062020829
Expansion Option:	A2
Object Code:	740100
Amount:	\$100,000,000.00
Financial Project:	44490119901
Work Activity (FCT):	215
CPDA:	
Fiscal Year:	2020
Budget Entry:	55100100
Category/Category Year:	088774/20
Amendment ID:	0001
Sequence:	00
User Assigned ID:	
Enc Line (s) Status:	0001/04

Total Amount: \$100,000,000.00

EXHIBIT A

Project Description and Responsibilities

A. Project Description (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): Miami-Dade Dept. of Transportation and Public Works will develop and construct the South Corridor (South Dade Transitway) Rapid Transit Project.

The Department (FDOT) is providing matching funds contingent upon the award of the grant by the FTA to DTPW for this project.

B. Project Location (limits, city, county, map): Miami-Dade DTPW/Miami, FL/Miami-Dade

C. Project Scope (allowable costs; describe project components, improvement type/service type, approximate timeline, project schedule, project size): Develop the proposed Bus Rapid Transit (BRT) project entirely within the existing public right of way generally defined by the existing South Dade Transitway corridor between the Dadeland South Metrorail Station and SW 344 Street in Florida City (about 20 miles) including adjoining stations except at cross streets requiring modifications to bring the intersection to final condition. The project will include 14 new BRT stations at existing station locations, demolition of existing stations and ancillary structures, rehabilitation of about 16 existing Transitway stations that will remain in place and roadway improvements at new BRT stations to allow vehicle movements. The scope also includes completion of design, construction administration, implementation of new signalization with preemption at intersections, intersection traffic control devices including rail-like devices and infrastructure, visual warning devices and Intelligent Transportation Systems.

D. Deliverable(s): Miami-Dade Dept. of Transportation and Public Works will develop and construct the South Corridor (South Dade Transitway) Rapid Transit Project. The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

Plans and Specifications.

In the event that this Agreement involves the purchasing of capital equipment or the constructing and equipping of facilities, where plans and specifications have been developed, the Agency shall provide an Engineer's Certification that certifies Project compliance as listed below, or in Exhibit "C" if applicable. For the plans, specifications, construction contract documents, and any and all other engineering, construction, and contractual documents produced by the Engineer, hereinafter collectively referred to as "plans", the Agency will certify that:

- a) All plans comply with federal, state, and professional standards as well as minimum standards established by the Department as applicable;
- b) The plans were developed in accordance with sound engineering and design principles, and with generally accepted professional standards;
- c) The plans are consistent with the intent of the Project as defined in Exhibits "A" and "B" of this Agreement as well as the Scope of Services; and
- d) The plans comply with all applicable laws, ordinances, zoning and permitting requirements, public notice requirements, and other similar regulations.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**PUBLIC TRANSPORTATION
GRANT AGREEMENT EXHIBITS**

Form 725-000-02
STRATEGIC
DEVELOPMENT
OGC 10/10

The Agency, upon request by the Department, shall provide plans and specifications to the Department for review and approvals.

Project Schedule/ Phase Reviews/Submittals

Within ten (10) days after the Notice-To-Proceed, and prior to MIAMI-DADE COUNTY beginning work, MIAMI-DADE COUNTY shall provide a detailed project activity/event schedule for construction.

As a key stakeholder, the DEPARTMENT's review process is to review all draft and final PROJECT documents, such as conceptual plans, environmental documents, permit applications, etc., for the purpose of confirming that the DEPARTMENT's needs and requirements related to the design and construction of the facility are met.

The documents are to be submitted to FDOT Modal Development Administrator (SMART Plan PM) via e-mail, FTA links, or any viable means based on the size of the document. Once the files are received they will be distributed to various department leads through the Electronic Review Comment (ERC) system for review and comments to be provided.

The DEPARTMENT will review draft documents once and complete a backcheck to assure comments have been implemented and addressed. Only upon confirmation of resolution of any and all pending comments, will the DEPARTMENT consider the document final.

For the purpose of scheduling, MIAMI-DADE COUNTY shall allow the Department a review period concurrent and equivalent in length of time with the COUNTY'S review for each phase submittal and any other submittals as appropriate.

The schedule shall indicate all required submittals. The schedule shall be submitted in an FDOT system-compatible format.

The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

E. Unallowable Costs (Including but not limited to):

F. Transit Operating Grant Requirements (Transit Only):

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**PUBLIC TRANSPORTATION
 GRANT AGREEMENT EXHIBITS**

Form 726-600-02
 STRATEGIC
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EXHIBIT B

Schedule of Financial Assistance

FUNDS AWARDED TO THE AGENCY AND REQUIRED MATCHING FUNDS PURSUANT TO THIS AGREEMENT
 CONSIST OF THE FOLLOWING:

A. Fund Type and Fiscal Year:

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
444901-1-98-01	NSTP	088774	20	740100	N/A	N/A	\$100,000.00 0
Total Financial Assistance							\$100,000.00 0

B. Estimate of Project Costs by Grant Phase:

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Planning	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Environmental/Design/Construction	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Capital Equipment	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Match to Direct Federal Funding	\$100,000,000	\$100,000,000	\$100,000,000	\$300,000,000	33.33	33.33	33.33
Mobility Management (Transit Only)	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Totals	\$100,000,000	\$100,000,000	\$100,000,000	\$300,000,000			

*Shifting items between these grant phases requires execution of an Amendment to the Public Transportation Grant Agreement.

BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Raymond Freeman

Department Grant Manager Name

Signature

Date

STATE OF FLORIDA DEPARTMENT OF
TRANSPORTATION
**PUBLIC TRANSPORTATION
GRANT AGREEMENT EXHIBITS**

Form 726-000-02
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EXHIBIT D

AGENCY RESOLUTION

PLEASE SEE ATTACHED

EXHIBIT E

**PROGRAM SPECIFIC TERMS AND CONDITIONS — TRANSIT
(New Starts Transit Program and Construction)**

This exhibit forms an integral part of the Agreement between the Department and the Agency.

Conformance with Enabling Legislation. This Agreement is in conformance with Section 341.051(6), F.S. and Section 341.051(5)(a), F.S.

By this agreement, the Department commits funding up to 50% of the non-federal share of the capital costs of an urban fixed-guideway or bus rapid transit (BRT) project, subject to the commitment of local funds in an amount equal to or greater than the state contribution. If this project is seeking Federal Transit Administration (FTA) New Starts or Small Starts funding, the project shall have been approved by the FTA for entry into the Project Development phase of the Capital Investment Grant Program.

Department participation in the project is limited to project development, engineering/final design, right-of-way acquisition, vehicle acquisition, Construction Engineering and Inspection and construction. New Starts match projects, require FTA approval of entry into the engineering phase prior to costs being incurred for this phase. A Full Funding Grant Agreement/Project Construction Grant Agreement must be executed with the FTA prior to incurring construction and vehicle acquisition costs.

Transit Vehicle Inventory Management. The agency will follow the Department's Transit Vehicle Inventory Management Procedure (725-030-0251), which outlines the requirements for continuing management control, inventory transfer and disposal actions. This procedure pertains ONLY to capital procurements of rolling stock using the FTA Section 5310, Section 5311, Section 5316, and Section 5317 programs as the funding source, or where the Department participates in 50% or more of the public transit vehicle's purchase price. This may include vehicles purchased under the State Transit Block Grant Program, State Transit Corridor Program, State Transit Service Development Program, or other applicable Department programs.

TERMS AND CONDITIONS OF CONSTRUCTION

1. Design and Construction Standards and Required Approvals.

- a. The Agency understands that it is responsible for the preparation and certification of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project or, if applicable, the Agency shall require their design-build contractor or construction management contractor to hire a qualified consultant for the design phase of the Project.
- b. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Agency shall not begin the construction phase of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department's Project Manager, Raymond Freeman (email: Raymond.Freeman@dot.state.fl.us) or from an appointed designee. Any construction phase work performed prior to the execution of this required Notice to Proceed is not subject to reimbursement.

- c. The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Project Manager prior to bidding or commencing construction of the Project.
- d. The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with applicable law(s).
- e. The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that the construction work will meet all applicable Agency and Department standards.
- f. Upon completion of the work authorized by this Agreement, the Agency 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 Engineer's Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached to this Exhibit. 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 or specifications, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

2. Construction on the Department's Right of Way. If the Project involves construction on the Department's right-of-way, then the following provisions apply to any and all portions of the Project that are constructed on the Department's right-of-way:

- a. The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project. The Agency must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or the Contractor exhibits past project experience in the last five years that are comparable in scale, composition, and overall quality to the site characterized within the scope of services of this Project.
- b. Construction Engineering Inspection (CEI) services will be provided by the Agency by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Notwithstanding the foregoing, the Department may issue a written waiver of the CEI requirement for portions of Projects involving the construction of bus shelters, stops, or pads.

- c. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction, the Department Design Standards, and the Manual of Uniform Traffic Control Devices (MUTCD). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, Florida Design Manual, Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book"), and the Department Traffic Engineering Manual. The Agency will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Agency shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Agency shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.
- d. The Agency shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Agency shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is Raymond Freeman.
- e. The Agency shall be responsible for monitoring construction operations and the maintenance of traffic (MOT) throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Agency is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Agency that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
- f. The Agency shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
- g. The Agency will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
- h. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Agency, except as may otherwise be provided in separate agreements. The Agency shall not acquire any right, title, interest or estate in Department right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Agency's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, F.S .

- i. The Agency shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.
- j. The Agency shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.
- k. The Agency shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the United States Coast Guard and local governmental entities.
- l. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Agency. The Agency shall bear all construction delay costs incurred by the Department.
- m. The Agency shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
- n. The Agency will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
- o. The acceptance procedure will include a final "walk-through" by Agency and Department personnel. Upon completion of construction, the Agency will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Agency shall remove its presence, including, but not limited to, all of the Agency's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
- p. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Agency. The Agency shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Agency and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Agency fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Agency's sole cost and expense, without Department liability to the Agency for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice within thirty (30) days of the date of the invoice.
- q. The Agency shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Agency shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.

- r. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Agency to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.
- s. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
- t. Restricted hours of operation will be as follows, unless otherwise approved by the Department's District Construction Engineer or designee (insert hours and days of the week for restricted operation): N/A
- u. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contact info:

Tish Burgher
Communications Manager
Florida Department of Transportation, District Six
1000 NW 111 Avenue, Room 6134
Miami, FL 33172
O: 305-470-5277

Tish.Burgher@dot.state.fl.us

Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)

3. **Engineer's Certification of Compliance.** The Agency shall complete and submit the following Notice of Completion and if applicable Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

ENGINEER'S CERTIFICATION OF COMPLIANCE

**PUBLIC TRANSPORTATION GRANT AGREEMENT
BETWEEN
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and _____**

PROJECT DESCRIPTION: _____

DEPARTMENT CONTRACT NO.: _____

FINANCIAL MANAGEMENT NO.: _____

In accordance with the Terms and Conditions of the Public Transportation Grant Agreement, the undersigned 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 Agency shall furnish the Department a set of "as-built" plans for construction on the Department's Right of Way certified by the Engineer of Record/CEI.

By: _____, P.E.

Name: _____

Date: _____

SEAL:

EXHIBIT F

**Contract Payment Requirements
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts**

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) **Salaries:** A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) **Fringe Benefits:** Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) **Travel:** Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) **Other direct costs:** Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) **In-house charges:** Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) **Indirect costs:** If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address [http://www.myfloridacfo.com/Division/AA/Manuals/Auditing/Reference Guide For State Expenditures.pdf](http://www.myfloridacfo.com/Division/AA/Manuals/Auditing/Reference%20Guide%20For%20State%20Expenditures.pdf).



U.S. Department
of Transportation
Federal Transit
Administration

REGION IV
Alabama, Florida, Georgia,
Kentucky, Mississippi,
North Carolina, Puerto
Rico, South Carolina,
Tennessee, Virgin Islands

230 Peachtree St.,
N.W., Suite 1400
Atlanta, GA 30303
404-689-8600

December 18, 2019

Dr. Jie Bian, Ph.D.
Miami-Dade County Department of
Transportation and Public Works (DTPW)
701 NW 1st Court, 15th Floor
Miami, Florida 33136

RE: Miami-Dade SMART Plan South Corridor Bus Rapid Transit (BRT) – Categorical Exclusion (CE)

Dear Dr. Bian:

The Federal Transit Administration (FTA) received the additional information for the subject project you provided on December 3, 2019, which FTA had requested on a project call held on October 30, 2019. The FTA has reviewed the submitted revised traffic study and the fully executed Memorandum of Understanding (MOU) between the Florida Department of Transportation (FDOT) and DTPW, dated October 25, 2019, and has determined that the NEPA Class of Action for the subject project must be revised to a (CE) per 23 CFR 771.118(d), (aka "documented CE"). This determination also encompasses the separate project to construct a parking structure at 168th St. and the Transitway because it is within the same NEPA scope.

The documentation requirement for this CE has been met with the previously discussed MOU and revised traffic study. No additional documentation is required for the parking structure project. This concludes the environmental review portion of FTA's grantmaking process.

Please note that FTA's determination is predicated upon FDOT and DTPW adhering to the assignments and responsibilities in the MOU regarding traffic impacts along the entire project corridor. The FTA requests a copy of the 20-mile traffic study and documentation of any mitigation required per the MOU.

Please be aware that if there are changes to either project (the South Corridor BRT or the 168th St. parking structure) you must notify FTA in writing. FTA will determine whether any additional environmental review will be required. The FTA may require additional analysis for compliance with other statutes for any change in project scope at its discretion.

Page 2 of 2

RE: Miami-Dade SMART Plan South Corridor Bus Rapid Transit – Categorical Exclusion (CE)

Please feel free to contact Ms. Carrie Walker at either (404) 865-5645 or julia.walker@dot.gov, or Mr. Stan Mitchell at either (404) 865-5643 or stanley.a.mitchell@dot.gov should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Kat. Walker for". The signature is written in a cursive, flowing style.

Yvette G. Taylor, Ph.D.
Regional Administrator

MEMORANDUM OF UNDERSTANDING
Between
STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, DISTRICT SIX
And
MIAMI-DADE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF
FLORIDA
For
THE SOUTH CORRIDOR (SOUTH-DADE TRANSITWAY) RAPID TRANSIT
PROJECT

THIS MEMORANDUM OF UNDERSTANDING, hereinafter called the "MOU", entered into this 25th day of October, 2018, by and between the FLORIDA DEPARTMENT OF TRANSPORTATION, DISTRICT SIX, a component agency of the State of Florida, hereinafter referred to as "FDOT", and MIAMI-DADE COUNTY, a political subdivision of the State of Florida, acting by and through the Department of Transportation and Public Works, hereinafter referred to as the "COUNTY", collectively referred to as the "PARTIES."

PART 1 - RECITALS:

WHEREAS, the PARTIES acknowledge that the South Corridor (South-Dade Transitway) Rapid Transit Project, hereinafter referred to as "the Project", will be an important public transportation facility for the general public; and

WHEREAS, the South Corridor (South-Dade Transitway) Rapid Transit Project is a key element of the Strategic Miami Area Rapid Transit (SMART) Plan adopted by the Miami-Dade County Transportation Planning Organization (TPO) in 2016; and

WHEREAS, the Bus Rapid Transit (BRT) alternative was selected as the Locally Preferred Alternative ("LPA") by the Transportation Planning Organization (hereinafter referred to as the "TPO") by Resolution No. 31-18, dated August 30, 2018, attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, TPO adopted the amendment of the Transportation Improvement Program and 2040 Long Range Transportation Plan to program \$100,000,000 local funds for the Project by Resolution No. 32-18, dated August 30, 2018, attached hereto as Exhibit "B"; and

WHEREAS, the Project entered into the Federal Transit Administration (FTA) Capital Investment Grant (CIG) Program Small Starts Project Development phase on October 25, 2018; and

WHEREAS, FDOT budgeted and has committed funds not to exceed \$100,000,000 New Starts Transit Program (NSTP) funding in State Fiscal Year 2020 to fund the design and construction of the Project. FDOT may fund up to 50% of the nonfederal share of the total Project cost, not to exceed \$100,000,000 and

WHEREAS, FDOT wishes to participate in funding of the Project with the understanding that the County shall be responsible for ensuring the proper project management, execution, administration and financial management of all phases of the Project, and that FDOT's responsibilities are limited to the terms outlined herein; and

WHEREAS, FDOT wishes to ensure consistency of traffic operations and safety on state-owned roads impacted by the Project; and

WHEREAS, the County submitted the Small Starts application for \$99,999,999 for the planning, design, and construction of the Project on August 23, 2019; and

WHEREAS, the Project is to be developed within the existing public right-of-way of both the County and FDOT defined by the existing South Dade Transitway corridor between the Dadeland South Metrorail Station and SW 344th Street in Florida City and will include fourteen (14) new Bus Rapid Transit (BRT) stations at existing station locations and two terminals – one at SW 344th St Park-and-Ride and one at Dadeland South Metrorail station, and a new parking garage at SW 168th Street, milling and resurfacing along sections of the 20-mile corridor, reconstruction of approximately forty-five (45) intersections with the implementation of new signalization with preemption, rail-like traffic control devices, and Intelligent Transportation Systems; and

WHEREAS, the COUNTY is currently in the process of developing the Design Criteria Package, and procuring a Design-Build Firm, for the development of the Project; and

WHEREAS, a "working committee" will be established, to include an even number of members of DTPW and FDOT District 6, to meet on a regular basis during the Design-Build phase of the Project to review and approve changes to the Concept of Operations. Subsequent to operational start-up, the "working committee" will meet to resolve operational issues.

WHEREAS, at FDOT's request, the COUNTY has included and made a part of the Project's Design Criteria Package, a segment of FDOT's construction project FM 429341-2-52-01 Safety Improvement Project (Quail Roost Drive from South Dade Transitway westerly right-of-way to west of US-1) programmed as FM 429341-7-58-01 and the entirety of construction project FM 439984-1-52-01 Safety Improvement Project (SW 136 Street and US-1 Intersection) programmed as FM 439984-2-58-01, which involve state-owned roads immediately adjacent to the Project; and

WHEREAS, the COUNTY and FDOT will enter into separate agreements for the (1) State funds in the amount up to 50% of the nonfederal share of the total Project cost, not to exceed \$100,000,000, and (2) additional cost of implementing a segment of FM 429341-2-52-01 Safety Improvement Project (Quail Roost Drive) programmed as FM 429341-7-58-01, and the entirety of FM 439984-1-52-01 Safety Improvement Project (SW 136 Street) programmed as FM 439984-2-58-01, once bids are received; and

WHEREAS, the COUNTY agrees to obtain from FDOT all necessary approvals for all phases and components of the design and construction of the Project, and to ensure the Project

meets FDOT design and construction standards at all state-owned roads crossing and immediately adjacent to the Project; and

WHEREAS, upon receipt by the COUNTY of all such required approvals from FDOT and all other agencies having jurisdiction over this project, the COUNTY agrees to complete the design, construction and testing of the Project through a design-build process; and

WHEREAS, in order to ensure the acceptable level of traffic operation conditions, FDOT and the County agree to use a Memorandum of Understanding to formalize the collaboration between FDOT and the County on improvement of traffic operations for state-owned roads crossing and immediately adjacent to the Project through separate projects as appropriate in accordance with FDOT's role as the roadway owner of the state-owned roads;

WHEREAS, the PARTIES hereto mutually recognize the need for entering into a MOU designating and setting forth the responsibilities of each PARTY with respect to the Project; and

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the PARTIES agree as follows:

PART 2 - ASSIGNMENTS AND ASSUMPTIONS OF RESPONSIBILITY

- 2.1 Assignments and Assumptions of FDOT D6 Responsibilities:**
- 2.1.1 FDOT will conduct its own traffic analysis of the Project's entire 20-mile corridor to program/plan for traffic operations and the impact to state-owned roads crossing and immediately adjacent to the Project.
 - 2.1.2 FDOT will inform the COUNTY of the results of the traffic analysis in the form of a Traffic Analysis Report, and coordinate mitigation efforts at the intersections that impact state-owned roads crossing and immediately adjacent to the Project that shows traffic operation deterioration.
 - 2.1.3 During the Step 2- Evaluation of Technical and Price Proposal of the Project, FDOT will review any and all Alternative Technical Concepts (ATC) concurrently during the COUNTY review period to confirm the ATC does or does not impact state-owned roads crossing and immediately adjacent to the Project.
 - 2.1.4 During the ATC negotiation meetings, FDOT has the right to request additional information and/or clarification of design intent, and reject any ATC that may negatively impact state-owned roads crossing and immediately adjacent to the Project.
 - 2.1.5 During the design phase of the Project, FDOT shall perform the following:
 - i. Review all design elements that affect the physical configuration of the state-owned roads crossing and immediately adjacent to the Project.
 - ii. Submit comments for all the design phase reviews in a review period concurrent and equivalent in length of time with the COUNTY's review utilizing an online electronic review system deemed suitable for the Project by the Department of Transportation and Public Works (DTPW) online review system.

- a. The comments will be entered into DTPW online review system by one designated FDOT personnel.
- b. FDOT will assigned one (1) designated person and two (2) alternates to have access to DTPW online review system.

- 2.1.6 During the construction phase of the Project, FDOT involvement will be the following:
- i. Designate departmental personnel to attend any Construction engineering and inspection (CEI) coordination meeting and be entitled to fully participate. The designated departmental personnel will be given five (5) business days from date of coordination meeting to approve/reject decisions that impact state-owned roads crossing and immediately adjacent to the Project.
 - ii. Review any construction elements, including shop drawings and Request for Information (RFI), that affect the physical configuration of the state-owned roads crossing and immediately adjacent to the Project within five (5) business days of receipt.
 - iii. Approve the design and provide acceptance for FDOT's JTS Infrastructure.
 - iv. The FDOT projects listed below are expected to have started construction or will start construction during the Project construction timeline. FDOT will inform the COUNTY when the FDOT contractor is issued the notice to proceed with construction. To the extent there are any conflicts during construction between these FDOT projects and the Project, conflicts shall be resolved in favor of the FDOT projects' needs.
 - a. FM 405575-6-52-01: SR 998/SW 312th St./Campbell Drive from Krome Ave. to US 1
 - b. FM 439913-1-52-01: SR 5/US 1 at SW 112th Ave.
 - c. FM 439986-1-52-01: SR 5/US 1 from Bailes Road to SW 214th St.
 - v. In the event there is a FDOT maintenance and/or push-button project required for safety improvements, FDOT will inform the COUNTY when the FDOT contractor is issued the notice to proceed with construction and any conflicts shall be resolved in favor of the FDOT projects' need.

- 2.1.7 During the post-construction phase of the Project, FDOT involvement will be the following:
- i. Inform the COUNTY of any citizen and/or local agency complaints of negative impacts on traffic associated with the Project within five (5) business days.
 - ii. Review and provide comments to the post-construction assessment study/evaluation to be completed by the COUNTY within ten (10) business days of submittal from the COUNTY.
 - iii. Perform Final Acceptance of the FDOT projects:
 - a. FM 429341-2-52-01 (Segment defined in Part 1 Recitals) Safety Improvement Project (Quail Roost Drive)
 - b. FM 439984-1-52-01 (Segment defined in Part 1 Recitals) Safety Improvement Project (SW 136 Street)
 - iv. Agree to review the post-construction status reports submitted by the COUNTY.

2.1.8 FDOT shall not be responsible for maintaining and repairing the temporary and permanent improvements comprising the Project, at all times (during procurement, construction, and post-construction), or for any personal injury and property damage attributable to the Project in any way, including but not limited to its design, construction, management or administration. Further, FDOT shall not be responsible for any additional cost or delays caused by changes to the Project's design or plans, including changes needed to meet FDOT standards and design requirements.

2.2 Assignment and Assumption of COUNTY Responsibilities.

2.2.1 During the Step 2- Evaluation of Technical and Price Proposal of the Project, the COUNTY will do the following:

- i. Invite FDOT to all ATC meetings, including review meetings and coordinate the participation of FDOT designated representatives in all ATC negotiation meetings, for ATCs that impact stated-owned roadways crossing and immediately adjacent to the Project.
- ii. Allow sufficient time for set-up and confirm all designated FDOT personnel are trained and has proper access to the DTPW online review system.

2.2.2 During the design phase of the Project, the COUNTY will do the following:

- i. Thirty (30) days prior to the commencement of work on the Project, the COUNTY shall submit to FDOT a Reporting Plan for FDOT approval. The Reporting Plan shall at a minimum include the methodology, data sources, traffic operational performance measures, logical reporting segments, and reporting tool to be utilized in the Status Reports. Based on the approved Reporting Plan, the COUNTY shall prepare a baseline assessment (pre-construction) of the reporting statistics that will serve as a baseline for comparison of traffic operations performance measures during the post-construction phase of the Project.
- ii. Submit all plan components to FDOT for review to be completed concurrently and equivalent in length of time with the COUNTY's review.
- iii. Confirm all plan phase review comments from FDOT are received and addressed properly in DTPW online review system.
- iv. Meet with FDOT to resolve any comments that results in 'DISAGREE/REJECT' or requires follow-up discussion within five (5) business days of the comment due date set by the COUNTY.
- v. Submit to FDOT a Quick Clearance of Traffic Incidents Procedures and Policies that will be implemented post-construction within the project limits and within US-1 in the vicinity of grade crossings.
- vi. The COUNTY is required that the Project design meets all FDOT design standards, guidelines, and criteria for state-owned roads crossing and immediately adjacent to the Project.
- vii. Require its designer to submit a maintenance of traffic ("MOT") plan with the Project's plans and specifications for FDOT's review and approval for state-owned roads crossing and immediately adjacent to the Project, as specified in Section 3.1 below.

- 2.2.3 During the construction phase of the Project, the COUNTY will do the following:
- i. Prior to commencement of construction, submit a tentative construction schedule and all subsequent updates to FDOT.
 - ii. Conduct all of the community outreach and public notifications required for the project.
 - iii. Invite FDOT to all CE&I coordination meetings as well as system acceptance tests of ITS replacement infrastructure (e.g., CCTV cameras, vehicle detectors, fiber optic communications) owned and operated by FDOT.
 - iv. Allow five (5) business days, from the CE&I coordination meeting date, for FDOT to approve/reject construction decisions that will impact state-owned roads crossing and immediately adjacent to the Project.
 - v. Submit to FDOT shop drawings and RFIs that affect the physical configuration of the stated-owned roads crossing and immediately adjacent to the Project.
 - vi. Allow five (5) business, upon receipt, for FDOT to review shop drawings and RFIs that affect the physical configuration of the stated-owned roads crossing and immediately adjacent to the Project.
 - vii. Be responsible for the design, relocation, installation, testing of FDOT's ITS Infrastructure per the plans and documentation reviewed and approved by FDOT.
 - viii. Obtain approval from FDOT for all replacements prior to commencement of work activity.
 - ix. Replace existing FDOT ITS infrastructure (e.g., CCTV cameras, vehicle detectors, fiber optic communications), impacted by the construction, to provide equal quality, coverage and reliability of service.
 - x. At a minimum maintain 98% availability for all existing ITS infrastructure, for fiber optics communications 99% availability.
 - xi. A Maintenance of Communications plan shall be developed by the County and approved by FDOT prior to commencement of construction to ensure that communications shall be provided/maintained during the entire construction duration of the Project.
 - xii. Provide corrective and emergency maintenance repairs of ITS infrastructure (e.g., CCTV cameras, vehicle detectors) within 24 hours, fiber optic communications within 6 hours. All fiber optic permanent repairs shall consist of installation of new fiber optic cable from/to existing splice vaults. Introduction of new fiber splices shall not be allowed.
 - xiii. Conduct final inspection and acceptance of all Project improvements. However, prior to final acceptance, the COUNTY will consult with FDOT to ensure that the FDOT ITS infrastructure have been adequately installed, tested and determined to be fully operational. The COUNTY will request written approval from the FDOT that all of the FDOT ITS infrastructure have been constructed and indicate FDOT's acceptance of these improvements.
 - xiv. The FDOT projects listed below are expected to have started construction or will start construction during the Project construction. The COUNTY will coordinate

scheduled construction activities within 1-mile of the FDOT project limits fourteen (14) business days prior to commencing construction. To the extent there are any conflicts during construction between these FDOT projects and the Project, conflicts shall be resolved accommodating any of the FDOT's project that crosses and are immediately adjacent to the Project.

- a. FM 405575-6-52-01: SR 998/SW 312th St./Campbell Drive from Krome Ave. to US 1
- b. FM 439913-1-52-01: SR 5/US 1 at SW 112th Ave.
- c. FM 439986-1-52-01: SR 5/US 1 from Bailles Road to SW 214th St.
- xv. Monitor and mitigate traffic operation impacts to state-owned roads crossing and immediately adjacent to the Project during construction.
- xvi. Report all complaints the COUNTY receives to FDOT, and include a response on how the COUNTY will proceed to mitigate/resolve the complaint.
- xvii. In the event FDOT informs the COUNTY of a citizen and/or other complaints of negative impacts on traffic associated with the construction of the Project, the COUNTY will respond to FDOT within five (5) business days on how the COUNTY will proceed to mitigate/resolve the complaint.

2.2.4 During the post-construction phase of the Project, the COUNTY will do the following:

- i. Monitor traffic operations at state-owned roads crossing and immediately adjacent to the Project.
- ii. Provide a status report of the traffic operations every three (3) months for the first 36 months starting 90 days after the acceptance of the approved traffic operations plan. After the 36-month period, provide status report of the traffic operations on an annual basis for the life of the project. The status report shall include for state-owned roads crossing and immediately adjacent to the Project at a minimum, but not limited to the following:
 - a. Complaint Log - Number, details, response action and status for complaints received by MDC relative to traffic operation delays.
 - b. Travel Time - Travel time (minutes) for morning, mid-day and afternoon/evening peak summarized for each roadway segment by direction.
 - c. Speed - Speed (miles per hour) for morning, mid-day and afternoon/evening peak summarized for each roadway segment by direction.
 - d. Beginning with the first year of the reporting period statistics for each of items a. through c. shall be compared to pre-construction statistics for similar pre-construction period.
- iii. In the event FDOT informs the COUNTY of a citizen and/or local agency complaint of negative impacts on traffic associated with the Project, the COUNTY will respond to FDOT within five (5) business days on how to mitigate/resolve the complaint.
- iv. Optimize traffic signal timing within fourteen (14) business days to mitigate any traffic operation conditions that result in queues that extend to an upstream

- intersection or require delays of more than two traffic signal cycles on US-1 and state-owned roads crossing the Project.
- v. Submit a post-construction assessment study/evaluation one (1) year after opening day of the Project, and agree to participate in a meeting to discuss the results and resolution of FDOT comments. All back-up data including traffic data collection and analysis will be included in the submittal.
 - vi. Shall grant permit agreements to FDOT projects to be constructed during the construction of the Project, in the event the FDOT project is deemed necessary to immediately mitigate negative impacts to state-owned roads crossing or immediately adjacent to the Project.
 - vii. Coordinate with FDOT to expedite the review process applications for permit and right-of-way agreements, in the event an FDOT project is programmed to mitigate negative traffic impacts and requires COUNTY permit and/or right-of-way associated with the Project.
 - viii. Partner with FDOT to identify and mitigate traffic safety and operational impacts resulting from changed traffic conditions after the Project becomes operational. This may require development of integrated standard operating guidelines, training, and performance measures to improve operational integration between BRT, traffic signal, and incident management functions.

PART 3 – MOU TERMS

3.1 Maintenance Of Traffic ("MOT") Plan:

Construction shall not commence until FDOT has approved the final version of the MOT plans that incorporates the use of state-owned roads crossing and immediately adjacent to the Project. The COUNTY's contractor(s) shall be solely responsible for the MOT in accordance with the plans and specifications. If the County's contractor(s) fail to perform the required MOT, upon prior notice to the County, FDOT may perform MOT at the County's contractor(s)' sole cost and expense. Should FDOT perform MOT, the Department shall provide the County's contractor(s) with an invoice for the costs incurred by FDOT and the County's contractor(s) shall pay the invoice. Nothing in this MOU shall obligate FDOT to perform MOT, said obligation to remain the sole responsibility of the County's contractor(s)'.

Notification of lane closures or detours must be accomplished 14 working days prior to closure, detour or MOT phase change by the COUNTY submitting the required lane closure form in (www.fdotfla.com), sketches, calculations, and other data to the District 6 traffic operations office.

The County's contractor(s)' and/or consultants must comply with all provisions of any and all permits and agreements concerning maintenance of traffic during construction. Nothing in this MOU is meant to contradict or supersede the terms of all such permits.

3.2 Entire Agreement.

This MOU incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the PARTIES agree that there are no commitments, agreements or understandings concerning the subject matter of this MOU that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements (whether oral or written) or on any other documents referencing or related to the Project, the MOU, or the PARTIES' agreement regarding same.

It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

3.3 Allocation Of Costs.

FDOT and the COUNTY acknowledges and agree that the funding for the Project will be as follows:

- **FTA PORTION.** The COUNTY has submitted a Small Starts application to FTA for \$99,999,999. The final award amount is contingent on FTA completing its review and providing approval of the application.
- **FDOT PORTION.** FDOT's portion of funds will be 50% of the nonfederal share, not to exceed \$100,000,000. The COUNTY will submit a proof of award showing the total grant amount awarded by FTA.
- **COUNTY PORTION.** COUNTY's portion of funds as described in TPO Resolution #32-18 is \$100,000,000 to facilitate the implementation of premium transit infrastructure along the South Corridor.

3.4 Notices.

All notices under this MOU shall be directed to the following:

To FDOT: Florida Department of Transportation
1001 Northwest 11th Avenue
Miami, Florida 33172
Attention: Modal Development Administrator,
Transit Program Administrator

To the COUNTY: Department of Transportation and Public Works
701 N.W. 1st Court, Suite 1700
Miami, Florida 33136
Attention: Director

3.5 Governing Law.

Unless otherwise specifically stated herein, this MOU shall be governed by and construed in accordance with the laws of the State of Florida.

3.6 Severability.

If any part of this MOU shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this MOU shall remain in full force and effect provided that the part of this MOU thus invalidated or declared unenforceable is not material to the intended operation of this MOU.

3.7 FDOT Funding.

FDOT 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. FDOT 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. Section 339.135(6) (a), Florida Statutes.

Accordingly, FDOT's performance and obligation to pay under this MOU is contingent upon an annual appropriation by the Legislature.

3.8 Due Authorization.

The PARTIES represent and warrant that the signatories below are duly authorized by the PARTY each represents to enter into this MOU on behalf of said PARTY, and by their signatures do bind the party they represent to the terms of this MOU.

IN WITNESS WHEREOF, the PARTIES hereto have caused these presents to be executed the day and year first above written.

MIAMI-DADE COUNTY:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: 
Director, Miami-Dade County Department
of Transportation and Public Works 10/17/19

BY: 
District Secretary
10/25/19

LEGAL REVIEW:

BY: *[Signature]*
Erica L. [unclear]
Assistant COUNTY Attorney

BY: *[Signature]* *Andrea Gonzalez*
Assistant General Counsel
District Chief Counsel