

SECTION No.: 88503500
FM No.: 230879-3-52-01
AGENCY: Indian River County
C.R. No.: 609

**DISTRICT FOUR
HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT**

THIS AGREEMENT, made and entered into this ____ day of _____, 2019, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the DEPARTMENT and **INDIAN RIVER COUNTY**, a political subdivision of the State of Florida, or a municipal corporation existing under the Laws of Florida, hereinafter called the AGENCY.

WITNESSETH:

WHEREAS, the AGENCY has jurisdiction over CR609/82ND AVENUE, as part of the Indian River County Roadway System from 26th Street to 69th Street; and

WHEREAS, pursuant to Sections 339.07, 339.08 and 339.12, Florida Statutes and Federal funding provisions the DEPARTMENT is authorized to undertake projects within the AGENCY geographical limits and the AGENCY is desirous of having this improvement constructed; and

WHEREAS, pursuant to such authority, the DEPARTMENT and the AGENCY are desirous of having the DEPARTMENT construct certain improvements more particularly described as Financial Project ID 230879-3, which involves a new two-lane undivided, north-south connection parallel to Lateral Canal "C". Scope is included in **Exhibit A**; hereinafter referred to as the "Project", as more particularly described in **Exhibit A**; and

WHEREAS, in accordance with Title 23, U.S. Code, Section 116 and Federal Highway Administration regulations issued pursuant thereto, there must be an agreement from the AGENCY to maintain the Project; and

WHEREAS, the DEPARTMENT may not spend State funds for off-system projects; and

WHEREAS, upon acquisition of the necessary right-of-way, if needed, the DEPARTMENT will proceed to construct the Project; and

WHEREAS, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and

WHEREAS, the AGENCY by Resolution on the ____ day of _____, _____, a copy of which is attached hereto and by this reference made a part hereof, desires to enter into this Agreement and authorizes its officers to do so;

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

1. The recitals set forth above are true and correct and are deemed to be restated herein.
2. The DEPARTMENT has undertaken and obtained the approval of Federal participation for the Project, as more particularly described in **Exhibit A**. The AGENCY is responsible for additional Project costs determined to be Federal Aid Non-Participating.
3. The AGENCY shall allow the DEPARTMENT and its contractors to enter onto the existing AGENCY property, including easements on property acquired by the DEPARTMENT, to construct this Project. No further permit or agreement shall be required to construct this Project.
4. The AGENCY shall continue to maintain the existing roadway and any property owned by AGENCY until the DEPARTMENT begins construction of the Project. The AGENCY shall continue to be responsible for Mowing and Litter Removal during the duration of the Project.
5. It is understood and agreed by the parties that upon "final acceptance" by the DEPARTMENT of the Project, (as that term is described in the Standard Specifications for Roadway and Bridge Construction dated 2019, as amended by contract documents), and Notice thereof to the AGENCY, the AGENCY shall be responsible for maintenance of said Project, at its own cost, in accordance with the following Federally and State accepted standards and all costs related thereto: (a) Florida Design Manual (FDM), current edition, (b) Florida Green Book dated 2016, as amended (c) Governing standards and specifications: FDOT Design Standards dated FY2019-2020, as amended (d) Standard Specifications for Roadway and Bridge Construction dated 2019, as amended by contract documents, and (e) Manual on Uniform Traffic Control Devices (MUTCD), current edition, or as amended. Maintenance of said Project includes, but is not limited to, roadway, bridge, sidewalk, curb & gutter, drainage, and asphalt roadway. Additionally, upon final acceptance the DEPARTMENT shall convey all acquired property interests to the AGENCY. The Department shall give the AGENCY ten (10) days' notice before final acceptance".
 - Said conveyance shall include, and the AGENCY fully accepts, a transfer and assignment of all rights and obligations pursuant to any maintenance, utility agreement, subordinations and/or other agreements, or matters of record relating to the property to be conveyed and the AGENCY shall assume all responsibilities and liabilities arising from any obligations thereunder which responsibilities, liabilities, obligations as set forth in the conveyance documents shall run with the land. This provision shall survive the termination of this Agreement.
 - Notwithstanding any other provision herein to the contrary, the Department shall not be responsible for any costs or attorney fees arising out of any liabilities or obligations incurred regarding the right of way after the transfer of property.
 - The AGENCY grants herein to the DEPARTMENT all rights necessary to enter and construct the Project.

6. Warranties: The DEPARTMENT shall transfer any applicable warranties to the AGENCY.
7. Environmental permitting: If requested by the DEPARTMENT, the AGENCY shall sign as a joint applicant and be responsible for the permits related to the Project. Further the AGENCY shall be in compliance with all permits after the construction is complete and the right of way is transferred to the AGENCY. To the extent permitted by law, the AGENCY shall indemnify the DEPARTMENT for any violations by the AGENCY of any permits issued to the Department or jointly to the AGENCY and the DEPARTMENT after construction is complete. The AGENCY shall execute all documentation required by the permitting agencies in a timely manner to accept transfer of the Project. For various occupancy permits the AGENCY shall be the applicant.
8. Utilities: The AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, to accomplish utility relocations for this Project. This shall include, but not be limited to, entering into utility subordination agreements with the affected utility owners, thereby assuming liability for future utility relocations within the AGENCY right of way and proposed right of way. This shall also include having the AGENCY require the Utility to relocate or adjust if the utility is there by permit, as necessary.
 - a. Agency Utilities: The AGENCY shall relocate and adjust it's own utilities including connection with utility customers.
9. The DEPARTMENT and the AGENCY shall keep the commitments established in the PD&E study, Preliminary Engineering Report (82nd Avenue PD&E Study prepared under FPID 23087912201) and as amended by approved re-evaluations.
10. Unforeseen issues: If unforeseen issues shall arise, the AGENCY shall cooperate with the DEPARTMENT, to the extent necessary, in order to construct the Project including but not limited to executing documents, allowing the DEPARTMENT or its contractor to enter into any real property owned, possessed and controlled by the AGENCY or any other Occupancy right the AGENCY may have.
11. E-verify requirements: The AGENCY:
 - 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
 - shall expressly require any contractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the contractor during the contract term.
12. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings as represented in the Final Proposed Construction plans.

Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.

13. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

14. LIST OF EXHIBITS

- **Exhibit A:** Project Scope

[This space intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year provided below.

AGENCY

ATTEST:

INDIAN RIVER COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

By: _____

_____ day of _____, 20_____

Approved as to form by Office of County Attorney

By: _____

DEPARTMENT

ATTEST:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

Executive Secretary
(SEAL)

By: _____

Transportation Development Director

_____ day of _____, 20_____

Approval :

Office of the General Counsel (Date)

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EXHIBIT A

PROJECT SCOPE

All of the improvements are to be completed by DEPARTMENT within the acquired property interests to be acquired by the DEPARTMENT for AGENCY.

The proposed typical section consists of a two-lane undivided roadway, 12-foot travel lanes, 8-foot shoulders (5-foot paved), a 9-foot unpaved berm for future sidewalk to the east and a 30' maintenance berm to the west parallel to the existing Lateral Canal "C". The proposed typical section for this project also includes 40-feet of border width on both sides of the road for an overall right of way (R/W) width of 120-feet and a posted speed limit of 45 mph.

Proposed four bridges and culverts consists of a two-lane undivided roadway, 12-foot travel lanes, 8-foot shoulders on the west roadway and 6-foot sidewalk on the east roadway.

New signing and pavement markings will include new regulatory, warning and guide signs, including but not limited to street designation signs and pavement markings. There are two stop controlled T-intersections; at 26th Street and 82nd Avenue and 69th Street and 82nd Avenue.

Drainage

The proposed drainage improvements include linear swales along both sides of the road. Culverts and cross drains will be provided to ensure connectivity of the smaller lateral canals to the Lateral Canal C and the preservation of existing drainage patterns. Two wet detention ponds are provided for water quality to the east of the proposed roadway.

Permits

- St. John's River Water Management District
- Sebastian River Improvement District
- US Army Corps of Engineers

On areas where the slope exceeds the required minimum a proposed sheet pile was added to protect the Lateral Canal "C" maintenance berm.