

**RESOLUTION NO. 2017-013**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING A PROJECT FUND AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR THREE HUNDRED THOUSAND DOLLARS (\$300,000) TO COMPLETE THE GUARDRAIL IMPROVEMENTS ALONG STIRLING ROAD; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town desires to install guardrails along Stirling Road; and

**WHEREAS**, the Town's Drainage and Infrastructure Advisory Board has ranked and has prioritized this project; and

**WHEREAS**, this project is specifically named in the Fiscal Year 2016-2017 Town Budget (Account # 101-5100-541-63320 – Transportation: Infrastructure – Guardrails); and

**WHEREAS**, the State of Florida Fiscal Year 2016 General Appropriations Act provided the Town with an appropriation of \$300,000 in the Economic Development Transportation Projects for guardrail installation along Stirling Road; and

**WHEREAS**, the Town is prepared to complete the project at an estimated total cost of \$400,000; and

**WHEREAS**, these improvements must be completed by June 30, 2019; and

**WHEREAS**, the Town will assume the future maintenance and other attendant costs occurring after completion of the project; and

**WHEREAS**, the Town of Southwest Ranches desires to enter into an agreement with the State of Florida Department of Transportation attached hereto as "Exhibit A" under the terms and conditions set forth therein.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Southwest Ranches, Florida:

**Section 1.** The above-referenced recitals are true and correct and are incorporated herein by reference.

**Section 2.** The Town Council hereby approves the agreement between the Town of Southwest Ranches and the State of Florida Department of Transportation

providing funding for the installation of guardrails along Strling Road, as specifically delineated in the agreement attached hereto as Exhibit "A."

**Section 3.** The Town Council hereby authorizes the Mayor, Town Administrator, and the Town Attorney to enter into the agreement in substantially the same form as that attached hereto as Exhibit "A," and to make such modifications, additions, and / or deletions that they deem necessary and proper to effectuate the intent of this Resolution.

**Section 4.** That this Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Southwest

Ranches, Florida, this 10<sup>th</sup> day of November, 2016 on a motion by

C/m Jablonski and seconded by C/m Breithaupt.

McKay

Breitkreuz

Fisikelli

Jablonski

Schroeder

Ayes  
Ayes  
Ayes  
Ayes  
Ayes

Ayes

Nays

Absent

5  
0  
0

Doug McKay  
Doug McKay, Mayor

ATTEST:

Russell Muñiz  
Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

Keith M. Poliakoff  
Keith M. Poliakoff, J.D., Town Attorney



RECEIVED

DEC 9 2016

Town of Southwest Ranches

***Florida Department of Transportation***

**RICK SCOTT  
GOVERNOR**

3400 West Commercial Blvd.  
Fort Lauderdale, FL 33309

**JIM BOXOLD  
SECRETARY**

December 7, 2016

Ms. Emily McCord Aceti  
Town of Southwest Ranches  
13400 Griffin Road  
Southwest Ranches, FL 33330

**Contract No. G-0116**  
**RE: Economic Development Transportation Project Fund Agreement**  
**FM #: 436040-2-54-01**  
**Description: Design & Installation of Guardrail along Stirling Road**

Dear Ms. Aceti:

Enclosed please find a copy of a fully executed Economic Development Transportation Fund for the project referenced above. Also included is a copy of the **Resolution No. 2017-013** in which the EDTF Agreement was approved. Said documents are to be retained for your records.

If you have any questions, please do not hesitate to contact me. I can be reached at (954) 777-2285.

Sincerely,

Leos A. Kennedy, Jr.  
Program Management Unit  
District Four

lk/s  
enc: SCOP  
copy: District Financial Services  
Marsha Taylor, Project Manager  
Antonette P. Adams, Work Program Manager  
File

**STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION**  
**ECONOMIC DEVELOPMENT TRANSPORTATION**  
**PROJECT FUND AGREEMENT**  
**(OFF-SYSTEM SPECIFIC APPROPRIATIONS)**

This Economic Development Transportation Project Fund Agreement (Off-System Specific Appropriation) ("Agreement") is entered into this 6<sup>th</sup> day of DECEMBER, 2016, between the State of Florida, Department of Transportation ("FDOT" or "Department") and the Town of Southwest Ranches ("Agency"). FDOT and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

**RECITALS**

A. The Fiscal Year 2016-17 General Appropriations Act, Chapter 2016-66, Laws of Florida, provides the Agency with an appropriation of \$300,000.00 from the amount in Specific Appropriation 1906, Economic Development Transportation Projects for Guardrail Installation along Stirling Road from SW 148<sup>th</sup> Avenue to SW 142<sup>nd</sup> Avenue & from SW 136<sup>th</sup> Avenue to the 12600 Block.

B. This Agreement provides conditions necessary for the release of the funds appropriated to the Agency by Chapter 2016-66, Laws of Florida. The transportation project is further described in **Exhibit "A"**, attached and incorporated in this Agreement ("Project").

C. The Agency is prepared to complete the Project at an estimated total cost of \$ 300,000.00.

D. FDOT is prepared to provide \$300,000.00 under Financial Project Number 436040-2-54-01 toward the total cost of the Project as set forth in Section 6.0 of the Agreement and the Schedule of Funding in **Exhibit "B"**, which is attached and incorporated in this Agreement.

E. The Agency by Resolution No. 2017-013 dated the 10<sup>th</sup> day of NOVEMBER, 2016, a copy of which is attached as **Exhibit "C"** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf.

**AGREEMENT**

In consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

**1.0 RECITALS:** The recitals above are true and correct and are made a part of this Agreement.

**2.0 TERM:** The term of this Agreement shall commence upon full execution by both Parties (“Effective Date”) and continue through June 30, 2019, unless terminated at an earlier date as provided in this Agreement. If the Project is not completed within the time period allotted, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by FDOT prior to the expiration of the Agreement. Expiration of this Agreement will be considered termination of the Project. Only Project costs incurred on or after the Commencement Date of this Agreement (as defined in paragraph 3.0 below) and on or prior to the termination date of the Agreement are eligible.

**3.0 COMMENCEMENT:** Unless terminated earlier, work on the Project shall commence no later than: the 30<sup>th</sup> day of September, 2017 or within 120 days of the issuance of the Notice to Proceed for the construction phase of the Project, whichever date is earlier (“Commencement Date”), and shall be completed on or before June 30, 2019. FDOT shall have the immediate option to terminate this Agreement should the Agency fail to meet either of the above-required dates.

If construction of the transportation Project does not commence within four (4) years of the date Chapter 2016-66, Laws of Florida, became effective (March 17, 2016), this Agreement and the Project are immediately terminated.

**4.0 PROJECT DESCRIPTION:** 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, identified as Financial Management Number 436040-2-54-01, and the quantifiable, measurable and verifiable units of deliverables are described more fully in **Exhibit “A”** which is incorporated in this Agreement.

**5.0 NOTICES AND APPROVALS:** All notices pertaining to this Agreement are in effect upon receipt by either Party, shall be in writing, and shall be transmitted either by personal hand delivery; United States Post Office, return receipt requested; or, overnight express mail delivery. E-mail and facsimile may be used if the notice is also transmitted by one of the preceding forms of delivery. The addresses and the

Agreement Administrators set forth below for the respective parties shall be the places where notices shall be sent, unless prior written notice of change of address is given.

**FDOT:**

**STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION**  
**SABRINA AUBERY, DISTRICT 4 ECONOMIC DEVELOPMENT**  
**TRANSPORTATION PROJECT FUND COORDINATOR,**  
**3400 W. COMMERCIAL BLVD**  
**FORT LAUDERDALE, FLORIDA 33309**  
**PHONE: (954) 777-4585**  
**FAX: (954) 777-4074**

**AGENCY:**

**TOWN OF SOUTHWEST RANCHES**  
**EMILY MCCORD**  
**13400 GRIFFIN ROAD**  
**SOUTHWEST RANCES, FLORIDA 33330**  
**PHONE: (954) 343-7453**  
**FAX: (954) 434-1490**

All approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

**6.0 RELEASE OF FUNDS:** Project funds made available by FDOT shall not be released until the following have been satisfied:

(a) The Agency has agreed by resolution to accept future maintenance and other attendant costs occurring after completion of the Project for the portion of the Project on the Agency's system and such resolution is attached and incorporated in this Agreement as **Exhibit "C"**;

(b) The Agency shall certify to FDOT that the Agency's design consultant and/or construction contractor has secured the necessary permits. If the Agency fails to provide such certification to FDOT by September 29, 2017, FDOT may, at its discretion, terminate this Agreement;

(c) The Agency shall invoice FDOT quarterly for actual costs incurred. The Agency shall review and approve all invoices, statements, or other related documents duly submitted to the Agency by the Agency's design consultant or construction contractor. Invoices shall be submitted by the Agency to FDOT in detail sufficient for a proper pre-audit and post audit thereof, based on the quantifiable, measurable, and

verifiable units of deliverables as established in Paragraph 4.0 above and **Exhibit "A"**. Deliverables must be received and accepted in writing by the pre-audit and approval by the Agency;

(d) Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Paragraph 4.0 and **Exhibit "A"** has been met;

(e) FDOT will pay to the Agency, after receipt of a detailed invoice, an amount equal to the invoice received by the Agency from the Agency's consultant or contractor. The Agency must certify on the invoice that the costs from the consultant or contractor are valid, reasonable, necessary, and allowable and the costs have been incurred by the consultant or contractor prior to the date of the invoices. All invoices submitted to the Department must provide complete documentation, including a copy of the consultant's or contractor's invoice(s), to substantiate the cost on the invoice. Each quarterly invoice subsequent to the first invoice from the Agency must contain a statement from the Agency that the previous quarterly costs incurred by the consultant or contractor have been paid by the Agency to the consultant or contractor;

(f) Before using its own forces for any phase of the Project, the Agency shall provide FDOT with the opportunity to review and approve the qualifications of the Agency forces to be utilized. In the event the Agency proceeds with any phase the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead);

(g) The Agency shall provide to FDOT certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project have been obtained; and

(h) Provide FDOT with written notification of either its intent to:

(i) Award the construction of the Project to a contractor which is the lowest and best bidder in accordance with applicable state and federal statutes, rules, and regulations. The Agency shall then submit a copy of the bid tally sheet(s) and awarded bid contract, or

(ii) Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame in Section 3.0 of this Agreement.

(i) The Agency shall charge to the Project account all eligible costs of the Project except costs agreed to be borne by the Agency or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of FDOT shall not be considered eligible costs. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.

(j) Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes. If FDOT determines that the performance of the Agency is unsatisfactory, FDOT shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by FDOT. The Agency shall, within five days after notice from FDOT, provide FDOT 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 non-compliance. If the corrective action plan is unacceptable to FDOT, the Agency shall be assessed a non-performance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the Agency resolves the deficiency. If the deficiency is subsequently resolved, the Agency may bill FDOT for the retained amount during the next billing period. If the Agency is unable to resolve the deficiency, the funds retained may be forfeited at the end of the Agreement's term.

(k) If, after Project completion, any claim is made by FDOT resulting from an audit or for work or services performed pursuant to this Agreement, FDOT may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within 60 days to FDOT. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by FDOT.



(l) 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.

#### **6.1 TRANSFER OF FUNDS:**

Entities providing goods and services to FDOT should be aware of the following time frames. Upon receipt of the invoice, FDOT has 20 days to inspect and approve the goods and services. FDOT 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 goods or services are received, inspected, 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 the 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 FDOT.

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

Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes. If FDOT determines that the performance of the Agency is unsatisfactory, FDOT shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by FDOT. The Agency shall, within five days after notice from FDOT, provide FDOT 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 non-compliance. If the corrective action plan is unacceptable to FDOT, the Agency shall be assessed a non-performance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the

invoice for the then-current billing period. The retainage shall be withheld until the Agency resolves the deficiency. If the deficiency is subsequently resolved, the Agency may bill FDOT for the retained amount during the next billing period. If the Agency is unable to resolve the deficiency, the funds retained may be forfeited at the end of the Agreement's term.

**6.2 USE OF FUNDS:** Funds made available by FDOT pursuant to this Agreement shall be expended in a timely manner and solely for the purpose of the approved Project. No such funds shall be used for the purchase of any landscaping, mitigation planting, water and sewer lines, for any legal action against FDOT, or costs associated with preparation of the application for use of Economic Development Transportation funding. The Schedule of Funding, **Exhibit "B"**, is attached and incorporated in this Agreement.

**6.3 ASSURANCES:** As an inducement to the transfer of funds referred to in Section 6.1 above, the Agency certifies that, if initiated, the Project will be carried through to its completion and will not require the expenditure of any additional funds from FDOT. The Agency is liable for all cost overruns on the Project.

**6.4 PROHIBITION OF LOCAL PREFERENCES IN PROCUREMENT OF CONSTRUCTION SERVICES:** If the Project is procured pursuant to Chapter 255 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.

**7.0 DESIGN AND CONSTRUCTION STANDARDS AND REQUIRED APPROVALS:**

(a) The Agency agrees to undertake the design, construction, and Consultant Construction Engineering Inspection ("CCEI") of the Project in accordance with all applicable federal, state and local statutes, rules and regulations, including Agency standards and specifications. A professional engineer, registered in Florida, shall provide the certification that all design and construction for the Project meets the minimum construction standards established by the Agency.

(b) The Agency understands that it is responsible for the preparation of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project using the Agency's normal procurement procedures to perform the design services for the Project.

(c) Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase of the Project. Any work performed prior to the execution of this Agreement is not subject to reimbursement.

(d) The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to FDOT's Construction Project Manager prior to commencing construction of the Project.

(e) The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project.

(f) Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from FDOT's Construction Project Manager, Mr. Albert Salas, at (954) 958-7628 or from an appointed designee. Any construction work performed prior to the issuance of the Notice to Proceed for construction is not subject to reimbursement.

(g) The Agency shall hire a qualified CCEI to perform construction oversight including the obligation to assure that any and all verification testing is performed in accordance with the 2010 Standard Specifications for Road and Bridge Construction, as amended from time to time. FDOT shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. The CCEI firm shall not be the same firm as that of the Engineer of Record for the Project.

(h) The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with Section 337.18(1), Florida Statutes.

(i) 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 it will meet all applicable Agency standards.

(j) Upon completion of the work authorized by this Agreement, the Agency shall notify FDOT in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto as **Exhibit**

**“D”.** The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

(k) The Agency must submit the final invoice to FDOT within one hundred eighty (180) days after the final acceptance of the Project.

(l) Upon completion of the Project, the Agency shall be responsible for the perpetual maintenance of the facilities on its system that are constructed under this Agreement. The terms of this provision shall survive the termination of this Agreement.

**8.0 AVAILABILITY OF FUNDS:** The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. 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 Chapter 339.135(6)(a), F.S., are 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 dollars and which have a term for a period of more than 1 year."

**9.0 TERMINATION OF AGREEMENT:** FDOT may terminate this Agreement upon no less than thirty (30) days notice in writing delivered in accordance with the Notices and Approvals provisions of Paragraph 5.0. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall return funds in accordance with Section 11.0 of this Agreement within thirty (30) days of the termination of this Agreement. 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 an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in

progress on the FDOT right-of-way will become the property of the FDOT and will be turned over promptly by the Agency.

**9.1 TERMINATION REPORT:** Upon termination prior to the expiration of this Agreement, the Agency will provide the following:

(a) Certification that the portion of the Project that has been completed is in compliance with the terms and conditions of this Agreement and meets minimum construction standards established in accordance with Section 336.045, Florida Statutes.

(b) A report which shall specify the following: (i) the total direct Project costs paid from funds made available by FDOT pursuant to this Agreement; and (ii) the balance of any unexpended Project funds.

**10.0 EXPENDITURES IN VIOLATION OF AGREEMENT:** Any Project funds made available by FDOT pursuant to this Agreement which are determined by FDOT 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 FDOT. Acceptance by FDOT of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of FDOT's rights as the funding agency to verify all information at a later date by audit or investigation.

**11.0 LEGAL REQUIREMENTS:**

(a) This Agreement is executed and entered into in the State of Florida and will be construed, performed, and enforced in all respects in strict conformity with local, state, and federal laws, rules, and regulations. Any and all litigation arising under this Agreement shall be brought in the appropriate court in Leon County, Florida, applying Florida law.

(b) If any term or provision of the Agreement is found to be illegal and unenforceable, the remainder of the Agreement will remain in full force and effect and such term or provision will be deemed stricken.

(c) The Agency shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Agency in

conjunction with this Agreement. Failure by the Agency to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by FDOT.

(d) The Agency shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof.

(e) The Agency and FDOT agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of FDOT as a result of this Agreement.

**12.0 PUBLIC ENTITY CRIME:** The Agency affirms that it is aware of the provisions of Section 287.133(2)(a), Florida Statutes. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. The Agency agrees that it shall not violate Section 287.133(2)(a), Florida Statutes, and further acknowledges and agrees that any conviction during the term of this Agreement may result in the termination of this Agreement.

**12.1 NON-RESPONSIBLE CONTRACTORS:** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or has further been determined by FDOT 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.

**13.0 UNAUTHORIZED ALIENS:** FDOT will consider the employment of unauthorized aliens, by any contractor or subcontractor, as described by Section 274A(e) of the Immigration and Nationalization Act, cause for termination of this Agreement.

**14.0 NON-DISCRIMINATION:** The Agency will not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of age, ethnicity, race,

religious belief, disability, national origin, or sex. The Agency shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management. The Agency shall insert similar provisions in all contracts and subcontracts for services by this Agreement.

The Agency affirms that it is aware of the provisions of Section 287.134(2)(a), Florida Statutes. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity. The Agency further agrees that it shall not violate Section 287.134(2)(a), Florida Statutes, and acknowledges and agrees that placement on the list during the term of this Agreement may result in the termination of this Agreement.

**15.0 ATTORNEY FEES:** Unless authorized by law and agreed to in writing by FDOT, FDOT will not be liable to pay attorney fees, interest, or cost of collection.

**16.0 TRAVEL:** There shall be no reimbursement for travel expenses under this Agreement.

**17.0 PRESERVATION OF REMEDIES:** No delay or omission to exercise any right, power, or remedy accruing to either Party upon breach or default by either Party under this Agreement, will impair any such right, power or remedy of either Party; nor will such delay or omission be construed as a waiver of any breach or default or any similar breach or default.

**18.0 AUDIT AND MONITORING REQUIREMENTS:**

(a) The administration of 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 state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

1. 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 the Auditor General.

2. The Agency, a nonstate entity as defined by Section 215.97(2)(m), Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement is subject to the following requirements:

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 "E"**, which is attached and incorporated into 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](mailto: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, FL 32399-0405  
Email: [FDOTSingleAudit@dot.state.fl.us](mailto: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](mailto: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 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.

3. 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 the 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 the 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.

**19.0 LOBBYING:** Funds may not be used for the purpose of lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

**20.0 MINORITY VENDORS:** The Agency is encouraged to use small businesses, including minority and women-owned businesses as subcontractors or sub-vendors under this Agreement. The directory of certified minority and women-owned businesses can be accessed from the website of the Department of

Management Services, Office of Supplier Diversity. The Agency shall report on a quarterly basis its expenditures with minority and women-owned businesses. The report shall contain the names and addresses of the minority and women-owned businesses; the aggregate dollar figure disbursed that quarter for each business; the time period; type of goods or services; and the applicable code. If no expenditures were made to minority or women-owned businesses, the Agency shall submit a statement to this effect.

**21.0 INDEMNITY AND INSURANCE:**

(a) The Agency agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, and subconsultants, who perform work in connection with this Agreement:

"The contractor/subcontractor/consultant/subconsultant shall indemnify, defend, save and hold harmless the State of Florida, Department of Transportation and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the contractor/subcontractor/ consultant/subconsultant, its officers, agents or employees."

(b) The Agency shall carry or require its contractor/subcontractor/consultant/subconsultant to carry and keep in force during the period of this Agreement a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$100,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$100,000 each occurrence, for the services to be rendered in accordance with this Agreement. In addition to any other forms of insurance or bonds required under the terms of the Agreement, when it includes construction within the limits of a railroad right-of-way, the Agency must provide or cause its contractor to provide insurance coverage in accordance with Section 7-13 of FDOT's Standard Specifications for Road and Bridge Construction, as amended.

(c) The Agency shall also carry or cause its contractor/subcontractor/consultant/subconsultant to carry and keep in force Worker's Compensation insurance as required for the State of Florida under the Worker's Compensation Law.

**22.0 MODIFICATION OF AGREEMENT:** In the event the Agency desires to modify any of the terms and conditions of this Agreement, the Agency shall make such request for modification in writing to

FDOT at any time during the term of this Agreement. However, if the request for modification relates to changes in the Project commencement and/or Project completion dates, such request must be received by FDOT prior to the expiration of the current commencement or Project completion date. If such a request is made after the expiration of the above referenced date, FDOT shall have the option to terminate this Agreement.

**23.0 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.

**24.0 INSPECTOR GENERAL:** The Parties agree to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

**25.0 NON-ASSIGNMENT:** The Agency shall not assign, sublicense, or otherwise transfer its rights, duties, or obligations under this Agreement without the prior written consent of FDOT, which consent will not be unreasonably withheld. Any assignment, sublicense, or transfer occurring without the required written approval will be null and void. FDOT will at all times be entitled to assign or transfer its rights, duties, or obligations under this Agreement to another governmental agency in the State of Florida, upon giving prior written notice to the Agency. In the event that FDOT approves transfer of the Agency's obligations, the Agency remains responsible for all work performed and all expenses incurred in connection with this Agreement.

**26.0 ENTIRE AGREEMENT:** This instrument embodies the entire Agreement of the parties. There are no provisions, terms, conditions, or obligations other than those contained in this Agreement. This Agreement supersedes all previous communications, representations, or agreements, either verbal or written,

between the parties. No amendment will be effective unless reduced to writing and signed by an authorized officer of the Agency and the authorized officer of FDOT or his/her delegate.

**27.0 DUPLICATE ORIGINALS:** This Agreement may be executed in duplicate originals.

*The remainder of this page intentionally left blank.*

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) below.

FDOT

State of Florida, Department of Transportation

AGENCY

Town of Southwest Ranches, Florida

By:

*Stacy L. Miller*

By:

*Doug McKay*

Print Name: STACY L. MILLER, P.E.

Print Name:

Doug McKay

Title: Director of Transportation Development

Title:

Mayor

Date:

12-6-16

As approved by the Board on:

November 10, 2016

Legal Review:

*[Signature]*

Attest:

*Russell Muniz*

Russell Muniz, Town Clerk

See attached Encumbrance Form for date of  
funding approval by Comptroller

Legal Review:

*[Signature]*

Town Attorney Keith Poliakoff

**EXHIBIT "A"**  
**SCOPE OF SERVICES**  
**& DELIVERABLES**

**Financial Management Number: 436040-2-54-01**

**Guardrail Installation Stirling Road:**  
**SW148th Avenue to SW 142<sup>nd</sup> Avenue &**  
**SW 136<sup>th</sup> Ave to 12600 block of Stirling Road**

**(All work is within the Town's right-of-way)**

**The Scope of Services for this Project is defined below:**

The Agency shall survey, design, and construct (installation) of guardrail along Stirling Road, within the Town of Southwest Ranches. Installation will be installed in accordance with all applicable current Department specifications and the Agency's construction specifications.

**DELIVERABLES**

**DESIGN:** 100% Signed and sealed plans, including, but not necessarily limited to roadway, signing, and marking plans.

**CONSTRUCTION:**

Description	Unit	Estimated Qtys.
Surveying	LS	1
Design	LS	1
Mobilization & Demobilization	LS	1
Maintenance of Traffic	LS	1
Density Testing	LS	1
Installation of Guardrail, End Anchorage Assembly and Posts	LF	4200
Canal Bank Restoration	LS	1
Remove and Reinstall Mailboxes	LS	1
Remove and Reinstall Signs	LS	1

**CEI CLASSIFICATIONS**

SR. PROJECT ENGINEER  
PROJECT ADMINISTRATOR  
SR. INSPECTOR  
INSPECTOR  
INSPECTOR'S AIDE  
QUALITY CONTROL (QC) MANAGER

EARTHWORK CONSTRUCTION INSPECTOR LEVEL 1  
EARTHWORK CONSTRUCTION INSPECTOR LEVEL 2  
ASPHALT PAVING TECHNICIAN LEVEL 1  
ASPHALT PAVING TECHNICIAN LEVEL 2

The Agency will need written approval from the Department, if deviating, from the Deliverables shown above.



**EXHIBIT "B"**  
**SCHEDULE OF FUNDING**  
**Financial Management Number:**

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program Number	Funding Source	State Fiscal Year	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
436040-2	STTF	16/17	55.032	Economic Development Transportation Projects – Road Fund	\$300,000.00	088865
Total Award					\$300,000.00	

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/catalog.aspx>]. The services/purposes for which the funds are to be used are included in the Agreement scope of services/work. Any match required by the recipient is clearly indicated in the Agreement.

**EXHIBIT “C”  
AGENCY RESOLUTION**

**RESOLUTION NO. 2017-013**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING A PROJECT FUND AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR THREE HUNDRED THOUSAND DOLLARS (\$300,000) TO COMPLETE THE GUARDRAIL IMPROVEMENTS ALONG STIRLING ROAD; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town desires to install guardrails along Stirling Road; and

**WHEREAS**, the Town's Drainage and Infrastructure Advisory Board has ranked and has prioritized this project; and

**WHEREAS**, this project is specifically named in the Fiscal Year 2016-2017 Town Budget (Account # 101-5100-541-63320 – Transportation: Infrastructure – Guardrails); and

**WHEREAS**, the State of Florida Fiscal Year 2016 General Appropriations Act provided the Town with an appropriation of \$300,000 in the Economic Development Transportation Projects for guardrail installation along Stirling Road; and

**WHEREAS**, the Town is prepared to complete the project at an estimated total cost of \$400,000; and

**WHEREAS**, these improvements must be completed by June 30, 2019; and

**WHEREAS**, the Town will assume the future maintenance and other attendant costs occurring after completion of the project; and

**WHEREAS**, the Town of Southwest Ranches desires to enter into an agreement with the State of Florida Department of Transportation attached hereto as "Exhibit A" under the terms and conditions set forth therein.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Southwest Ranches, Florida:

**Section 1.** The above-referenced recitals are true and correct and are incorporated herein by reference.

**Section 2.** The Town Council hereby approves the agreement between the Town of Southwest Ranches and the State of Florida Department of Transportation

providing funding for the installation of guardrails along Strling Road, as specifically delineated in the agreement attached hereto as Exhibit "A."

**Section 3.** The Town Council hereby authorizes the Mayor, Town Administrator, and the Town Attorney to enter into the agreement in substantially the same form as that attached hereto as Exhibit "A," and to make such modifications, additions, and / or deletions that they deem necessary and proper to effectuate the intent of this Resolution.

**Section 4.** That this Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Southwest

Ranches, Florida, this 10<sup>th</sup> day of November, 2016 on a motion by

C/M Jablonski and seconded by V/M Breitkreuz.

McKay

Breitkreuz

Fisikelli

Jablonski

Schroeder

Ayes  
Ayes  
Ayes  
Ayes  
Ayes

Ayes

Nays

Absent

5  
0  
0

Doug McKay  
Doug McKay, Mayor

ATTEST:

Russell Muñiz

Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

Keith M. Poliakoff  
Keith M. Poliakoff, J.D., Town Attorney

## EXHIBIT "D"

### NOTICE OF COMPLETION AND ENGINEER'S CERTIFICATION OF COMPLIANCE

#### NOTICE OF COMPLETION

##### ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT FUND AGREEMENT

Between

THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

and Town of Southwest Ranches

PROJECT DESCRIPTION: Guardrail Installation along Stirling Road from SW 148<sup>th</sup> Avenue to SW 142<sup>nd</sup> Avenue; and from SW 136<sup>th</sup> Avenue to the 12600 Block

FINANCIAL MANAGEMENT ID# 436040-2-54-01

In accordance with the Terms and Conditions of the Economic Development Transportation Project Fund Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of \_\_\_\_\_, 20\_\_.

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

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

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

#### ENGINEER'S CERTIFICATION OF COMPLIANCE

In accordance with the Terms and Conditions of the Economic Development Transportation Project Fund 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 FDOT a set of "as-built" plans certified by the Engineer of Record/CEI.

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

SEAL:

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

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

**EXHIBIT "E"**  
**STATE FINANCIAL ASSISTANCE**  
**(FLORIDA SINGLE AUDIT ACT)**

**STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

**SUBJECT TO SECTION 215.97, FLORIDA STATUTES:**

**Awarding Agency:** Florida Department of Transportation  
**State Project Title:** ECONOMIC DEVELOPMENT TRANSPORTATION PROJECTS – ROAD FUND  
**CSFA Number:** 55.032  
**\*Award Amount:** \$300,000.00

\*The state award amount may change with supplemental agreements

Specific project information for CSFA Number 55.032 is provided at:  
<https://apps.fldfs.com/fsaa/searchCatalog.aspx>

**COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:**

State Project Compliance Requirements for CSFA Number 55.032 are provided at:  
<https://apps.fldfs.com/fsaa/searchCompliance.aspx>

The State Projects Compliance Supplement is provided at: <https://apps.fldfs.com/fsaa/compliance.aspx>

TO: PG404LK@dot.state.fl.us

SUBJECT: FUNDS APPROVAL/REVIEWED FOR CONTRACT G0I16

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
FUNDS APPROVAL

Contract #G0I16 Contract Type: Method of Procurement:

Vendor Name: SOUTHWEST RANCHE

Vendor ID: VF651036656003

Beginning date of this Agmt: 12/08/16

Ending date of this Agmt: 06/30/19

\*\*\*\*\*

ORG-CODE \*EO \*OBJECT \*AMOUNT \*FIN PROJECT \*FCT \*CFDA

(FISCAL YEAR) \*BUDGET ENTITY \*CATEGORY/CAT YEAR

AMENDMENT ID \*SEQ. \*USER ASSIGNED ID \*ENC LINE(6S)/STATUS

\*\*\*\*\*

Action: ORIGINAL Funds have been: APPROVED

55 043010404 \*AW \*751000 \* 300000.00 \*43604025401 \*215 \*

2017 \*55150200 \*088865/17

0001 \*00 \* \*0001/04

-----  
TOTAL AMOUNT: \*\$ 300,000.00 \*

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FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER

DATE: 12/06/2016