

<b>Financial Project No.:</b> 436014-2-54-13	<b>Fund:</b> DPTO	<b>FLAIR Approp:</b> 088808
<b>Contract No:</b> <u>Pending</u>	<b>Function:</b> <u>215</u>	<b>FLAIR Obj.:</b> 55100500
	<b>Contract Amount:</b> <u>\$187,322</u>	<b>Org. Code:</b> 55 31 00 00 933
	<b>DUNS No:</b> <u>059071860-0000</u>	<b>Vendor No.:</b> <u>VF591101138033</u>
		<b>CSFA.:</b> <u>55.021</u>
		<b>Title (Rail Development Grants)</b>

**STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION**

**QUIET ZONE IMPROVEMENT AGREEMENT**

This Quiet Zone Improvement Agreement (“Agreement”), is entered into this \_\_\_\_\_ day of May, 2016, between the State of Florida, Department of Transportation (“Department”) and City of Clearwater (“Agency”). The Department and the Agency are sometimes referred to in this Agreement individually as a “Party” and collectively as the “Parties.”

**RECITALS**

A. The Department has determined that the project described in Exhibit “A” attached to and incorporated in this Agreement is for the public purpose of quiet zone capital improvements in response to the use of locomotive horns at highway-rail grade crossings, and the Department is authorized pursuant to Chapter 2014-51, Laws of Florida, to approve an expenditure to the Agency for up to fifty percent of the nonfederal and nonprivate share of project costs, with the remaining share being provided by the Agency.

B. The Department is prepared, in accordance with its adopted work program, to undertake the project described as the Quiet Zone Improvements, in Fiscal Year 2015/16, which project is known as FM #436014-2-54-13 (the “Project”).

C. The Agency is prepared to complete the Project at an estimated total cost of Three hundred Seventy Four Thousand Six Hundred Forty Four Dollars (\$374,644.00).

D. The Department is prepared to provide 50% of the total cost of construction of the Project up to One Hundred Eighty Seven Thousand Three Hundred Twenty Two Dollars (\$187,322.00).

**AGREEMENT**

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

1. The Recitals above are true and correct and are made a part of this Agreement.

2. The term of this Agreement shall begin upon the date of signature of the last party to sign this Agreement (“Effective Date”) and continue for three (3) years after the Effective Date. If the Agency does not complete the Project within the time period allotted, this Agreement will expire on the last day of the term of this Agreement as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. Expiration of this Agreement will be considered termination of the Project.

3. The Agency shall furnish the services to design and construct the Project which consists of: a federally compliant quiet zone, and otherwise the Agency shall perform all other necessary work to complete the Project, as specified in Exhibit “A”. Nothing in this Agreement shall be construed as requiring the Agency to perform any activity which is outside of the scope of services of the Project as defined in Exhibit “A”, which scope shall be limited to only design and construction work.

4. The Agency shall be responsible for obtaining clearances/permits required for the construction of the Project from the appropriate permitting authorities.

5. The Agency agrees to contract with CSX TRANSPORTATION, INC., (the “Railroad”) for the Railroad to undertake the design, construction, and/or 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 Department and the Railroad.

(a) The Agency understands that it is responsible for the preparation of all design plans for the Project. The Agency shall use its normal procurement procedures to hire either the Railroad or a consultant engineering firm to perform the design services for the Project.

(b) 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.

(c) The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to the Department’s Contract Manager,

who must approve such plans and specifications, and final bid documents in writing, prior to commencing construction of the Project.

- (d) The Agency shall hire the Railroad or a contractor using the Agency's normal bid procedures to perform the construction work for the Project.
- (e) Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department's Contract Manager, at (850) 414-4620 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.
- (f) The Agency shall use commercially reasonable efforts to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents.
- (g) Upon completion of the work authorized by this Agreement, the Agency shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached to this Agreement as Exhibit "C". 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.
- (h) The Agency must submit the final invoice to the Department within one hundred eighty (180) days after the final acceptance of the Project.

6. Upon completion of the Project, the Agency or the Railroad, as set forth in a separate agreement between the Agency and the Railroad, shall be responsible for the maintenance of the facilities that are constructed under this Agreement. The terms of this provision shall survive the termination of this Agreement.

7. If the Agency utilizes its own work force for any services for the Project, all costs and expenses thereof shall not be subject to reimbursement.

8. Upon request, the Agency agrees to provide quarterly progress reports to the Department in the standard format used by the Agency. The Department will be entitled at all

times to be advised, at its request, as to the status of the Project being constructed by the Agency and of details thereof. Either party to the Agreement may request and shall, within a reasonable time thereafter, be granted a conference with the other party.

9. The total estimated cost of the Project is Three hundred Seventy Four Thousand Six Hundred Forty Four Dollars (\$374,644.00). This amount is based on the Schedule of Funding, Exhibit "B" attached to and incorporated in this Agreement. The Department agrees to reimburse the Agency 50% of actual costs incurred, excluding Agency overhead, up to an amount not to exceed One Hundred Eighty Seven Thousand Three Hundred Twenty Two Dollars (\$187,322.00). Project costs eligible for reimbursement will be allowed only from the Effective Date of this Agreement. The funding for this Project is contingent upon annual appropriation by the Florida Legislature, the availability of funds pursuant to this Paragraph 10, approval of all plans, specifications, contracts, or other obligating documents as required by the Department, and all other terms of this Agreement, Department approval of costs in excess of the approved funding or attributable to actions which have not received the required approval of the Department and all other terms of this Agreement, and Department approval of the Project scope and budget at the time appropriation authority is available. The Agency agrees to bear all expenses in excess of the Department's participation. Travel costs will not be reimbursed.

- (a) A Project budget shall be prepared by the Agency and approved by the Department. The Agency shall maintain the budget, carry out the Project and shall incur obligations against Project funds only in conformity with the latest approved budget for the Project. No budget increase or decrease shall be effective unless it complies with fund participation requirements established in this Paragraph 9 of this Agreement, or any amendment thereto.
- (b) Unless otherwise permitted, payment will begin in the year the Project or Project phase is scheduled in the adopted work program as of the Effective Date of this Agreement. Payment will be made for actual costs incurred as of the date the invoice is submitted with the final payment due upon receipt of a final invoice.
- (c) 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 Project Number 436014-1-54-13 and the

quantifiable, measurable, and verifiable units of deliverables are described more fully in Exhibit "A".

- (d) Invoices shall be submitted by the Agency in detail sufficient for a proper pre-audit and post-audit thereof, based on the quantifiable, measurable and verifiable deliverables as established in Exhibit "A". Deliverables must be received and accepted in writing by the Department's Project Manager or designee prior to reimbursements.
- (e) Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Paragraph 4. and Exhibit "A" was met.
- (f) There shall be no reimbursement for travel expenses under this Agreement.
- (g) 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, F.S.
- (h) If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within five days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, 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 the Department 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.

- (i) The Agency should be aware of the following time frames. Upon receipt of an invoice, the Department has twenty (20) days to inspect and approve the goods and services. The Department has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (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 forty (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. Interest penalties of less than one dollar (\$1.00) will not be enforced unless the Agency requests payment. Invoices which 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 Department. 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 or by calling the Division of Consumer Services at (877) 693-5236.
- (j) Any Project funds made available by the Department pursuant to this Agreement which are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- (k) Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Other Party's general accounting records and the project records, together with supporting

documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

10. In the event this Agreement is in excess of \$25,000.00 (Twenty Five Thousand Dollars and 00/100) and a term for a period of more than one (1) year, the provisions of Section 339.135(6)(a), Florida Statutes, are incorporated as follows:

“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 one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000.00 and which have a term for a period of more than one (1) year.”

11. The Department’s performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Florida Legislature. The Parties agree that in the event funds are not appropriated to the Department for the Project, this Agreement may be terminated, which shall be effective upon the Department giving notice to the Agency to that effect.

12. 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.

(a) In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency’s use of state financial assistance may include but not be limited to on-site visits by

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

(b) 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 D attached to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
- ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting

package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

- iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](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.
- (c) The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department, or its designee, DFS or 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.

13. The Agency shall permit, and shall require its contractors and subcontractors to permit, the Department's authorized representatives to inspect all work, materials, payrolls, and records, and to audit the books, records, and accounts pertaining to the financing and development of the Project.

14. The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant, purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of same.

15. Execution of this Agreement constitutes a certification that the Agency has and will maintain the ability to repair or replace any Project equipment or facilities in the event of loss or damage due to any accident or casualty for the useful life of such equipment or facilities as set forth in a separate agreement between the Agency and the Railroad. In the event of the loss of such equipment or facilities, the Agency shall either replace the equipment or facilities or reimburse the Department to the extent of its interest in the lost equipment or facility. The Department may waive or modify this section as appropriate.

16. 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 the Department.

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

18. 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.

19. The Agency and the Department agree that the Agency, its employees, and subcontractors are not agents of the Department as a result of this Agreement.

20. This Agreement may be canceled by the Department in whole or in part at any time the interest of the Department requires such termination. The Department also reserves the right to seek termination or cancellation of this Agreement in the event the Agency shall be

placed in either voluntary or involuntary bankruptcy. The Department further reserves the right to terminate or cancel this Agreement in the event an assignment is made for the benefit of creditors. Additionally, the following provisions apply to termination or cancellation by the Department:

(a) If the Department determines that the performance of the Agency is not satisfactory, the Department shall have the option of (a) immediately terminating the Agreement, or (b) notifying the Agency of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or (c) taking whatever action is deemed appropriate by the Department.

(b) If the Department requires termination of the Agreement for reasons other than unsatisfactory performance of the Agency, the Department shall notify the Agency of such termination, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

(c) If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated.

(d) The Department 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.

(e) The Department specifically reserves its right to immediately terminate this Agreement and demand repayment of the funds the Department has paid to the Agency, should the Agency fail to complete the Project prior to the expiration of this Agreement.

21. In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist, on the part of the Agency, and the making of such payment by the Department while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

22. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. Venue for any action arising under this Agreement shall be in Leon County, Florida. Any provision in this Agreement determined by a court of competent jurisdiction, or any other legally constituted body having jurisdiction, to be invalid or

unenforceable shall be severable and the remainder of this Agreement shall remain in full force and effect, provided that the invalidated or unenforceable provision is not material to the intended operation of this Agreement.

23. 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 Agency crime may not submit a bid on a contract to provide any goods or services to a public Agency, may not submit a bid on a contract with a public Agency for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public Agency, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public Agency, and may not transact business with any public Agency in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty six (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.

24. 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 Agency 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 Agency, may not submit a bid on a contract with a public Agency for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public Agency, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public Agency, and may not transact business with any public Agency. 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.

25. The Agency is encouraged to use small businesses, including minority and women-owned businesses as subcontractors or sub-vendors under this Agreement.

26. The Department and the Agency acknowledge and agree to the following:

i. 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

ii. The Agency shall expressly require any contractors and 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 contractor/subcontractor during the contract term.

27. 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 the Department at any time during the term of this Agreement.

28. The Agency shall not assign, sublicense, or otherwise transfer its rights, duties, or obligations under this Agreement without the prior written consent of the Department, which consent will not be unreasonably withheld. Any assignment, sublicense, or transfer occurring without the required written approval will be null and void. The Department 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 the Department approves a transfer of the Agency's obligations, the Agency remains responsible for all work performed and all expenses incurred in connection with this Agreement.

29. 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 contact persons 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.

**DEPARTMENT:**

**STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
STATE RAIL OPERATIONS AND PROGRAMS ADMINISTRATOR  
605 SUWANNEE STREET, MS 25  
TALLAHASSEE, FL 32399-0450  
PHONE: 850-414-4620  
FAX: 850-414-4508**

**AGENCY:**

**CITY OF CLEARWATER  
MUNICIPAL SERVICES BUILDING  
100 SOUTH MYRTLE AVENUE, SUITE 22  
CLEARWATER, FLORIDA 33756  
PHONE: (727) 562 - 4750  
FAX: (727) 562 - 4755**

30. This Agreement 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 communication, representation, or agreement, 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 the Department or his/her delegate.

31. 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

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

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

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

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

Legal Review:

\_\_\_\_\_

See attached Encumbrance Form for date of  
funding approval by Comptroller

AGENCY

\_\_\_\_\_  
\_\_\_\_\_

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

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

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

As approved by the Board on:

\_\_\_\_\_

Attest: \_\_\_\_\_

Legal Review:

\_\_\_\_\_

County Attorney

## **EXHIBIT “A”**

### **SCOPE OF SERVICES**

**Financial Project Number: 436014-1-54-07**

This exhibit forms an integral part of that certain Quiet Zone Improvement Agreement entered into this \_\_\_\_\_ day of May, 2016, between the State of Florida, Department of Transportation (“Department”) and City of Clearwater (“Agency”).

#### **PROJECT LOCATION:**

City of Clearwater in Pinellas County, Florida, USA

The Crossings are located on the CSX Rail Corridor that runs within the City of Clearwater city limits. The crossing numbers and (local street names) are as follow:

#626647E (Lakeview Road), 626794S (Pinellas Street), 626795Y (Grand Central Street), 626796F (Jeffords Street), 626797M (Druid Road), 626803N (Turner Street), 626804V (Chestnut Street / SR 60), 626805C (Court Street / SR 60), 626806J (Franklin Street), 626807R (Pierce Street), 626808X (Park Street), 626809E (Cleveland Street), 626810Y (Laura Street), 626811F (Hendricks Street), 626812M (Grove Street), 626813U (Drew Street)

#### **Project Description:**

The Agency requests rail development grant funds to perform Quiet Zone Improvements associated with at-grade railroad crossings.

#### **SPECIAL CONSIDERATION:**

Unless terminated earlier, design work on the Project may commence upon the full execution of this Agreement, and construction work may commence upon the Department’s issuance of a Construction Notice to Proceed. All work on the Project shall be completed on or before three (3) years after the Effective Date of this Agreement. If the Agency does not complete the Project within the time period allotted, this Agreement will expire on the last day of the term of this Agreement unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. Expiration of this Agreement will be considered termination of the Project.

Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department’s Contract Manager or from an appointed designee and provide one (1) copy of the final design plans and specifications and final bid documents to the department’s Contract Manager prior to commencing construction of the project. Any construction work performed prior to the issuance of the Notice to Proceed for construction is not subject to reimbursement.

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.

**Exhibit "B"**

**ESTIMATED SCHEDULE OF FUNDING  
Financial Project Number 436014-1-54-07**

<b>Location:</b>	<b>Description of Work:</b>	<b>Est. Payment Schedule:</b>	<b>Total:</b>	<b>State Funds:</b>
626647E	Signage		<u>N/A</u>	<u>N/A</u>
626794S	Lights/Gates/Signage		<u>N/A</u>	<u>N/A</u>
626795Y	Signage		<u>N/A</u>	<u>N/A</u>
626796F	Signage	(12 mos. after effective)*	<u>N/A</u>	<u>N/A</u>
626797M	Signage		<u>N/A</u>	<u>N/A</u>
626803N	Signage		<u>N/A</u>	<u>N/A</u>
626804V	Signage		<u>N/A</u>	<u>N/A</u>
626805C	Signage		<u>N/A</u>	<u>N/A</u>
626806J	Signage		<u>N/A</u>	<u>N/A</u>
626807R	Signage		<u>N/A</u>	<u>N/A</u>
626808X	Signage		<u>N/A</u>	<u>N/A</u>
626809E	Signage	(24 mos. after effective)*	<u>N/A</u>	<u>N/A</u>
626810Y	Signage		<u>N/A</u>	<u>N/A</u>
626811F	Lights/Gates/Median/Signage		<u>N/A</u>	<u>N/A</u>
626812M	Lights/Gates/Median/Signage		<u>N/A</u>	<u>N/A</u>
626813U	Signage	(36 mos. after effective)*	<u>N/A</u>	<u>N/A</u>
	Design Cost	\$0.00 / Crossing = (concurrent with const.)	<u>N/A</u>	<u>N/A</u>
		<b>TOTAL</b>	<u>N/A</u>	<u>N/A</u>
		<b>Project Cost:</b>		<u>N/A</u>
		<b>State (DPTO) - 50% of total up to</b>		<u>N/A</u>
		<b>Local</b>		<u>N/A</u>

All work is scheduled to be completed by \_\_\_\_\_ (36 months after execution).

\* The estimated payment schedule dates shown are the deadlines to invoice for grant award payments. Invoices may be submitted prior to the deadline dates if desired. The schedule reflects a minimum of three (3) crossing improvements per year; the order of crossing improvement is arbitrary.

**EXHIBIT "C"**

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

**QUIET ZONE IMPROVEMENT AGREEMENT**

Between

THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

and

THE CITY OF CLEARWATER

PROJECT DESCRIPTION: See Exhibit "A"

FINANCIAL PROJECT ID# 436014-1-54-13

In accordance with the Terms and Conditions of the Quiet Zone Improvement Agreement, the undersigned hereby 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 Quiet Zone Improvement Agreement, the undersigned hereby certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish the Department a set of "as-built" plans certified by the Engineer of Record/CCEI.

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

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

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

**EXHIBIT “D”**

**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:** RAIL DEVELOPMENT GRANTS

**CSFA Number:** 55.021

**\*Award Amount:** \$420,000.00

\*The state award amount may change with supplemental agreements

Specific project information for CSFA Number 55.021 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 55.021 is provided at:  
<https://apps.fldfs.com/fsaa/searchCompliance.aspx>

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