

RESOLUTION 12-R33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, FLORIDA, AUTHORIZING THE CITY MANAGER AND HIS STAFF TO ENTER INTO AND EXECUTE A LOCALLY FUNDED AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION CONCERNING THE VALUE ENGINEERING SERVICES FOR THE CROSSTOWN PARKWAY EXTENSION PROJECT; PROVIDING AN EFFECTIVE DATE

WHEREAS, the City is in the process of completing the Final Environmental Impact Statement ("FEIS") for its proposed Crosstown Parkway Extension Project – the River Crossing of the North Fork of the St. Lucie River ("Project"); and

WHEREAS, as part of the FEIS, a value engineering ("VE") analysis is required and such an analysis requires the use of qualified professionals, methods and procedures; and

WHEREAS, the City and the State of Florida Department of Transportation ("FDOT") desire to enter into a Locally Funded Agreement ("LFA") for VE services and a workshop for the Project that will be performed by qualified experts who will be hired and overseen by FDOT; and

WHEREAS, the City is responsible for the fees and costs associated with the VE work to be performed by the experts in addition to the VE workshop and the experts' participation in said workshop, which is estimated to be Sixty Thousand Dollars and No Cents (\$60,000.00); and

WHEREAS, the VE services will be completed by December 31, 2012, or until FDOT provides written acceptance of the experts' work and final VE report, whichever is sooner, unless otherwise extended by an amendment to the LFA; and

WHEREAS, the City and FDOT have formalized the terms and conditions for the VE services and workshop that will be performed by FDOT for the benefit of the City through the LFA.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, FLORIDA, THAT:

1. This City Council adopts and ratifies those matters set forth in the foregoing recitals.

RESOLUTION 12-R33

2. The City Manager, or his designee, are hereby authorized to enter into, execute and deliver to FDOT the LFA, in substantially the same form that is attached hereto and incorporated herein as Exhibit "A," and such other documents necessary to implement the terms of said Agreement.

3. The City Manager and City Engineer, and their designees, are hereby authorized to take all actions necessary to implement the terms and conditions of the LFA and accomplish the purposes set forth therein.

BE IT FURTHER RESOLVED that this Resolution becomes effective immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this 19th day of March, 2012.

ATTEST:

CITY COUNCIL
CITY OF PORT ST. LUCIE

Karen A. Phillips, City Clerk

By: _____
JoAnn M. Faiella, Mayor

APPROVED AS TO FORM:

By: _____
Roger G. Orr, City Attorney

MEMORANDUM

TO: GREGORY J. ORAVEC, ACTING CITY MANAGER

THRU: ROGER G. ORR, CITY ATTORNEY *RGO*

FROM: AZLINA GOLDSTEIN SIEGEL, ASSISTANT CITY ATTORNEY *AS*

DATE: MARCH 12, 2012

SUBJECT: RESOLUTION 12-R _____
AUTHORIZING THE EXECUTION OF A LOCALLY FUNDED AGREEMENT
("LFA") WITH FDOT CONCERNING VALUE ENGINEERING SERVICES FOR
THE CROSSTOWN PARKWAY EXTENSION PROJECT

Attached for review and approval by the City Council of the City of Port St. Lucie is an agenda packet containing a resolution authorizing the execution of a Locally Funded Agreement ("LFA") between the State of Florida Department of Transportation ("FDOT") and the City of Port St. Lucie. The LFA will provide FDOT with the necessary authorization and funding to (1) hire experts to perform Value Engineering ("VE") services, and (2) to conduct a VE workshop on behalf of the City for the Crosstown Parkway Extension Project – the River Crossing of the North Fork of the St. Lucie River ("Project"). A VE Analysis is required as part of the Final Environmental Impact Statement for the Project. The City will be responsible for the fees and costs associated with the VE work, which is estimated to be \$60,000.00, and is anticipated to be completed by December 31, 2012. The LFA sets forth the terms and conditions under which FDOT and its staff and hired experts will provide and perform the VE services and workshop for the Project.

Please process this resolution as required for the placement of this matter on the agenda for the March 19, 2012, City Council meeting. If you have any questions, please do not hesitate to contact me.

AGS/bb

Attachments: Resolution 12-R _____ with Exhibits
Memo from Roxanne Chesser to Cheryl Shanaberger

cc: Patricia Roebling, P.E., City Engineer
Roxanne Chesser, P.E., Civil Engineer/Project Manager
Robin Dorfmeister, Administrative Secretary, Engineering Dept.

RECEIVED

MAR 13 2012

City Manager's Office

Exhibit "A"
(Res 12-R _____)
Six Pages

FM No: 410844-1-22-01
FEID No: F-596-000-785

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCALLY FUNDED AGREEMENT**

THIS Locally Funded Agreement ("Agreement"), entered into this _____ day of _____ 20____, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and City of Port St. Lucie located at 121 S.W. Port St. Lucie Boulevard, Building B, Port St. Lucie, FL 33432, hereinafter called the PARTICIPANT.

WITNESSETH

WHEREAS, the PARTICIPANT is providing the DEPARTMENT with financial assistance for the Project Development and Environment (PD&E) Study along the Crosstown Parkway Extension from Marth Lane to SR-5/US-1 in St. Lucie County, Florida (Financial Management (FM) Number 410844-1-22-01, Funded in Fiscal Year 2011/2012); and

WHEREAS, the PARTICIPANT has requested that the DEPARTMENT perform the following additional work: Value Engineering (hereinafter referred to as "VE") workshop, as set forth in **Exhibit A** attached hereto and made a part hereof and hereinafter referred to as the Project; and

WHEREAS, the improvements are in the interest of both the PARTICIPANT and the DEPARTMENT and it would be more practical, expeditious, and economical for the DEPARTMENT to perform such activities; and

WHEREAS, the PARTICIPANT by Resolution No. _____ adopted on _____, 20____, a copy of which is attached hereto and made a part hereof, authorizes the proper officials to enter into this AGREEMENT.

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

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The DEPARTMENT shall be responsible for assuring that the Project complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards.
3. The PARTICIPANT agrees to make all previous studies, maps, drawings, surveys and other data and information pertaining to the Project available to the DEPARTMENT at no extra cost.
4. The total cost for the Project, is estimated to be SIXTY THOUSAND DOLLARS AND NO CENTS (\$60,000.00). The PARTICIPANT is responsible for 100 percent (100%) of the cost of the Project. The PARTICIPANT's payment for the Project is an amount of SIXTY THOUSAND DOLLARS AND NO CENTS (\$60,000.00), which sum shall be paid to the DEPARTMENT. In the event the actual cost of the Project results in a decrease to the PARTICIPANT's cost, the difference shall be refunded to the PARTICIPANT. In the

event the actual cost of the Project results in a sum greater than that paid by the PARTICIPANT, then such sum shall be the sole responsibility of the PARTICIPANT and shall be paid to the DEPARTMENT.

- A. The PARTICIPANT agrees that it will, within (14) calendar days of execution of this Agreement, furnish the DEPARTMENT with a check in the amount of SIXTY THOUSAND DOLLARS AND NO CENTS (\$60,000.00) towards the Project cost.

In the event payment is not received by the DEPARTMENT within fourteen (14) calendar days of execution of this AGREEMENT, the Value Engineering services required/ needed for the Project Development and Environment (PD&E) Study may be delayed.

Remittance shall be made payable to the Department of Financial Services, Revenue Processing. Payment shall be clearly marked to indicate that it is to be applied to FM No. 410844-1-22-01. The DEPARTMENT shall utilize this amount towards costs of Project No. 410844-1-22-01.

Payment shall be mailed to:

Florida Department of Transportation
Professional Services Unit- Attention: Leos A. Kennedy, Jr.
3400 W. Commercial Boulevard
Fort Lauderdale, Florida 33309-3421

- B. If the actual costs incurred for the Project is in excess of the advance deposit amount of SIXTY THOUSAND DOLLARS AND NO CENTS (\$60,000.00), the PARTICIPANT will provide an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT, so that the total deposit is equal to the estimated cost of the Project. The DEPARTMENT will notify the PARTICIPANT as soon as it becomes apparent the cost of the Project is in excess of the advance deposit amount; however, failure of the DEPARTMENT to so notify the PARTICIPANT shall not relieve the PARTICIPANT from its obligation to pay for its full participation. If the PARTICIPANT cannot provide the additional deposit within fourteen (14) calendar days, a letter must be submitted to and approved by the DEPARTMENT's Project Manager indicating when the deposit will be made. The PARTICIPANT understands the request and approval of the additional time could delay the Project, and additional costs may be incurred due to delay of the Project. In the event of non-payment, the DEPARTMENT reserves the right to terminate this Agreement.
- C. If the actual costs for the Project is less than the advance deposit amount of SIXTY THOUSAND DOLLARS AND NO CENTS (\$60,000.00), the DEPARTMENT will refund the difference in the amount of the advance deposit and the actual cost incurred for the Project, if such refund is requested by the PARTICIPANT in writing.

- D. Should Project modifications occur that increase the PARTICIPANT's cost for the Project, the PARTICIPANT will be notified by the DEPARTMENT. The PARTICIPANT agrees to provide, without delay, in advance of the additional work being performed, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the cost of the Project. The DEPARTMENT shall notify the PARTICIPANT as soon as it becomes apparent the actual cost will exceed the PARTICIPANT's payment. However, failure of the DEPARTMENT to so notify the PARTICIPANT shall not relieve the PARTICIPANT from its obligation to pay for its full participation. Funds due from the PARTICIPANT, for the Project, not paid within forty (40) calendar days from the date of the invoice are subject to an interest charge at a rate established pursuant to *Section 55.03, F.S.* In the event of non-payment, the DEPARTMENT reserves the right to terminate this Agreement.
- E. The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty (360) calendar days of final payment to the Contractor. The DEPARTMENT considers the Project complete when the final payment has been made to the Contractor, not when the construction work is complete. All Project cost records and accounts shall be subject to audit by a representative of the PARTICIPANT for a period of three (3) years after final close out of the Project. The PARTICIPANT will be notified of the final cost. Both parties agree that in the event the final accounting of Project costs pursuant to the terms of this Agreement is less than the total deposits to date, a refund of the excess will be made by the DEPARTMENT to the PARTICIPANT. If the final accounting is not performed within three hundred sixty (360) days, the PARTICIPANT is not relieved from its obligation to pay.
- F. In the event the final accounting of Project costs is greater than the total deposits to date, the PARTICIPANT will pay the additional amount within forty (40) calendar days from the date of the invoice from the DEPARTMENT. The PARTICIPANT agrees to pay interest at a rate as established pursuant to *Section 55.03, F.S.*, on any invoice not paid within forty (40) calendar days until the invoice is paid.
5. In the event it becomes necessary for either party to institute suit for the enforcement of the provisions of this Agreement, each party shall be responsible to pay their own attorney fees and court costs. Venue with respect to any such litigation shall be in Broward County.
6. This AGREEMENT and any interest herein shall not be assigned, transferred or otherwise encumbered by the PARTICIPANT under any circumstances without the prior written consent of the DEPARTMENT. However, this AGREEMENT shall run to the DEPARTMENT and its successors.

7. Except as otherwise set forth herein, this Agreement shall continue in effect and be binding to both the PARTICIPANT and the DEPARTMENT until the Project is completed as evidenced by the written acceptance of the DEPARTMENT, or December 31, 2012 whichever occurs first, or if this Agreement is terminated earlier due to the failure of the PARTICIPANT to make the payments called for hereunder.
8. The PARTICIPANT warrants that it has not employed or obtained any company or person, other than bona fide employees of the PARTICIPANT, to solicit or secure this Agreement, and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee employed by the PARTICIPANT. For breach or violation of this provision, the DEPARTMENT shall have the right to terminate the Agreement without liability.
9. The PARTICIPANT / Vendor/ Contractor:
 - 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 PARTICIPANT / Vendor/ Contractor 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.
10. This Agreement is governed by and construed in accordance with the laws of the State of Florida.
11. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
12. Any or all notices (except invoices) given or required under this Agreement shall be in writing and either personally delivered with receipt acknowledged or sent by certified mail, return receipt requested. All notices delivered shall be sent to the following addresses:

If to the DEPARTMENT:

Florida Department of Transportation - District Four
3400 West Commercial Blvd.
Fort Lauderdale, Florida 33309-3421
Attn: Leos A. Kennedy, Jr.
With a copy to: Beatriz Caicedo-Maddison
A second copy to: Office of the General Counsel

If to the PARTICIPANT:

City of Port St. Lucie
121 S.W. Port Saint Lucie Blvd.
Engineering Bldg B.
Port St. Lucie, FL 33432
Attn: Roxanne Chesser
With a copy to: Attorney

IN WITNESS WHEREOF, this Agreement is to be executed by the parties below for the purposes specified herein. Authorization has been given to enter into and execute this Agreement by Resolution No. _____, hereto attached.

CITY OF PORT ST. LUCIE

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: _____
NAME: _____
TITLE: _____
_____ day of _____, 20__

BY: _____
GERRY O'REILLY, P.E.
DIRECTOR OF TRANSPORTATION DEVELOPMENT

ATTEST:

LEGAL REVIEW:

CITY CLERK (SEAL)

BY: _____
OFFICE OF THE GENERAL COUNSEL

APPROVED AS TO FORM

APPROVED:

BY: _____
CITY ATTORNEY

BY: _____
PROFESSIONAL SERVICES ADMINISTRATOR

**EXHIBIT A
SCOPE OF SERVICES**

**District-wide Value Engineering Services
Financial Project ID.No. 410844-1-22-01**

- The DEPARTMENT at the request of the PARTICIPANT shall conduct a VE workshop (the Project) for the Crosstown Parkway Extension from Manth Lane to SR-5/US-1 in St. Lucie County.
- The DEPARTMENT shall provide functional expertise for the Project.
- The PARTICIPANT shall provide appropriate personnel to take part in the Project, at their sole cost and expense.
- The deliverables from the DEPARTMENT's VE Consultant shall be a draft and final VE report. The DEPARTMENT and the PARTICIPANT will have the opportunity to review and comment on the preliminary VE report, prior to drafting the final VE report.



"A City for All Ages"

CITY OF PORT ST. LUCIE
ENGINEERING DEPARTMENT
Accredited Agency – American Public Works Association

MEMORANDUM

TO: Cheryl Shanaberger – Assistant Director OMB
FROM: Roxanne M. Chesser, P. E. – Civil Engineer *RMC*
DATE: March 6, 2012
RE: Crosstown Parkway Extension
State of Florida Department of Transportation Locally Funded Agreement (LFA)
Value Engineering (VE) Services

Attached please find one resolution and five originals of the proposed State of Florida Department of Transportation (FDOT) Locally Funded Agreement (LFA) for Value Engineering (VE) Services for the Crosstown Parkway Extension. The LFA, pending City Council approval, will provide FDOT with the necessary authorization and financial support to complete VE services that are needed to complete the Final Environmental Impact Statement (FEIS).

The VE analysis is a requirement of the FEIS and this analysis requires the use of qualified professionals, methods and procedures. To ensure that we follow the federal requirements of the FEIS, staff is requesting to use FDOT's resources to complete this task in accordance with the federal requirements.

Significant aspects of the LFA include:

- The contract (LFA) amount is \$60,000.00.
- The contract (LFA) time is until December 31, 2012.
- Payment is required within 14 calendar days of execution of the LFA.
- If the actual contract cost is less, the difference will be refunded.

FDOT LFAs require the following:

- Do not complete the date on the five original contracts
- Five original signed agreements
- Two original resolutions that authorize the execution of the LFA
- Three certified copies of the resolution that authorizes the execution of the LFA



The account number associated with this proposed LFA is 314-4105-568814-27010. Please schedule this for presentation at the March 19th City Council meeting. If additional documentation is needed or if you have any questions, I am available to assist.

/rnc

Attachments

c: Patricia Roebeling, P.E. – City Engineer
Azlina Goldstein Siegel, Assistant City Attorney
Frank Knott – Project Manager
Sue Walsh – Budget Specialist
Robin Dorfmeister – Administrative Assistant

S:\projects\Crosstown Parkway Extension\2.0 Studies\2.2 VEFeb 24 2012 MEM Shanaberger CTP EXT LFA for VE Study.doc



Florida Department of Transportation

RICK SCOTT
GOVERNOR

3400 W. Commercial Blvd.
Fort Lauderdale, FL 33309

ANANTH PRASAD, P.E.
SECRETARY

March 5, 2012

Ms. Roxanner Chesser, P.E.
City of Port St. Lucie
121 S.W. Port St. Lucie
Port St. Lucie, Florida 34984

RE: Locally Funded Agreement
FM #: 410844-1-22-01
Description: Project Development and Environmental (PD&E) Study along the Crosstown
Parkway Extension from Manth Lane to SR-5/US-1 in St. Lucie County

Dear Ms. Chesser:

I am enclosing five (5) copies of the Locally Funded Agreement (LFA) referenced above.

Please **DO NOT** fill in the date of the contract(s). The date of the LFA contract shall be completed by our staff upon execution by the Department of Transportation's Director of Transportation Development. A fully executed copy of both agreements will then be forwarded to you for your files.

In addition to returning the five signed original agreements, please forward:

- Two (2) original and three (3) certified copies of the Commission resolution that authorizes the execution of the LFA.

If it is not possible to obtain the resolutions, please forward:

- Five (5) certified copies of the minutes of the Commission meeting at which this agreement was approved for execution.

Should you have any questions, please contact me at 954-777-2285.

Sincerely,

Leos A. Kennedy, Jr.
Professional Services Unit

Enclosure: LFA Agreement
Copy: Beatriz Caicedo-Maddison, P.E. - FDOT Project Manager
File