

RESOLUTION NO. 2019- 403

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, CONDITIONS, PROVISIONS, AND REQUIREMENTS OF A CONSTRUCTION AND MAINTENANCE AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA AND THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION RELATING TO IMPROVEMENTS TO THE INTERSECTION OF WILDWOOD DRIVE AND U.S. 1; AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF ST. JOHNS COUNTY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, St. Johns County ("County") and the State of Florida, Department of Transportation ("FDOT") have previously entered into a Local Agency Agreement to provide for the County to manage the construction of improvements to the Wildwood Drive and U.S. 1 intersection ("Project") through the FDOT Local Agency Program as a reimbursable grant, as reflected in St. Johns County Resolution No. 2019-368; and

**WHEREAS**, as called for in the Local Agency Agreement, the County and FDOT desire to enter into a formal, written Construction and Maintenance Agreement, attached hereto and incorporate herein, providing for the construction, maintenance, operation, and repair of the Project; and

**WHEREAS**, the County has reviewed the terms, provisions, conditions, and requirements of the Construction and Maintenance Agreement and has determined that entering into the agreement serves the interests of the County and the public.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:**

Section 1. The above Recitals are incorporated by reference into the body of this Resolution, and such Recitals are adopted as findings of fact.

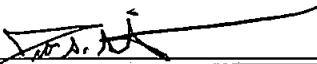
Section 2. The Board of County Commissioners hereby approves the terms, conditions, provisions, and requirements of the Construction and Maintenance Agreement between the State of Florida, Department of Transportation and St. Johns County, Florida, and authorizes the County Administrator, or designee, to execute the Agreement on behalf of the County, in substantially the same form and format as attached, as well as any other paperwork associated with, or necessary to accomplish, the overall goal set forth in the Agreement.

Section 3. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor, or content of this Resolution, this Resolution may be revised without subsequent approval of the Board of County Commissioners.

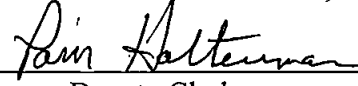
Section 4. This Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, State of Florida, this 19<sup>th</sup> day of November 2019.

**BOARD OF COUNTY COMMISSIONERS OF  
ST. JOHNS COUNTY, FLORIDA**

By:   
Jeb S. Smith, Chairman

ATTEST: Hunter S. Conrad, Clerk By:

  
Deputy Clerk

RENDITION DATE 11/21/19



## CONSTRUCTION & MAINTENANCE AGREEMENT

**THIS CONSTRUCTION & MAINTENANCE AGREEMENT** ("Agreement") is made and entered into by and between the State of Florida Department of Transportation ("Department") and St. Johns County ("Agency").

### -RECITALS-

1. The term "Property" shall collectively refer to certain real property located in St. Johns County, Florida, a portion of which is located on Wildwood Drive ("Wildwood") and owned by the Agency ("Agency Property", highlighted in blue on attached **Exhibit "A"**), and a portion of which is located on State Road 5/US 1 ("SR 5") and owned by the Department ("Department Property", highlighted in orange on attached **Exhibit "A"**); and
2. The Agency desires to construct a widening, milling and resurfacing project ("Project") for the benefit of both the Department and the Agency, portions of which will be located on the Agency Property and portions of which will be located on the Department Property; and
3. The term "Improvement" means and shall collectively refer to various improvements, some of which will be constructed on the Agency Property, as more particularly shown in **Exhibit "B"**, highlighted in blue, and some of which will be constructed on the Department Property, as more particularly shown in **Exhibit "B"**, highlighted in green, and which will include the following: the construction of a turn lane and milling and resurfacing of certain portions of both Wildwood and SR 5, construction of concrete curbing and pedestrian/ADA improvements, lighting and mast arm upgrades and installations, signal equipment and wiring, and the installation of drainage pipes and structures; and
4. The Agency has requested that the Agency be allowed to construct the certain portions of the Improvement on or within the Department Property and the Department is amenable to this request pursuant to the terms and conditions of this Agreement; and
5. The Department shall fund construction of the Improvement, which is wholly contingent upon appropriation of funds to the Department pursuant to a separate funding agreement to be entered into by and between the Department and the Agency; and
6. The Agency shall construct the Project and all of the Improvement; and
7. Those portions of the Improvement, including without limitation, the following: the pedestrian/ADA approved sidewalk, drainage pipes and structures, signage and pavement markings, traffic separator, and newly constructed lane, that are constructed on or along Wildwood and located on or within the Agency Property shall be collectively referred to as the "Off-System Improvement"; and
8. For purposes of this Agreement, the term "On-System Improvement" shall also refer to those portions of the Improvement constructed on or along SR 5 and located within the Department Property, all of which are standard features and will be maintained by the Department following completion of the Project, with the exception of the upgraded lighting and signals, as those items will be maintained pursuant to two existing contracts that were previously executed by and between the Department and the Agency; *Contract Highway Lighting Maintenance and Compensation Agreement (Contract ARB59) and Traffic Signal Agreement (Contract ARV65)*, attached as **Exhibit "C"**, **Composites 1 and 2**, respectively (collectively *Lighting Agreements*"); and
9. For purposes of this Agreement and as pertains to the Operation, Maintenance, and Repair of the Improvement, "Off-System Improvement" means and shall refer to all portions of the Improvement located on the Agency Property; and
10. Upon completion of construction, the Agency shall own, operate, maintain and repair the Off-System Improvement; and
11. A date for the commencement of construction of the Improvement has not been established; and

12. By Resolution \_\_\_\_\_ dated \_\_\_\_\_, the Agency authorized its representative to execute and enter this Agreement on behalf of the Agency, see **Exhibit "D"**.

**NOW THEREFORE**, with full knowledge and understanding of the laws governing the subject matter of this Agreement, and in consideration of the above recitals and the mutual covenants and conditions contained in this Agreement, the parties, intending to be legally bound, acknowledge and agree as follows:

**1. RECITALS AND EXHIBITS**

The above recitals and attached Exhibits are specifically incorporated by reference and made part of this Agreement.

**2. EFFECTIVE DATE**

The effective date of this Agreement shall be the date the last of the parties to be charged executes the Agreement.

**3. TERM**

The initial term of this Agreement shall be for a period of one (1) year, commencing on the Effective Date. Thereafter, this Agreement shall automatically renew for successive and continuing like one (1) year terms unless terminated by the Department.

**4. E-VERIFY**

The Agency (A) shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and (B) shall 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.

**5. COMPLIANCE**

The Agency shall perform the 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, specifications and permits, as the same may be constituted and amended from time to time, including, without limitation, those of the Department, Water Management District with requisite jurisdiction, Florida Department of Environmental Protection, Environmental Protection Agency, Army Corps of Engineers, United States Coast Guard and local governmental entities ("Governmental Law").

**6. PERMITS**

In the performance of the Agreement the Agency may be required to obtain one or more Department permits which may include copies of the Agreement as an exhibit. Notwithstanding the inclusion or incorporation of the Agreement as part of any such Department permits, the Agreement shall remain separate and apart from such permits and shall not be merged into the same absent the prior written express consent of the Department. Should any term or provision of the Agreement conflict with any term, provision or requirement of any Department permit, the terms and provisions of the Agreement shall control unless specifically noted otherwise in any such Department permit. For purposes of this Agreement, the term "permit" shall also include the Department's Construction Agreement which may be required for permanent improvements installed within the Department's right-of-way.

**7. CONSTRUCTION**

A. The Agency shall furnish the Department's Local Maintenance Engineer ("LME") with four (4) signed and sealed copies of the construction plans and specifications for the Improvement ("Plans and Specifications") prepared by a Florida registered professional engineer, or landscape architect providing professional services pursuant to Chapter 481, Florida Statutes, together with a construction schedule ("Construction Schedule") and such other documentation as the Department may require.

B. The Agency shall not commence construction of the Improvement until such time as the LME issues final written approval of the Plans and Specifications and Construction Schedule for the Improvement via issuance of one or more appropriate Department permits.

C. The Agency shall not make any changes to the approved Plans and Specifications for the Improvement without the prior written approval of the LME. Changes to the approved Plans and Specifications for the Improvement absent the prior written approval of the LME shall be deemed a material breach of this Agreement.

D. The Agency shall provide the Department with a minimum of seventy-two (72) hours prior written notice of its intent to commence construction of the Improvement.

E. The Agency shall complete construction of the Improvement in accordance with the Construction Schedule and shall provide the Department's LME with written notice of completion of construction of the Improvement, including, final as-built plans and an engineering certificate that construction was completed in accordance with the Plans and Specifications. Thereafter, the LME, or designee, shall perform a final inspection. If the construction is in compliance with the Plans and Specifications and applicable Governmental Law, the Department shall issue a final acceptance letter ("Final Acceptance"). In determining compliance with applicable Governmental Law, the Department may defer to the appropriate local, state, federal, administrative, regulatory or environmental entity. The Department shall notify the Agency in writing if the construction is deficient or not in compliance with the Plans and Specifications and applicable Governmental Law. Thereafter, the Agency shall have thirty (30) days from the date of the Department's written notice, or such other time as the Department and Agency mutually agree in writing, to correct the deficiency and provide the Department with written notice of the same. The Department shall not issue its Final Acceptance until the deficiency / non-compliance is corrected.

F. If the deficiency is not corrected timely, or if the Department determines that the construction remains deficient or non-compliant after receipt of the Agency's written notice indicating that the deficiency has been corrected, the Department, within its discretion, may: (1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to complete correction of the deficiency; (2) require the Agency to remove the Improvement and restore the Property pursuant to the "Removal" section of this Agreement; or (3) correct the deficiency at the Agency's sole cost and expense. Should the Department elect to correct the deficiency, the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice in accordance with the "Payment" section of this Agreement.

G. The Plans and Specifications, Construction Schedule, final as-built plans and engineering certificate for the Improvement are incorporated herein and made part of this Agreement by reference.

#### **8. OPERATION, MAINTENANCE & REPAIR (ON-SYSTEM IMPROVEMENT)**

A. The On-System Improvement will be maintained by the Department upon completion of the Project, with the exception of the upgraded lighting and signals, as those items will be maintained by the Agency in accordance with and pursuant to the previously executed Lighting Agreements.

#### **9. OPERATION, MAINTENANCE & REPAIR (OFF-SYSTEM IMPROVEMENT)**

A. Upon completion of the Project, the Agency shall own, operate, maintain, and repair the Off-System Improvement at its sole cost and expense, in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement including applicable Governmental Law.

B. The Agency agrees that it will be solely responsible for the operation, maintenance, and repair of the Off-System Improvement. Should the Agency fail to operate, maintain, and repair the Off-System Improvement in accordance with the terms and provisions of this Agreement and applicable Governmental Law, and the Department be required to perform such operation, maintenance, or repair under the authority of and pursuant to the directives of 23 CFR 1.27 and Title 23, Section 116, U.S. Code, the Agency agrees that it shall be fully responsible to the Department for repayment of any funds expended by the Department for the operation, maintenance, or repair of the Off-System Improvement. The Department shall invoice the Agency for any operation, maintenance, or repair expenses charged to the Department, and the Agency shall pay such invoices in accordance with the Payment section of this Agreement. Nothing in this Agreement shall relieve the Agency of its financial obligations to the Department should this occur.

C. The Agency further agrees to allow the Department access to the Property, Non-Standard Features and the Improvements should the events described in Paragraph B occur.

#### **10. IMPROVEMENTS & MODIFICATIONS**

A. The Department may require the Agency to improve or modify the Improvement if the Department determines: (1) improvements or modifications are required by applicable Governmental Law; or (2) improvements or modifications will benefit the Department in the conduct of its business.

B. Required improvements and modifications shall be subject to the terms and provisions of this Agreement, specifically including, without limitation, the "Construction" and "Maintenance & Repair" sections hereof.

C. Improvements and modifications shall be constructed and completed by the Agency within sixty (60) days of the date of the Department's written notice requiring improvements or modifications.

#### **11. UTILITIES**

The Agency shall be responsible for locating, removing and relocating utilities, both aerial and underground, if required for the Agency to perform this Agreement. The Agency shall ensure all utility locations are accurately documented on the construction Plans and Specifications, including the final as-built plans. All utility conflicts shall be resolved by the Agency directly with the applicable utility.

#### **12. MAINTENANCE OF TRAFFIC**

A. The Agency shall be responsible for the maintenance of traffic ("MOT") at all times during its performance of this Agreement. MOT shall be performed in accordance with applicable Governmental Law and the most current edition of each of the following, as the same may be constituted and amended from time to time, all of which are incorporated herein and made part of the Agreement by reference: (1) Section 102 of the Department's Standard Specifications for Road and Bridge Construction; (2) the Manual on Uniform Traffic Control Devices; and (3) the Department's Roadway Design Standards Index 600 Series.

B. If the Agency fails to perform MOT as required herein, the Department, within its discretion, may elect to perform MOT at the Agency's sole cost and expense. Should the Department perform MOT, the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice in accordance with the "Payment" section of this Agreement.

#### **13. REMOVAL**

A. The Department may require the Agency to remove the Improvement and restore the Property to the condition that existed immediately prior to the Effective Date of this Agreement if the Department determines: (1) the Improvement is not constructed or maintained in accordance with Governmental Law; (2) removal of the Improvement is required by applicable Governmental Law; (3) the Agency breaches a material provision (as determined by the Department) of this Agreement, or (4) removal of the Improvement will benefit the Department in the conduct of its business. Removal and restoration shall be completed by the Agency within sixty (60) days of the date of the Department's written notice requiring removal of the Improvement, or such other time as the Department and the Agency mutually agree in writing.

B. Removal and restoration shall be completed by the Agency in accordance with applicable Governmental Law, specifically including the Department's Standard Specifications for Road and Bridge Construction.

C. Should the Agency fail to complete the removal and restoration work as required herein, the Department may: (1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to complete removal and restoration; or (2) complete the removal and restoration at the Agency's sole cost and expense. Should the Department elect to complete the removal and restoration, the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice in accordance with the "Payment" section of this Agreement.

#### **14. PERMISSIVE USE**

This Agreement creates a permissive use only and neither the granting of permission to use the Property, nor construction of the Improvement on or within the Property shall operate to create or vest any property right to or in the Agency. The Agency shall not acquire any right, title, interest or estate in the Property by virtue of the execution, operation, effect or performance of this Agreement.

#### **15. EMINENT DOMAIN AND DAMAGES**

Under no circumstances shall the Department's exercise of any right provided in this Agreement create any right, title, interest or estate entitling the Agency to full and just compensation from the Department either through inverse condemnation or eminent domain laws or any similar laws regarding the taking of property

for public purposes. The Agency forever waives and relinquishes all legal rights and monetary claims which it has, or which may arise in the future, for compensation or damages, including, without limitation, special damages, severance damages, removal costs, and loss of business profits resulting in any manner from the Department's exercise of any right provided in this Agreement. This waiver and relinquishment specifically includes all damages flowing from adjacent properties owned, leased or otherwise controlled by the Agency, as a result of the Department's exercise of any right provided in this Agreement.

#### **16. DUE DILIGENCE & WARRANTIES**

A. All due diligence requirements related to the Agency's negotiation, execution and performance of this Agreement are the sole responsibility of the Agency.

B. The Department makes no representations or warranties of any kind, express or implied, concerning the Property, including, without limitation, representations and warranties concerning: (1) the physical condition of the Property; and (2) merchantability or fitness for a particular purpose.

#### **17. PAYMENT**

All Department invoices submitted to the Agency for payment pursuant to the terms and provisions of this Agreement are due and payable within forty-five (45) days of the date of the invoice ("Due Date"). Any portion of an invoice not received by the Department by the Due Date shall immediately thereafter begin accruing interest at a rate of interest established pursuant to §55.03, Florida Statutes, until paid in full.

#### **18. INDEMNIFICATION**

A. The Agency shall promptly defend, indemnify, hold the Department harmless from and pay all demands, claims, judgments, liabilities, damages, fines, fees, taxes, assessments, costs, losses, penalties, construction delay costs / penalties, expenses, attorneys' fees and suits of any nature or kind whatsoever caused by, arising out of or related to the Agency's performance, or breach, of this Agreement ("Liabilities"). The term "Liabilities" shall also specifically include all civil and criminal environmental liability arising, directly or indirectly under any Governmental Law, including, without limitation, liability under the Resource Conservation and Recovery Act ("RCRA"), the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), the Clean Air Act ("CAA") and the Clean Water Act ("CWA"). The Agency's duty to defend, indemnify and hold the Department harmless specifically does not encompass indemnifying the Department for its negligence, intentional or wrongful acts, omissions or breach of contract.

B. The Agency shall notify the Department in writing immediately upon becoming aware of any Liabilities. The Agency's obligation to defend, indemnify and hold the Department harmless from any Liabilities, or at the Department's option to participate and associate with the Department in the defense and trial of any Liabilities, including any related settlement negotiations, shall be triggered by the Department's written notice of claim for indemnification to the Agency. The Agency's inability to evaluate liability, or its evaluation of liability, shall not excuse performance of the provisions of this paragraph.

#### **19. SOVEREIGN IMMUNITY & LIMITATION OF LIABILITY**

Nothing in this Agreement shall be deemed or otherwise interpreted as waiving either party's sovereign immunity protections, or as increasing the limits of liability set forth in §768.28, Florida Statutes, as the same may be amended from time to time. Nothing in this Agreement shall be deemed or otherwise interpreted as waiving the Department's limits of liability set forth in sections 376.305 and 337.27(4), Florida Statutes, as the same may be amended from time to time.

#### **20. NOTICE**

All notices, communications and determinations between the parties hereto and those required by the Agreement, including, without limitation, changes to the notification addresses set forth below, shall be in writing and shall be sufficient if mailed by regular United States Mail, postage prepaid, to the parties at the following addresses:

Department: Florida Department of Transportation  
Attention: St. Augustine Maintenance Engineer  
3600 DOT Road  
St. Augustine, Florida 32284

- and -

Financial Project Id. No.: 439470-1-58-01  
Federal Id. No.: D219-070-B  
Project Description: Wildwood Drive at US 1  
On/Off System - Agency Construct & Agency Maintain

Florida Department of Transportation  
Attention: Chief Counsel District Two  
1109 South Marion Avenue, Mail Station 2009  
Lake City FL 32025

Agency: St. Johns County Public Works  
Attention: Nick Perpich, P.E.  
2740 Industry Center Road  
St. Augustine, FL 32084

## **21. GOVERNING LAW**

This Agreement shall be governed in all respect by the laws of the State of Florida.

## **22. INITIAL DETERMINATION OF DISPUTES**

The Department's District Two Secretary ("District Secretary") shall act as the initial arbiter of all questions, difficulties, and disputes concerning the interpretation, validity, performance or breach of the Agreement.

## **23. VENUE AND JURISDICTION**

A. Venue for any and all actions arising out of or in any way related to the interpretation, validity, performance or breach of the Agreement that are not resolved to the mutual satisfaction of the parties by the Department's District Secretary shall lie exclusively in a state court of appropriate jurisdiction in Leon County, Florida.

B. The Agency and all persons and entities accepting an assignment of this Agreement, in whole or in part, shall be deemed as having consented to personal jurisdiction in the State of Florida and as having forever waived and relinquished all personal jurisdiction defenses with respect to any proceeding related to the interpretation, validity, performance or breach of this Agreement.

## **24. JURY TRIAL**

The parties hereby waive the right to trial by jury of any dispute concerning the interpretation, validity, performance or breach of the Agreement, including, without limitation, damages allegedly flowing therefrom.

## **25. ASSIGNMENT**

The Agency shall not assign, pledge or transfer any of the rights, duties and obligations provided in this Agreement without the prior written consent of the Department's District Secretary or his/her designee. The Department has the sole discretion and authority to grant or deny proposed assignments of this Agreement, with or without cause. Nothing herein shall prevent the City from delegating its duties hereunder, but such delegation shall not release the City from its obligation to perform the Agreement.

## **26. THIRD PARTY BENEFICIARIES**

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Nothing in this Agreement is intended to confer any rights, privileges, benefits,

obligations or remedies upon any other person or entity except as expressly provided for herein.

## **27. VOLUNTARY EXECUTION OF AGREEMENT**

Each party warrants and represents to the other: (i) that it understands all of the rights and obligations set forth in the Agreement and the Agreement accurately reflects the desires of said party; (ii) each provision of the Agreement has been negotiated fairly at arm's length; (iii) it fully understands the advantages and disadvantages of the Agreement and executes the Agreement freely and voluntarily of its own accord and not as a result of any duress, coercion, or undue influence; and (iv) it had the opportunity to have independent legal advice by counsel of its own choosing in the negotiation and execution of the Agreement.

## **28. ENTIRE AGREEMENT**

This instrument, together with any exhibits and documents made part hereof by reference, contains the entire agreement of the parties and no representations or promises have been made except those that are specifically set out in the Agreement. All prior and contemporaneous conversations, negotiations, possible



and alleged agreements and representations, covenants, and warranties with respect to the subject matter of the Agreement, and any part hereof, are waived, merged herein and superseded hereby.

### **29. EXECUTION OF DOCUMENTS**

The parties agree that they shall promptly execute and deliver to the other all documents necessary to accomplish the intent and purpose of the Agreement and shall do all other acts to effectuate the Agreement.

### **30. SUFFICIENCY OF CONSIDERATION**

By their signature below, the parties hereby acknowledge the receipt, adequacy and sufficiency of consideration provided in the Agreement and forever waive the right to object to or otherwise challenge the same.

### **31. WAIVER**

The failure of either party to insist on the strict performance or compliance with any term or provision of the Agreement on one or more occasions shall not constitute a waiver or relinquishment thereof and all such terms and provisions shall remain in full force and effect unless waived or relinquished in writing.

### **32. INTERPRETATION**

No term or provision of the Agreement shall be interpreted for or against any party because that party or that party's legal representative drafted the provision.

### **33. CAPTIONS**

Paragraph title or captions contained herein are inserted as a matter of convenience and reference and in no way define, limit, extend or describe the scope of the Agreement, or any provision hereof.

### **34. SEVERANCE**

If any section, paragraph, clause or provision of the Agreement is adjudged by a court, agency or authority of competent jurisdiction to be invalid, illegal or otherwise unenforceable, all remaining parts of the Agreement shall remain in full force and effect and the parties shall be bound thereby so long as principle purposes of the Agreement remain enforceable.

### **35. COMPUTATION OF TIME**

In computing any period of time prescribed in the Agreement, the day of the act, event or default from which the designated period of time begins to run, shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday.

### **36. MODIFICATION OF AGREEMENT**

A modification or waiver of any of the provisions of the Agreement shall be effective only if made in writing and executed with the same formality as the Agreement.

### **37. PUBLIC RECORDS**

Agency shall comply with Chapter 119, Florida Statutes. Specifically, the Agency shall:

A. Keep and maintain public records that ordinarily and necessarily would be required by the Department to perform this Agreement.

B. Upon request from the Department's custodian of public records, provide the Department with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of the Agreement if Agency does not transfer the records to the Department.

D. Upon completion of this Agreement, transfer, at no cost, to the Department all public records in possession of Applicant or keep and maintain public records required by the Department to perform this Agreement. If Agency transfers all public records to the public Agency upon completion of this Agreement, Agency shall destroy any duplicate public records that are exempt or confidential and exempt from public

records disclosure requirements. If Agency keep and maintain public records upon completion of this Agreement, Agency shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Department, upon request from the Department's custodian of public records, in a format that is compatible with the information technology systems of the Department.

Failure by Agency to act in accordance with Chapter 119 and the foregoing shall be grounds for immediate unilateral cancellation of this Agreement by the Department. Agency shall promptly provide the Department with a copy of any request to inspect or copy public records in possession of Agency and shall promptly provide the Department a copy of Applicant's response to each such request.

**IF THE CONSULTANT/CONTRACTOR/VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S/CONTRACTOR'S/VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

District 2  
386-758-3727  
D2prcustodian@ dot.State.FL.us  
Florida Department of Transportation  
District 2 - Office of General Counsel  
1109 South Marion Avenue, MS 2009  
Lake City, FL 32025

**38. ANNUAL APPROPRIATION / FUNDING**

Pursuant to §339.135(6)(a), Florida Statutes, the Department's obligation to fund construction of the Improvement is contingent upon annual appropriation by the Florida Legislature. This Agreement may be terminated by the Department without liability to the Agency if sufficient funds are not appropriated to the Department. The provisions of §339.135(6)(a), Florida Statutes, are set forth herein verbatim and made part of this Agreement, to wit:

"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."

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***SIGNATURE ON FOLLOWING PAGE***

Financial Project Id. No.: 439470-1-58-01  
Federal Id. No.: D219-070-B  
Project Description: Wildwood Drive at US 1  
On/Off System - Agency Construct & Agency Maintain

**IN WITNESS WHEREOF**, intending to be legally bound hereby, the parties execute this Agreement, consisting of nineteen (19) pages.

**Florida Department of Transportation**

**Attest:**

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

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

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

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

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

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

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

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

**Legal Review:**

By: \_\_\_\_\_  
Office of the General Counsel  
Florida Department of Transportation

**Agency: St. Johns County**

**Attest:**

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

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

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

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

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

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

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

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

**Legal Review:**

By: \_\_\_\_\_  
Legal Counsel for Agency

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EXHIBIT "A"

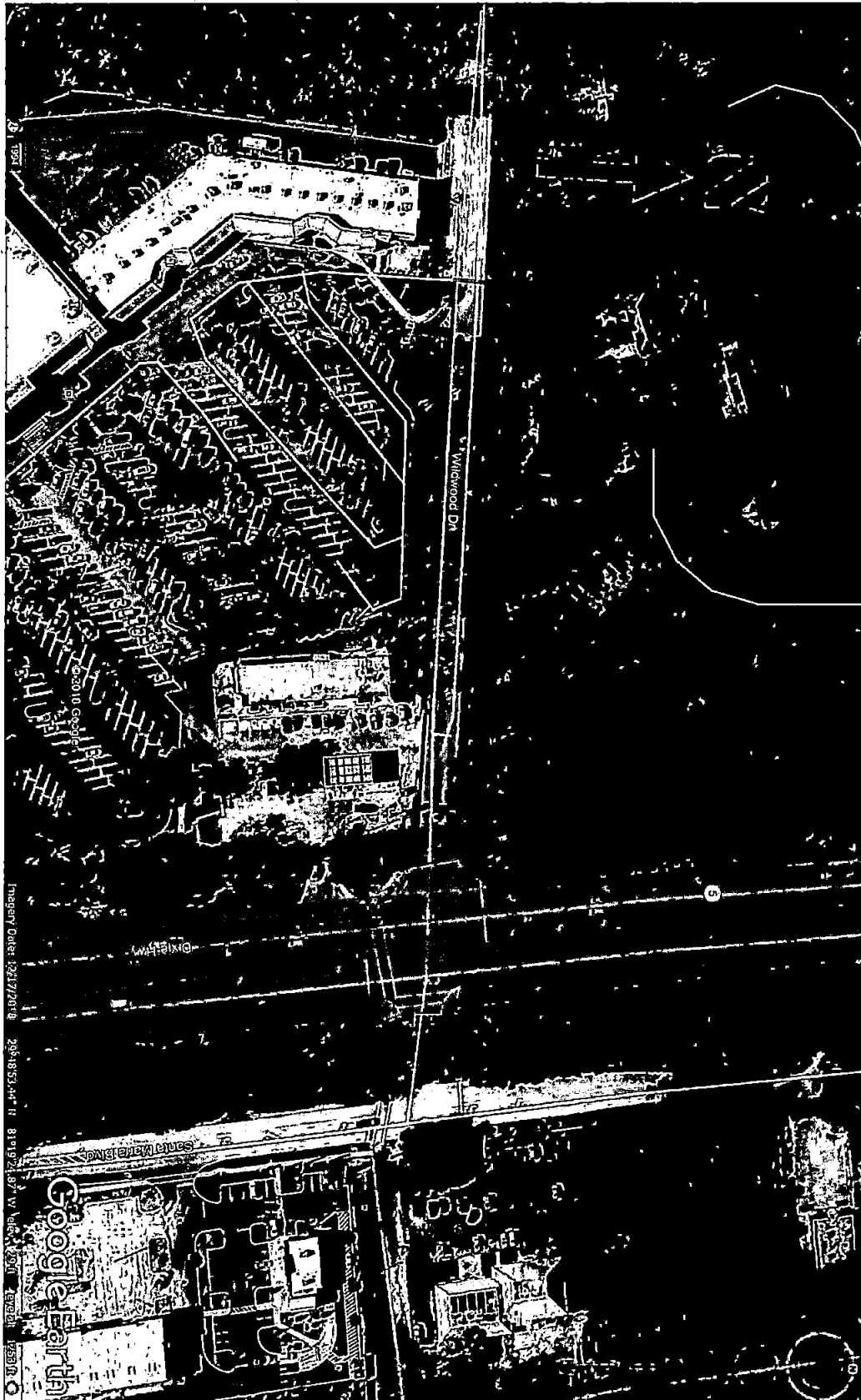






EXHIBIT "C"  
Composite "C-1"



**Florida Department of Transportation**

RON DESANTIS,  
GOVERNOR

1109 South Marion Avenue  
Lake City, Florida 32025-5874

KEVIN J. THIBAUT, P.E.  
SECRETARY

June 27, 2019

St. Johns County  
Hank Mein, Signal Systems Network Supervisor Traffic & Transportation  
St. Johns County Board of County Commissioners  
2740 Center Road  
St. Augustine, Florida 32084

**Contract:** ARB59  
**Fin Proj. No.:** 41442017801  
**Description:** State Highway Lighting Agreement  
**Renewal Period:** July 1, 2019 thru June 30, 2020

**Maintaining Agency:**

The Department has reviewed the proposed prorated budget allocation for the upcoming fiscal year for the State Highway Lighting, Maintenance and Compensation program. The Department has determined the amount that you are currently eligible for under this program for the next year.

**236 Street Lights x .9 x \$291.36 = \$61,884.86**

The 90% multiplier used in the new formula shown in Exhibit B comes from paragraph 1.b. in your agreement which states that a minimum of 90% of the lights shall be operating and properly functioning.

Please sign and date: Exhibit "A" and return original signature and the Damage and Outage Report to:

Florida Department of Transportation  
District Maintenance Contracts Office - MS 2010  
1109 South Marion Avenue  
Lake City, Florida 32025-5874

If the Department does not receive the Exhibit "A" fully executed and the Damage and Outage Report you will not be eligible for reimbursement of your cost for the period from July 1, 2019 to June 30, 2020. Return both documents on or before June 1, 2019.

**REMINDER: FISCAL YEAR 2018/19 INVOICE MAY BE SUBMITTED ON OR AFTER MAY 19, 2019.**

If you have any questions, please contact Lisa Butler at (386) 961-7382 or [lisa.butler@dot.state.fl.us](mailto:lisa.butler@dot.state.fl.us) or Sandra Brink at (386) 961-7585 or [sandra.brink@dot.state.fl.us](mailto:sandra.brink@dot.state.fl.us).

Sincerely,  
  
Sandra Brink / Lisa Butler  
District Maintenance Contract Managers

[www.fdot.gov](http://www.fdot.gov)

EXHIBIT "C" Cont'd  
Composite "C-1"

ST. JOHNS COUNTY

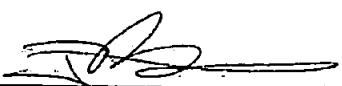
EXHIBIT "A"

Contract ARB59

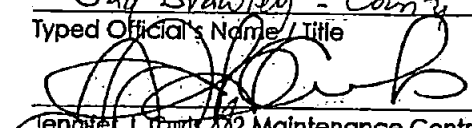
Maintaining Agency Contact: Hank Mein, Traffic & Transportation

Contact phone number: 904-209-0246

**Current Approved Amount for 2019/2020: \$61,884.86**

  
\_\_\_\_\_  
Maintaining Agency Signature 7/2/19  
\_\_\_\_\_  
Date

Jay Brawley - County Engineer  
\_\_\_\_\_  
Typed Official's Name / Title

  
\_\_\_\_\_  
Jennifer J. Curtis, 02 Maintenance Contracts Administrator 7.16.2019  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Jerry Ausher, P.E., Director of Operations-Interim 7/17/19  
\_\_\_\_\_  
Date



**EXHIBIT "C" Cont'd  
Composite "C-1"**

Florida Statutes:  
334.044  
335.055

375-020-52  
MAINTENANCE  
OGC -- 05/18  
Page 6 of 6

**EXHIBIT B**

**STATE HIGHWAY LIGHTING, MAINTENANCE AND COMPENSATION AGREEMENT**

**1.0 PURPOSE**

This exhibit defines the method and limits of compensation to be made to the Maintaining Agency for the services described in this Agreement and Method by which payments will be made.

**2.0 COMPENSATION**

For the satisfactory completion of all services detailed in this Agreement, the Department will pay the Maintaining Agency the Total Lump Sum as indicated in Section 2 of the Agreement. The Maintaining Agency will receive one lump sum payment at the end of each fiscal year for satisfactory completion of service.

Total Lump Sum Amount for each Fiscal Year is calculated by taking all of the actual number of qualifying lights times 90% times the FY Unit Rate.

Example:  $330 \text{ lights} \times 0.90 \times \$201.58 = \$59,869.26$

FY	17-18	\$274.63
	18-19	\$282.87
	19-20	\$291.36
	20-21	\$300.10
	21-22	\$309.10
	22-23	\$318.37

Beginning FY 14-15, the Unit Rate for each fiscal year will be 3% more than the Unit Rate from the previous fiscal year, unless otherwise specified in an amendment to this Agreement or changed through an update of this exhibit.

EXHIBIT "C" Cont'd  
 Composite "C-1"

**ST. JOHNS COUNTY**  
**"EXHIBIT C"**  
**Contract ARB59**  
**Street Lighting Inventory Report**

Maintaining Agency Contact: Hank Mejn, Traffic & Transportation  
 Contact phone number: 904-209-0246

State Road	From	To	Street Lights
SR 5 (US 1S)	Nix Boat Yard Rd	Lewis Pt. Road	63
SR A1A (May St./Vilano Bridge)	Boat Ramp Entrance	A1A Coastal Highway	43
SR 207	City Limits	City Limits	58
SR A1A (Southbound)	Sandpiper Street	South of Owen Ave	36
SR A1A (Northbound)	South of Owen Ave	Ocean Drive	36
<b>TOTAL</b>			<b>236</b>

**EXHIBIT "C" Cont'd  
 Composite "C-1"**

To: sandra.brink@dot.state.fl.us

**FLORIDA DEPARTMENT OF TRANSPORTATION  
 FUNDS APPROVAL**

ARB59  
 7/16/2019

**CONTRACT INFORMATION**

Contract:	ARB59
Contract Type:	AF - UTILITIES JOIN PROJ (UTIL JT PT)
Method of Procurement:	G - GOVERNMENTAL AGENCY (287.057, F.S.)
Vendor Name:	ST. JOHNS COUNTY BOARD OF COUNT
Vendor ID:	F596000825001
Beginning Date of This Agreement:	07/01/2014
Ending Date of This Agreement:	06/30/2099
Contract Total/Budgetary Ceiling:	ct = \$206,342.68
Description:	St Johns County BOCC - Highway Lighting

**FUNDS APPROVAL INFORMATION**

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 7/16/2019

Action:	Supplemental
Reviewed or Approved:	APPROVED
Organization Code:	55024040210
Expansion Option:	A1
Object Code:	242059
Amount:	\$61,884.86
Financial Project:	41442017801
Work Activity (FCT):	787
CFDA:	
Fiscal Year:	2020
Budget Entity:	55150200
Category/Category Year:	088712/20
Amendment ID:	S005
Sequence:	00
User Assigned ID:	S020
Enc Line (6s)/Status:	0001/04

**Total Amount: \$61,884.86**

**EXHIBIT "C"  
 Composite "C-2"**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**DRAFT SIGNAL MAINTENANCE AND COMPENSATION AGREEMENT**

750-410-22  
 TRAFFIC OPERATIONS  
 06/16

**Reimbursement for Maintenance and Operation**

**Exhibit A**

Compensation for Maintaining Traffic Signals and Devices for FY 2020										
Effective Date: from 07/01/2019 to 06/30/2020										
ST. JOHNS COUNTY										
Intersection Location	Traffic Signals (TS)	Traffic Signal - Interconnected & monitored (IMTS)	Intersection Control Beacon (ICB)	Pedestrian Flashing Beacon (PFB)	Emergency Fire Dept. Signal (FDS)	Speed Activated Warning Display (SAWD) or Blank Out Sign (BOS)	Traffic Warning Beacon (TWB)	Travel Time Detector (TTD)	Uninterruptible Power Supplies (UPS)	Compensation Amount (using Unit Rates from Exhibit B)
SR312 at WHESTONE PLACE		\$4,876							\$109	\$4,985
SR312 at CR 5A (MOULTRIE RD.)		\$4,876							\$109	\$4,876
SR5 (US1) at SR206		\$4,876							\$109	\$4,985
SR5 (US1) at WILDWOOD DR		\$4,876							\$109	\$4,985
SR5 (US1) at SHORE DRIVE #4/AZALEA DRIVE		\$4,876							\$109	\$4,985
SR41A at CR 210/ PALM VALLEY ROAD		\$4,876							\$109	\$4,985

Financial Project Id. No.: 439470-1-58-01  
Federal Id: No.: D219-070-B  
Project Description: Wildwood Drive at US 1  
On/Off System - Agency Construct & Agency Maintain

**EXHIBIT "D"**  
**(RESOLUTION)**