

RESOLUTION 24-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE A LOCALLY FUNDED AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) TO PROVIDE AN ESTIMATED DEPOSIT TO FDOT IN THE AMOUNT OF \$265,371 FOR THE ESTIMATED DESIGN COST OF THE REPLACEMENT OF THE CAXAMBAS COURT BRIDGE (FPID#: 445460-1-32-01); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, FDOT has deemed and the City Council of the City of Marco Island, Florida ("City Council") recognizes that the Caxambas Court Bridge is structurally deficient and in need of replacement; and

WHEREAS, FDOT has included the replacement of the Caxambas Court bridge in its five year work plan in the State of Florida Fiscal Year 2023/2024; and

WHEREAS, the Agreement stipulates that the funding split will be 75% Federal / 25% Local with the City's share of the design cost being \$265,371; and

WHEREAS, FDOT has requested that the City provide a resolution authorizing the City Manager to execute the grant agreement; and

WHEREAS, the City Council has determined that the City Manager should execute the grant agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby approves the Locally Funded Agreement in the form attached and incorporated herein as Exhibit "A."

Section 3. The City Council hereby authorizes the City Manager to execute the Locally Funded Agreement, attached as Exhibit "A," together with such non-substantial changes as are acceptable to the City Manager and approved by the City Attorney.

Section 4. This Resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, THIS 5th DAY OF FEBRUARY 2024.

ATTEST:


Joan Taylor, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: 
Jared Grifoni, Chairman

Approved as to form and legal sufficiency:


Alan L. Gabriel, City Attorney

EXHIBIT A

**LOCALLY FUNDED AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
CITY OF MARCO ISLAND**

This is an Agreement between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter, "DEPARTMENT") and CITY OF MARCO ISLAND, a political subdivision of the State of Florida, (hereinafter, "AGENCY") for the AGENCY to provide an estimated deposit amount to the DEPARTMENT to support the design of Caxambas Court Bridge over Roberts Bay (Bridge Number 034112). This bridge is structurally deficient and in need of replacement.

W I T N E S S E T H

- A. WHEREAS, the DEPARTMENT has included in its Five-Year Work Program in Fiscal Year 2023/2024; and
- B. WHEREAS, the AGENCY requested the DEPARTMENT to:
- Complete the design of Caxambas Court Bridge over Roberts Bay (Bridge Number 034112). This bridge is structurally deficient and in need of replacement. This project is funded by the Local Government Deficient Bridge Program. This program is a 75% Federal / 25% Local split up to \$5,000,000. The local agency is responsible for any costs in excess of \$5,000,000, as well as any additional requests that would increase the project cost (hereinafter, the "PROJECT"); and
- C. WHEREAS, the DEPARTMENT and AGENCY desire to enter into this Locally Funded Agreement to set forth the terms and conditions upon which AGENCY shall provide 25% funding for the design phase only (See Exhibit "B", Estimated Schedule of Funding, attached hereto and incorporated by reference) for PROJECT; and
- D. WHEREAS, the total negotiated design cost is \$1,061,480.59, the local share would be \$265,370.15 for programming funding is rounded to the nearest dollar; and
- E. WHEREAS, the AGENCY, by Resolution dated the 5th day of February, 2024, a copy of which is attached hereto and made a part hereof as Exhibit "A", has authorized the City Manager or Designee to enter into this Agreement.

NOW THEREFORE, in consideration of the mutual benefits to be derived from joint participation in this Agreement, the parties agree as follows:

1. The foregoing recitals are true and correct and are hereby adopted, incorporated into and made a part of this Agreement by reference, as if fully set forth herein.
2. The AGENCY agrees that it will, at least fourteen (14) calendar days after the execution of this agreement, furnish the DEPARTMENT an advance deposit in the amount of **Two Hundred Sixty-Five Thousand Three Hundred Seventy-One Dollars, \$265,371.00** for payment of the estimated project cost for locally funded project number #445460-1-32-01. The Department may utilize this deposit for payment of the costs of the PROJECT.
3. Should project modifications occur that increase the AGENCY's share of the project cost being performed, the AGENCY will be notified by the DEPARTMENT accordingly. The

AGENCY 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 its share of the project. If the AGENCY cannot provide the additional deposit with 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 DEPARTMENT shall notify the AGENCY as soon as it becomes apparent the actual costs will overrun the award amount; however, failure of the Department to so notify the AGENCY shall not relieve the AGENCY from its obligation to pay for its full participation. Funds due from the date of the invoice are subject to an interest charge at the rate established pursuant to Section 55.03, Florida Statutes (F.S.).

4. In the event the final PROJECT cost is less than the advance deposit, the DEPARTMENT will refund the excess amount to the AGENCY and the DEPARTMENT will direct the Escrow Agent to release the excess funds to the Agency.
5. All deposits shall be made payable to the Florida Department of Transportation:

Florida Department of Transportation
OOC-GAO, LFA Section
605 Suwannee Street, MS 42B
Tallahassee, FL 32399

6. All notices under the Agreement shall be directed to the following contact persons:

TO DEPARTMENT:
Zoe Giannopoulos
LAP Design Project Manager
Florida Department of Transportation
801 N. Broadway Avenue
Bartow, Florida 33830
(863) 519-2916
zoe.giannopoulos@dot.state.fl.us

TO AGENCY:
Justin Martin, P.E.
Public Works Director
City of Marco Island Public Works Dept
50 Bald Eagle Dr.
Marco Island, Fl 34145
(239) 389-5184
jmartin@cityofmarcoisland.com

7. Failure of the AGENCY to deposit said amount shall be grounds for termination of this Agreement.
8. This Agreement shall continue in effect and be binding on the parties until the PROJECT is completed.
9. All tracings, plans, specifications, maps and/or reports prepared or obtained under this Agreement shall be considered works made for hire and shall become the property of the DEPARTMENT without restriction or limitation on their use.
10. The DEPARTMENT shall not be obligated or liable hereunder to any party other than the AGENCY. The AGENCY shall not be obligated or liable hereunder to any party other than the DEPARTMENT.
11. If any part of this Agreement shall be determined to be invalid or unenforceable by a court of

competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.

12. 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 representations or agreements whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document and executed by both parties.
13. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

Remainder of this page intentionally left blank.

EXHIBIT A

DocuSign Envelope ID: 1ADDEA32-93FD-4EE8-AA8B-7B23EB7DE97E
DocuSign Envelope ID: C075C2B1-BAB4-4B36-A28D-8A6F4EAC5717

FPID:445460-1-32-01
City of Marco Island

THREE PARTY ESCROW AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of Florida, Department of Transportation ("FDOT"), City of Marco Island ("Participant"), and the State of Florida, Department of Financial Services, Division of Treasury ("Escrow Agent"), and shall become effective upon the Agreement's execution by Escrow Agent.

WHEREAS, FDOT and Participant are engaged in the following project ("Project"):

Project Name: Caxambas Court / Roberts Bay Replacement Structure #034112
Project #: 445460-1-32-01
County: City of Marco Island

WHEREAS, FDOT and Participant desire to establish an escrow account for the project.

NOW THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree to the following:

1. An initial deposit will be made into an interest bearing escrow account established hereunder for the purposes of the Project. The escrow account will be opened with the Escrow Agent on behalf of FDOT upon Escrow Agent's receipt and execution of this Agreement.
2. Other deposits to the escrow account may be made during the life of this agreement.
3. Deposits will be delivered in accordance with instructions provided by the Escrow Agent to the FDOT for deposit into the escrow account. A wire transfer or ACH deposit is the preferred method of payment and should be used whenever possible.
4. FDOT's Comptroller or designee shall be the sole signatory on the escrow account with the Escrow Agent and shall have sole authority to authorize withdrawals from the account. Withdrawals will only be made to FDOT or the Participant in accordance with the instructions provided to the Escrow Agent by FDOT's Comptroller or designee.
5. Moneys in the escrow account will be invested in accordance with section 17.61, Florida Statutes. The Escrow Agent will invest the moneys expeditiously. Income is only earned on the moneys while invested. There is no guaranteed rate of return. Investments in the escrow account will be assessed a fee in accordance with Section 17.61(4)(b), Florida Statutes. All income of the investments shall accrue to the escrow account.
6. Unless instructed otherwise by FDOT, all interest accumulated in the escrow

7. The Escrow Agent agrees to provide written confirmation of receipt of funds to FDOT. FDOT agrees to provide a copy of such written confirmation to Participant upon request.
8. The Escrow Agent further agrees to provide quarterly reports to FDOT concerning the escrow account. FDOT agrees to provide a copy of such quarterly reports to Participant upon request.
9. The Escrow Agent shall not be liable for any error of judgment or for any act done or omitted by it in good faith, or for anything which it may in good faith do or refrain from doing in connection herewith.
10. Escrow Agent shall have no liability for any claim, cost, expense, damage or loss due to the acts or omissions of FDOT and Participant, nor from any separate agreements between FDOT and Participant and shall have no responsibility to monitor or enforce any responsibilities herein or in any separate agreements associated with this Agreement between FDOT and Participant.
11. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida.
12. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
13. This Agreement shall terminate upon disbursement by the Escrow Agent of all money held by it in the escrow account in accordance with the instructions given by FDOT's Comptroller or designee and notification from FDOT to Escrow Agent that the account is to be closed.

The remainder of this page is blank.

IN WITNESS WHEREOF, the parties have duly executed the Agreement on the date(s)
below.

DocuSigned by:
Cheryl Morgan
For FDOT-00C (signature)

Cheryl Morgan, Deputy Comptroller, GAO
Name and Title

59-3024028
Federal Employer I.D. Number

03/12/2024 | 8:39 AM EDT
Date



For PARTICIPANT (signature)

Michael McNeese, City Manager

Name and Title

59-3479845

Federal Employer I.D. Number

Date

FDOT Legal Review:

DocuSigned by:
Giselle Justo

DC

DOT-1222-SECRET...

D. Taylor Parsons
For Escrow Agent (signature)

D. Taylor Parsons, Financial Administrator
Name and Title

3/12/24
Date

IN WITNESS WHEREOF, the AGENCY has caused this Agreement to be executed in its behalf through its Mayor or its designee, as authorized by Resolution Number 24-06, and the FLORIDA DEPARTMENT OF TRANSPORTATION has caused this Agreement to be executed in its behalf through its District Secretary or authorized designee. This Agreement shall become effective on:

Department to enter date.

LOCAL AGENCY

CITY OF MARCO ISLAND

By: City Manager

By: Michael M. Mees

Date: 2-22-24

ATTEST:

By: [Signature]
Date: 2/26/2024

CITY ATTORNEY LEGAL REVIEW:
By: [Signature] DATE

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST

EXECUTIVE SECRETARY (SEAL)

BY:

DISTRICT SECRETARY OR DESIGNEE
DISTRICT ONE

PRINT NAME DATE

PRINT NAME DATE

FLA. DEPT. OF TRANS. LEGAL REVIEW:

BY: DATE

DC