

JOINT PARTICIPATION AGREEMENT
BETWEEN
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
CITY OF PENSACOLA

Financial Project No.: **439561-3-58-01**
Contract No.: **ASR43**
Vendor No.: **F596000406002**

This Joint Participation Agreement (“Agreement”) is between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, “**DEPARTMENT**,” and the City of PENSACOLA, “**CITY**.” The **DEPARTMENT** and the **CITY** are desirous of having the **CITY** make certain improvements in connection with **Financial Project Identification Number (FP ID) 439561-3-58-01** for landscape improvements in the **CITY** of PENSACOLA, Florida, State Road 289 North 9TH Avenue at State Road 742 Creighton Road intersection, Pensacola, Florida, herein after referred to as the “**PROJECT**.” **The PROJECT will have an Installation Phase and a Maintenance Phase, which is further described herein.** The **DEPARTMENT** and the **CITY** may sometimes be referred to in this Agreement as a “Party”, and collectively as the “Parties.”

1. The **DEPARTMENT** and the **CITY** have the authority under Section 339.12, Florida Statutes, to enter into this Agreement; and
2. A Roadside Beautification Assistance Program has been created by Section 334.044(26), Florida Statutes, to conserve the natural roadside growth and scenery” and “to provide for the implementation and maintenance of roadside conservation, enhancement, and stabilization programs”; and
3. The **CITY** has certified to the **DEPARTMENT** that it has met the eligibility requirements of said Section 334.044(26), Florida Statutes; and
4. The **DEPARTMENT** shall reimburse the **CITY** for services as further described in this Agreement and in Exhibit “A” Scope of Services, attached and incorporated into this agreement hereto; and
5. The **CITY**, by resolution No. _____, a copy of which is attached hereto as Exhibit “D”, has authorized the Mayor or CITY Official to enter into this Agreement.

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

6. The recitals in paragraphs 1-5 above are true and correct and are made a part of this Agreement.

7. **SERVICES AND PERFORMANCE**

A. The **CITY** shall be responsible for the preparation of all design plans for the **PROJECT** at **CITY**'s sole expense. Said design plans shall include the design for the installation and maintenance of any and all plants, planting material, and irrigation systems, to be maintained by the **CITY** under this Agreement (the "Plans"). The Plans shall be deemed to be incorporated by this reference into this Agreement upon completion by the **CITY**.

B. The **CITY** shall have the sole responsibility for resolving claims and requests for the addition work for the **PROJECT**. The **CITY** will make best efforts to obtain the **DEPARTMENT'S** input in its decisions.

C. The **CITY** shall furnish the services with which to undertake and complete the **PROJECT**, which shall consist of both an i) Installation Phase and ii) Maintenance Phase, said services being further described in Exhibit "A" to this Agreement.

D. The **CITY** agrees to undertake and complete the **PROJECT** in accordance with all applicable statutes, rules and regulations, including **DEPARTMENT** standards and specifications and in accordance with District Three Landscape Care Guide – Landscape and Irrigation Care along the State Highway System, dated February 4, 2016, as may be amended or revised from time to time ("Landscape Care Guide"), which is hereby incorporated by reference into this Agreement. The **CITY** shall take the necessary steps to ensure the **PROJECT** is completed within state or **CITY** right-of-way, or an appropriate easement has been acquired for off right-of-way actions. The **CITY** shall be responsible for obtaining clearances/permits required for the **PROJECT** from the appropriate permitting authorities.

i). The **CITY** shall obtain a Landscape Permit from the **DEPARTMENT** prior to performing any work under this Agreement.

ii.) If the **PROJECT** requires bore work to be performed, the **CITY** shall obtain a permit from the **DEPARTMENT** prior to performing the bore work.

iii). The **CITY** shall notify the **DEPARTMENT** field office responsible for overseeing the **PROJECT** at least 48 hours prior to beginning work on the **PROJECT**.

E. Upon completion of the Installation Phase of the **PROJECT**, the appropriate **CITY** representative shall certify to the **DEPARTMENT** that the Installation Phase of **PROJECT** has been completed in accordance with the Plans and specifications, and all the terms and conditions of this Agreement. Said certification shall be done by forwarding a completed Certification of Completion form, attached hereto as Exhibit "C," in accordance with Section 11.L. of this Agreement. Completion of the Installation Phase of the **PROJECT** shall be subject to final acceptance and certification by the **DEPARTMENT**.

F. The **DEPARTMENT** will be entitled at all times to be advised as to the status of work being done by the **CITY** and of the details thereof. Therefore, the **CITY** shall provide a

monthly report on the first business day of the month to the **DEPARTMENT** project manager during the Installation Phase.

G. If the **CITY** hires a consultant, it must certify that its consultant has been selected in accordance with the Consultants Competitive Negotiation Act (Section 287.055, Florida Statutes).

H. The **CITY** shall not sublet, assign or transfer this Agreement without prior written consent of the **DEPARTMENT**.

I. The **CITY** shall have sole responsibility for maintaining the subject landscaping according to **DEPARTMENT** standards and specifications, as well as stipulations outlined in the Landscape Care Guide. Upon the execution of this Agreement, The **CITY** certifies that it has received a copy of the Landscape Care Guide and agrees to be bound by the terms and conditions contained therein.

J. Upon completion of the Installation Phase of the **PROJECT** by the **CITY**, the **CITY** will assume responsibility for the Maintenance Phase of the **PROJECT**, which includes, irrigation and other related materials identified in the Plans, and will conduct such maintenance as specified in accordance with any maintenance plan identified in the notes of the **PROJECT** Plans, as well as the requirements set forth in the Landscape Care Guide. The **CITY** shall coordinate with the **DEPARTMENT**'s District Landscape Project Manager or their designee to inspect the **PROJECT** on a quarterly basis and subsequently make corrections based on each quarterly inspection. In the event the **CITY** fails to maintain the **PROJECT** in accordance with a maintenance schedule and plan, the **DEPARTMENT**, at its option, may perform the required maintenance and the **CITY** shall reimburse the **DEPARTMENT** for the costs.

K. The **CITY**:

i). 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 **CITY** during the term of the contract; and

ii). 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.

8. TERM

A. The **CITY** shall commence the project activities subsequent to the execution of this Agreement and said activities shall be performed in accordance with the following schedule:

i). Installation Phase

The term of the Installation Phase of the **PROJECT** shall commence subsequent

to execution of this Agreement and shall end on the date the **DEPARTMENT** receives from the **CITY** notification and certification of completion of the Installation Phase in accordance with Section 7.E. of this Agreement, or **December 31, 2023**, whichever occurs first. The Installation Phase shall include a 365-day establishment period. If the **CITY** does not complete the Installation Phase of the **PROJECT** by **December 31, 2023**, or within the time granted by means of written extension(s) in accordance with Section 11.J. of this Agreement, then this Agreement will expire on the last day of the scheduled completion of the Installation Phase as provided in this paragraph.

ii). Maintenance Phase

The term of the Maintenance Phase of the **PROJECT** shall commence on the date the **CITY** provides certification of completion of the Installation Phase in accordance with Section 7.E. of this Agreement and shall continue for a period of ten (10) years from that date. This Agreement will expire on the last day of the ten (10) year term of the Maintenance Phase.

iii). Renewal Option

Notwithstanding the foregoing, this Agreement has a renewal option. Upon agreement by the **DEPARTMENT** and the **CITY**, this Agreement may be renewed for a period not to exceed ten (10) years, it being understood that the total number of renewal periods shall not exceed two separate ten (10) year renewals. The renewal(s) will be subject to the same terms and conditions set forth in the original Agreement, as well as any amendments thereto.

9. REIMBURSEMENT AND PAYMENT

A. i) The total cost of the **PROJECT** is estimated at **\$15,000.00**. The **DEPARTMENT** shall reimburse the **CITY** for **one hundred percent (100%)** of the total actual costs directly related to the Installation Phase of the **PROJECT**, in an amount not to exceed **FIFTEEN THOUSAND and 00/100 DOLLARS (\$15,000.00)**, for actual costs incurred. It is understood and agreed to by the Parties that the total reimbursement amount under this Agreement shall not exceed **\$15,000.00**, unless otherwise provided herein or as may be subsequently agreed to by the Parties through the execution of an amendment. The method of compensation is further described in Exhibit "B", which is attached hereto. Any additional costs, such as design costs of the **PROJECT**, costs relating to the Maintenance Phase of the **PROJECT**, or other items not covered by this Agreement, shall be the **CITY's** sole responsibility.

ii) The **CITY** shall submit one invoice (3 copies) plus supporting documentation required by the **DEPARTMENT** to the Department's Landscape Project Manager, 1074 Highway 90, Chipley, FL, 32428, for approval and processing.

iii) The **DEPARTMENT** shall reimburse the **CITY** upon receipt of a properly submitted invoice and all supporting documentation. Supporting documentation shall include a copy of the cancelled check tendered by the **CITY** to the consultant/contractor who performed the work under the **PROJECT**. Supporting documentation shall also include dates of

services and items of work performed on the **PROJECT**.

iv) Invoices shall be submitted by the **CITY** in detail sufficient for a proper pre-audit and post-audit thereof, based on quantifiable, measurable and verifiable deliverables as established in Exhibit "A," Scope of Services Plans when approved by the **DEPARTMENT**. Deliverables must be received and accepted in writing by the **DEPARTMENT**'s Project Manager or designee prior to reimbursements.

v) Supporting documentation must establish that the deliverables were received and accepted in writing by the **DEPARTMENT** and must also establish that the required minimum level of service to be performed was met, and that the criteria for evaluating successful completion was met, as specified in Section 7 and Exhibit "A" of this Agreement.

vi) The **CITY** may receive progress payments for deliverables based on a percentage of services that have been completed, approved and accepted to the satisfaction of the **DEPARTMENT** when properly supported by detailed invoices and acceptable evidence of payment. The final balance due under this Agreement will be reimbursed upon completion of all **PROJECT** services, receipt of final construction cost documentation and proper submission of a detailed invoice and when the **PROJECT** has been inspected, approved and accepted to the satisfaction of the **DEPARTMENT** in writing.

vii) If the schedule for performance exceeds 30 days the **CITY** shall submit invoices to the **DEPARTMENT** at the end of each calendar month. The **CITY** shall prepare and submit monthly invoices to the **DEPARTMENT** in a format acceptable to the **DEPARTMENT**. Optionally, in an extended performance as referred to in this item, the **CITY** may submit one complete invoice in the form and in accordance with the method required in items i), ii), iii), iv), v) and vi) above.

viii) If this Agreement involves units of deliverables, then such units must be received and accepted in writing by the Contract Manager prior to payments.

ix) Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and post-audit thereof.

x) Travel costs will not be reimbursed.

B. 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 ten (10) 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 **CITY**'s general accounting records and the project records, together with supporting documents and records of the **CITY** and all subcontractors performing work on the **PROJECT**, and all other records of the **CITY** and subcontractors considered necessary by the **DEPARTMENT** for a proper audit of costs.

C. 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 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. Accordingly, the State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

10. TERMINATION AND DEFAULT

A. If the **DEPARTMENT** determines the performance of the **CITY** is not satisfactory, the **DEPARTMENT** shall have the option of (a) immediately terminating the Agreement, or (b) notifying the **CITY** 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 the **DEPARTMENT** will take whatever action is deemed appropriate by the **DEPARTMENT**.

B. The **DEPARTMENT** may cancel this Agreement in whole or in part at any time the interest of the **DEPARTMENT** requires such termination. The **DEPARTMENT** also reserves the right to terminate or cancel this Agreement in the event the **CITY** shall be placed in either voluntary or involuntary bankruptcy. The **DEPARTMENT** further reserves the right to terminate or cancel this Agreement in the event of an assignment being made for the benefit of creditors. This Agreement may be canceled by the **CITY** upon (60) sixty days written notice to the **DEPARTMENT**.

C. If the **DEPARTMENT** requires termination of the Agreement for reasons other than unsatisfactory performance of the **CITY**, the **DEPARTMENT** shall notify the **CITY** 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.

D. If the Agreement is terminated before performance is completed, the **CITY** shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress will become the property of the **DEPARTMENT** and will be turned over promptly by the **CITY**.

11. MISCELLANEOUS

A. Participants (in this document identified as **CITY**) providing goods and services to the **DEPARTMENT** should be aware of the following time frames. Upon receipt, the **DEPARTMENT** has ten (10) working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. 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.

B. If a warrant in payment of an invoice is not issued within forty (40) days after receipt of the invoice and receipt, inspection, and approval of the goods and services, a separate interest penalty at a rate as established pursuant to Section 55.03(1), F.S., will be due and payable, in addition to the invoice amount to the **CITY**. Interest penalties of less than one (1) dollar will not be enforced unless the **CITY** requests payment. Invoices which have to be returned to a **CITY** because of **CITY** 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**.

C. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Participants who may be experiencing problems in obtaining timely payment(s) from the **DEPARTMENT**. The Vendor Ombudsman may be contacted at (850) 413-5509.

D. The **CITY** 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 **CITY** in conjunction with this Agreement. Failure by the **CITY** to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the **DEPARTMENT**.

E. The **CITY** shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof. The **CITY** shall not discriminate on the grounds of race, color, religion, sex or national origin in the performance of work under this Agreement.

F. No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch, or a state agency.

G. The **CITY** and the **DEPARTMENT** agree that the **CITY**, its employees, and subcontractors are not agents of the **DEPARTMENT** as a result of this Agreement.

H. It is understood between the Parties hereto that any part of or the entire **PROJECT** may be removed, relocated or adjusted at any time in the future as determined to be necessary by the **DEPARTMENT** in order that the associated state road be widened, altered or otherwise changed to meet with the future criteria or planning of the **DEPARTMENT**. The **DEPARTMENT** shall give the **CITY** notice regarding such removal, relocation or adjustment and the **CITY** shall be allowed sixty (60) calendar days to remove all or part of the **PROJECT** at its own cost. The **CITY** shall own that part of the **PROJECT** it removes. After the sixty (60) calendar day's removal period, the **DEPARTMENT** may remove, relocate or adjust the **PROJECT** as it deems best. Wherever the **CITY** removes a **PROJECT** pursuant to this Agreement, the **CITY** shall restore the surface of the affected portion of the **PROJECT'S** premises to the same safe and trafficable condition as existed prior to installation of such **PROJECT**.

I. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. Any provision herein 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. Venue of any judicial proceedings arising out of this Agreement shall be in Escambia County, Florida.

J. 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 herein, nor any extension of time for completion of any phase of the PROJECT, shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

K. **PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

L. Any and all notices, reports, invoices, and certifications required pursuant to the terms of this Agreement shall be sent by First Class United States Mail to the addresses listed below; provided, however, that the **DEPARTMENT** may, by written authorization to the **CITY**, allow for a separate means of notification:

DEPARTMENT
Dustie Moss, District Landscape
Florida Department of Transportation
1074 Highway 90
Chipley, FL 32428

CITY

Mr. David Forte, Deputy City Administrator
City of PENSACOLA
222 West Main Street
Pensacola, FL 32502

M. The **DEPARTMENT** and the **CITY** agree to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

N. The **CITY** agrees to comply with requirements set forth in Section 334.044(26), Florida Statutes.

O. This Agreement shall become effective on the last date of a signature by a Party.

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IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below.

CITY OF PENSACOLA, FLORIDA

ATTEST: _____(SEAL)
CLERK

BY: _____
TITLE: _____
DATE: _____

CITY ATTORNEY

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST: _____(SEAL)
EXECUTIVE SECRETARY

BY: _____
DIRECTOR OF
TRANSPORTATION
OPERATIONS
DATE: _____

LEGAL REVIEW:

OFFICE OF GENERAL COUNSEL

Exhibit "A"
Landscaping of State Road 289 N 9TH Ave. at State Road 742 Creighton Road Intersection
SCOPE OF SERVICES

FP ID: 439561-3-58-01

Project Description: Landscape design of State Road 289 North 9TH Avenue at State Road 742 Creighton Road intersection, Pensacola, Florida

Project Name: LANDSCAPING AT 9TH AND CREIGHTON

Item #	Brief Description	Qty	Unit	Unit Price	Amount
1	Mobilization	1	LS	\$750.00	750.00
2	Traffic Control	1	LS	\$650.00	650.00
3	Irrigation Complete (Baylen to Clubbs Street)	1	LS	\$750.00	750.00
4	Lagerstroemia Indica 'Natchez'(Natchez Crape Myrtle)	2	EA	\$300.00	600.00
5	Quercus Virginiana(Cathedral Live Oak)DBH '5"-'6"C	5	EA	\$665.00	3,325.00
6	Dietes 'Bicolor'(Yellow African Iris)'1" Gallon full	132	EA	\$3.75	495.00
7	Dianella Caerulea 'Variegated Flax Lily	72	EA	\$15.55	1,119.60
8	Rhaphiolepis Indica (Indian Hawthorne) '3" Gallon Full	187	EA	\$10.40	1,944.80
9	Serenoa Repens(Saw Palmetto)'3" Gallon; Partial '30"	93	EA	\$17.85	1,660.05
10	Trachelospermum Asiaticum(Asian Jasmine)'1" Gallon	30	EA	\$7.00	210.00
11	24" Root Barrier	359	LF	\$6.50	2,333.50
12	Pine Straw Mulch-'3" Depth	19	CY	\$19.50	370.50
	TOTAL:				14,208.45

Summary: The project will consist of various types of plantings and pine straw along the intersection of SR 289 & SR 742 intersection.

A 365-day establishment warranty will be included.

Total Project Estimate = \$15,000.00

The project design, set-backs, planting, etc. are subject to change pending FDOT design approval. Proposed plantings are also subject to change during construction based on availability, and subject to FDOT approval.

**EXHIBIT “B”
Method of Compensation**

FP ID: 439561-3-58-01

Landscaping of State Road 289 N 9TH Ave. at State Road 742 Creighton Road Intersection

For satisfactory completion of all services related to the purchase of the plant materials, fertilizer, and the cost for labor associated with the installation of the planting detailed in Exhibit “A” Scope of Services of this Agreement, the **DEPARTMENT** shall reimburse the **CITY** in an amount not to exceed **FIFTEEN THOUSAND and 00/100 DOLLARS (\$15,000.00)**, for actual costs incurred.

The **CITY** may receive progress payments for actual costs incurred for deliverables based on a percentage of services that have been completed, approved and accepted to the satisfaction of the **DEPARTMENT** when properly supported by detailed invoices and acceptable evidence of payment. The final balance due under this Agreement will be reimbursed upon completion of all **PROJECT** services, receipt of final construction cost documentation and proper submission of a detailed invoice and when the **PROJECT** has been inspected, approved and accepted to the satisfaction of the **DEPARTMENT** in writing.

EXHIBIT "C"
Certification of Completion

FP ID: 439561-3-58-01

Landscaping of State Road 289 N 9TH Ave. at State Road 742 Creighton Road Intersection

CERTIFICATION OF COMPLETION

JOINT PARTICIPATION AGREEMENT

Between

THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
and CITY OF PENSACOLA

PROJECT DESCRIPTION: **Landscaping of State Road 289 N 9TH Ave. at State Road 742
Creighton Road Intersection, Pensacola, Florida**

FINANCIAL MANAGEMENT ID# 439561-3-58-01

In accordance with the terms and conditions of the JOINT PARTICIPATION AGREEMENT,
the undersigned hereby provides notification that the Installation Phase of Project under this
Agreement is complete as of _____, 2022.

By: _____

Name: _____

Title: _____

Exhibit "D"
RESOLUTION

FP ID: 439561-3-58-01

**Landscaping of State Road 289 N 9TH Ave. at State Road 742 Creighton Road Intersection
Pensacola, Florida**