

RESOLUTION NO. \_\_\_\_\_

Passed: \_\_\_\_\_

**A Resolution of the City Commission of the City of  
Gainesville, Florida, authorizing the execution of a Local  
Agency Program Agreement for the Design and  
Construction of the Building Access Improvements on the  
University of Florida Gainesville main Campus Project in  
Alachua County.**

WHEREAS, the State of Florida Department of Transportation and the City of Gainesville, Florida, in conjunction with the University of Florida, desire to facilitate the Design, Construction and Construction Engineering Inspections (CEI) of building access improvements on the University of Florida Gainesville main campus in Alachua County; and

WHEREAS, the State of Florida Department of Transportation has requested the City of Gainesville, Florida, to execute and deliver a Local Agency Program Agreement for the Design, Construction and CEI of building access improvements on the University of Florida Gainesville main campus in Alachua County to the State of Florida Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

1. The City Manager or designee is authorized to make, execute, and deliver a Local Agency Program Agreement for the Design, Construction and CEI of building access improvements on the University of Florida Gainesville main campus in Alachua County to the State of Florida Department of Transportation.
2. This Resolution shall become effective immediately upon adoption.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ AD, 2005.

\_\_\_\_\_  
Pegeen Hanrahan  
Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Kurt M. Lannon  
Clerk of the Commission

\_\_\_\_\_  
Marion J. Radson  
City Attorney

**Interlocal Agreement  
Between  
The City of Gainesville and The University of Florida  
For  
Building Access Improvements – University of Florida**

This Agreement is made by and between the UNIVERSITY OF FLORIDA BOARD OF TRUSTEES, a public corporation of the State of Florida, (Hereinafter referred to as UF), and the CITY OF GAINESVILLE, FLORIDA, a municipal corporation, (hereinafter referred to as CITY), by and through its City Commission.

**WHEREAS**, the FLORIDA DEPARTMENT OF TRANSPORTATION, (hereinafter referred to as FDOT) has received \$992,000 in funding from the United States federal government, designated for Building Access Improvements at the University of Florida, and

**WHEREAS**, the City of Gainesville is authorized by the FDOT to expend federal transportation money through the FDOT's Local Assistance Program, and

**WHEREAS**, the City has agreed to administer these funds on behalf of the UF, and

**WHEREAS**, the City and UF have agreed that these funds should be used for the construction of Building Access Improvements in the UF Gainesville main campus. Among other appropriate features, these improvements will include pedestrian plazas, landscaping, sidewalks, streetscape, street furnishings and service drive enhancements.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

- I. CITY Responsibilities: The City agrees to perform the following services pursuant to this agreement:
  1. Administer and transfer up to \$992,000 of federal funding towards the design and construction of Building Access Improvements.
  2. Review itemized invoices submitted by the UF and either return deficient invoices with deficiencies noted or forward approved invoices to the FDOT, and upon receipt of invoice payment funds from FDOT shall make payments to the UF as provided in Section III, paragraph 3.
  3. Provide any comments to submittals made by UF pursuant to Section II.6. within thirty (30) days of receipt of the submittals.
- II. UF Responsibilities: The UF agrees to perform the following services pursuant to this Agreement:
  1. Accept and expend up to \$992,000 towards the design and construction of Building Access Improvements on the University of Florida Campus.

2. Contract with a design professional and contractor or construction manager to design and construct the Building Access Improvements, which will be in compliance with State and Federal requirements.
3. Design and construct said Building Access Facilities in compliance with State and Federal requirements within two years of the effective date of this agreement.
4. Manage all design, permitting, surveying and contracting necessary for the construction of said Building Access Improvements and be responsible for the legal liability normally attributable to those engaged in such activity.
5. Provide project supervision, inspection and management consistent with state and federal requirements.
6. Submit design and construction documents for said Building Access Improvements to the CITY for review throughout the design process so that the CITY/FDOT may confirm compliance with state and federal requirements.
7. Make the site available to the CITY/FDOT for inspection, if the CITY/FDOT so desires, upon reasonable prior notice, and provide progress reports, if requested by the CITY/FDOT.
8. Provide itemized invoices to the CITY for expenses incurred against the City's Purchase Order.
9. Comply with all administrative requirements of the FDOT Local Assistance Program.

III. Payment:

1. All reimbursement will be based on itemized invoices submitted by the UF. The sum total of all invoices shall not exceed \$992,000.
2. Invoices shall be submitted monthly, as necessary, for expenses incurred toward the design and construction of said building access improvements. Invoices shall be submitted to the City of Gainesville as follows:

City of Gainesville  
Accounts Payable, Station 15  
P.O. Box 490  
Gainesville, FL 32602-0409

3. Payment of invoices shall be remitted to the UF at the address identified in Section XIV.
4. If, at any time during the term of this Agreement, it is determined that the cost of the project will exceed \$992,000, UF may, in its sole discretion,

reduce the scope of the project (including discontinuing any portion thereof for which actual construction has not begun) with respect to any or all of the facilities specified in Section I.1 and II.1 hereof such that the total cost of the project either does not exceed \$992,000 or is reduced to an amount which is acceptable to UF.

- IV. Notice: Any notice of default or termination shall be given in writing and served either personally or given by prepaid certified mail, return receipt requested, or by any delivery service from which a receipt may be obtained and addressed in Section XIV.
- V. No Third Party Beneficiaries: Nothing herein shall be construed to create any third party beneficiary rights in any person not a party to this Agreement.
- VI. Effective Date and Term: This Agreement shall commence on the effective date and remain in effect and binding on the parties until mutual cancellation or performance of the parties' obligations hereunder. Any amendment to or modification of this Agreement shall be in writing and signed by all parties.
- VII. Default and Termination: The failure of either party to comply with any provision of this Agreement shall place that party in default. Prior to terminating this Agreement, the non-defaulting party shall notify the defaulting party in writing. The notification shall make specific reference to the provision that gave rise to the default. The non-defaulting party shall give the defaulting party twenty-one (21) days to cure the default. Anything to the contrary notwithstanding, either party may terminate this Agreement without cause by first providing at least 90 days written notice to the other. In the event of termination, refunds will be prorated.
- VIII. Severability: If any provision of the Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of the applicable law.
- IX. Indemnification: Each party agrees that it shall be solely responsible for the negligent acts or omissions of its employees, contractors and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity and the limitations set forth in Section 768.28, Florida Statutes.
- X. Governing Law: This Agreement shall be governed and construed in accordance with the laws of the State of Florida.
- XI. Terms: Pursuant to 163.01 (11), Florida Statutes, this Agreement shall be deemed effective upon the filing of the Agreement by the UF with the clerk of the circuit court of Alachua County.
- XII. Recording of Agreement: The UF, upon execution of this Agreement by all parties, shall file this Interlocal Agreement with the clerk of the circuit court of Alachua County.

XIII. Entire Agreement: The City/FDOT LAP agreement is attached hereto as Exhibit A. In its performance under this agreement, the UF agrees to abide by all applicable provisions stated therein. Exhibit A and this Agreement constitutes the entire Agreement and supersedes all prior written or oral agreements, understandings, or representations.

XIV. Agency Representatives: The Parties hereto designate the following persons to be contacted regarding the performance of this Agreement and to receive all notices:

UNIVERSITY: David S. O'Brien  
Director, UF Physical Plant Division  
Box 117700  
Gainesville, FL 32611-7700

CITY: Barbara Lipscomb  
City Manager (Interim)  
P.O. Box 490  
Gainesville, FL 32602-0490

IN WITNESS WHEREOF, the parties hereto have executed and affixed their official seals to this Agreement on the day and year first above written.

**UNIVERSITY OF FLORIDA BOARD OF TRUSTEES**

ATTEST:

\_\_\_\_\_ By: \_\_\_\_\_  
Vice President for Finance and Administration

APPROVED AS TO FORM & LEGALITY: APPROVED:

\_\_\_\_\_ Director of Physical Plant

**CITY OF GAINESVILLE**

ATTEST:

\_\_\_\_\_ By: \_\_\_\_\_  
Clerk of the City Commission City Manager or designee

APPROVED AS TO FORM & LEGALITY:

\_\_\_\_\_ City Attorney

EXHIBIT A

State of Florida Department of Transportation  
**LOCAL AGENCY PROGRAM AGREEMENT**

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FPN: <u>211365-4-58-01</u>	Fund: <u>S117</u>	FLAIR Approp: _____
Federal No: <u>S112 001 R</u>	Org. Code: _____	FLAIR Obj.: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org. Code: _____	FLAIR Obj.: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org. Code: _____	FLAIR Obj.: _____
County No. <u>26 - Alachua</u>	Contract No: _____	Vendor No.: _____
Catalog of Federal Domestic Assistance (CFDA): <u>20.205 Highway Planning and Construction</u>		

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THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the Department, and the CITY OF GAINESVILLE, hereinafter called the Agency.

WITNESSETH:

WHEREAS, the Agency has the authority to enter into said Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under Section 334.044, Florida Statutes to enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

**1.00 Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in the design and construction of Building Access Improvements on the University of Florida Gainesville main campus in Alachua County, Florida and as further described in Exhibit "A" attached hereto and by this reference made a part hereof, hereinafter called the project, and to provide Departmental financial assistance to the Agency and state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the project will be undertaken and completed.

**1.01 Modifications and Additions:** Exhibit(s) A, B & C are attached hereto and by this reference made a part hereof.

**2.00 Accomplishment of the Project:**

## EXHIBIT A

**2.01 General Requirements:** The Agency shall commence, and complete the project as described in EXHIBIT "A" with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Agency Program Manual, which by this reference is made a part hereof as if fully set forth herein.

A full time employee of the Agency, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in charge of each project.

**2.02 Expiration of Agreement:** The Agency agrees to complete the project on or before June 30, 2007. If the Agency does not complete the project within this time period, this Agreement will expire on the last day of scheduled completion 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. The cost of any work performed after the expiration date of the Agreement will not be reimbursed by the Department.

**2.03 Pursuant to Federal, State, and Local Law:** In the event that any election, referendum, approval, permit, notice, or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the project hereunder, or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

**2.04 Funds of the Agency:** The Agency shall initiate and prosecute to completion all proceedings necessary, including Federal- aid requirements, to enable the Agency to provide the necessary funds for completion of the project.

**2.05 Submission of Proceedings, Contracts and Other Documents:** The Agency shall submit to the Department such data, reports, records, contracts and other documents relating to the project as the Department and the Federal Highway Administration may require.

### **3.00 Project Cost:**

**3.01 Total Cost:** The estimated total cost of the project is \$ 992,000.00 (FY 05/06). This amount is based upon the schedule of funding in Exhibit "B" attached hereto and by this reference made a part hereof. The Agency agrees to bear all expenses in excess of the total cost of the project and any deficits involved. The schedule of funding may be modified by mutual agreement as provided for in 4.00.

## EXHIBIT A

**3.02 Department Participation:** The Department agrees to participate, including contingencies, in the project cost to the extent provided in Exhibit "B". This amount includes Federal-aid funds which are limited to the actual amount of Federal-aid participation.

**3.03 Limits on Department Funds:** Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible project costs is subject to:

- a) Legislative approval of the Department's appropriation request in the work program year that the project is scheduled to be committed;
- b) Availability of funds as stated in paragraphs 3.04 and 3.05 of this Agreement;
- c) Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement;
- d) Department approval of the project scope and budget at the time appropriation authority becomes available.

**3.04 Appropriation of Funds:** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

**3.05 Multi-Year Commitment:** 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 Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"(a) 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 and which have a term for a period of more than 1 year."



## EXHIBIT A

**3.06 Notice to Proceed:** No cost may be incurred under this contract until the Agency has received a Notice to Proceed from the Department.

**3.07 Limits on Federal Participation:** Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, Federal participation may be approved in the amount determined to be adequately supported, the Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for Federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, Federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or project costs in part or in total.

For any amounts determined to be ineligible for Federal reimbursement for which the Department has advanced payment, the Agency shall promptly reimburse the Department for all such amounts within 90 days of written notice.

**4.00 Project Estimate and Disbursement Schedule:** Prior to the execution of this Agreement, a project schedule of funding shall be prepared by the Agency and approved by the Department. The Agency shall maintain said schedule of funding, carry out the project and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved schedule of funding for the project. The schedule of funding may be revised by mutual written agreement between the Department and the Agency. If revised, a copy of the revision should be forwarded to the Department's Comptroller and to the Department's Federal-Aid Program Office. No increase or decrease shall be effective unless it complies with fund participation requirements established in Exhibit "B" of this Agreement and is approved by the Department's Comptroller.

### **5.00 Records:**

**5.01 Establishment and Maintenance of Accounting Records:** Records of costs incurred under 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 (5) years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred includes the Agency's general accounting records and the project records, together with supporting documents and records, of the Agency and all subcontractors performing work on the project and all other