

THIS INSTRUMENT SHOULD BE RETURNED TO
City Clerk
City of Palm Bay
120 Malabar Road SE
Palm Bay, Florida 32907

**INTERLOCAL AGREEMENT FOR INTERSECTION IMPROVEMENTS AT BABCOCK
STREET SE AND GRANT ROAD/ELDRON BLVD. SE**

THIS INTERLOCAL AGREEMENT entered into, by and between the CITY OF PALM BAY, a Florida municipal corporation, (hereinafter "the City"), and BREVARD COUNTY, a political subdivision of the State of Florida, 2725 Judge Fran Jamieson Way, Viera, Florida 32940 (hereinafter "the County").

WITNESSETH:

WHEREAS, Babcock Street in the vicinity of the intersection of Babcock Street SE and Grant Road/Eldron Blvd. SE is County-owned, as shown in Attachment A; and

WHEREAS, Grant Road is Town of Grant-Valkaria owned, and Eldron Blvd SE is City-owned; and

WHEREAS, the City and County desire to improve the intersection of Babcock Street SE and Grant Road/Eldron Boulevard (the "Project"), which may include the installation of a new traffic signal and/or auxiliary lanes, designed to the City's standards, with specific improvements to be ultimately determined based on the results of the Traffic Study currently being performed by the County; and

WHEREAS, the City and County agree that it would be more efficient for the City and County to work together in the design and construction of the Project; and

WHEREAS, the City and County agree that the Project is in the public interest of the citizens of the City and the County; and

WHEREAS, the City and County desire to memorialize their project management, financial and maintenance responsibilities for the Project; and

WHEREAS, this Agreement is authorized pursuant to Florida law, including, but not limited to, Sections 125.01 and 163.01, Florida Statutes.

NOW, THEREFORE, in consideration of the covenants herein contained it is mutually agreed between the County and City as follows:

1. Recitations. The foregoing recitations are true and correct and by this reference incorporated herein.
2. Purpose. The purpose of this Agreement is to define the terms and conditions by which the City and the County will partner to deliver the Project by outlining each Party's role and respective responsibilities.
3. Project Manager. The County will serve as the lead agency for the Project, and shall be responsible for managing design, permitting and construction, including surveying, plans and specification development, construction management, and any work related to the Project. The City shall provide the County with the City's design standards for the new traffic signal. A survey will be needed to ensure the Project will be located within public right(s)-of-way. The Project will be completed by December 31, 2028, unless the Parties mutually agree to extend the Project.

4. Solicitation. The County shall competitively procure and solicit bids for the construction of the Project. The County shall provide a copy of the construction contract to the City prior to issuing the Notice to Proceed. Within ten (10) business days of the execution of this Agreement, the City shall provide the County with the City's applicable rules, regulations, and standards to which the Project is to comply.
5. Cost-sharing. The Project is estimated to cost \$2,500,000. The County shall be responsible for 20% of the cost of the Project up to \$500,000. City shall be responsible for the remaining cost of the Project which funds shall come from area proportionate fair share agreements, area development agreements or area transportation impact fees.
 - a. The City shall deposit funds with the County prior to the commencement of each phase. For the Design Phase, the City shall deposit the sum equal to 80% of the consultant's scope of work.
 - b. For the Construction Phase, the City shall deposit a sum equal to 80% of the construction costs, including, but not limited to, the construction bid amount, engineer of record post design services, and any construction engineering and any construction costs that exceed the County's contribution to the Project.
 - c. The County shall invoice for each phase and be entitled to payment from the City within thirty (30) calendar days from delivery of the invoice. Invoices will not include administrative costs for County personnel. If for any reason the Project is terminated and does not proceed through the completion of

design, or does not enter into construction, the County will provide reimbursement of any unexpended funds to the City within sixty (60) calendar days of the date of termination.

6. Design Services. The County shall provide the City construction plans at the following intervals: when the design is 60% complete; when the design is 90% complete; and the County shall provide the City with the 100% approved construction plans for the Project prior to commencement of construction activities by the County's contractor.

a. When the design is 60% complete and when the design is 90% complete; the City shall have twenty (20) business days after receipt of the design plans to issue any comments to the County.

b. The County shall work in good faith to consider and incorporate the City's comments into the final design where practicable, but County has the ultimate decision making on the design and construction of the Project, so long as the design and construction is consistent with the City's applicable rules, regulations, and standards. If the City fails to provide any comments within twenty (20) business days, then that portion of the design shall be deemed accepted and approved by the City.

7. Amendments to Design and Construction Documents. The County shall administer design changes, clarifications, supplements and other contract amendments that may be necessary during the design and construction of the Project. Unless otherwise stated herein, the County is authorized to prepare, execute, and implement change orders for contract amendments necessitated

by actual field conditions at the Project site so as not to delay the contractor's performance and to meet the intent of the approved design for the Project. Any no-cost change orders to extend the construction duration of the Project shall be approved by the County. Any change to the scope of the work that increases the cost of the Project beyond the bid plus 10% contingency amount approved, must be mutually agreed to by the City and the County prior to the County executing the change order(s). For these change orders, the City has five (5) business days to review and approve the change order. The granting of such approval shall not be unreasonably withheld by the City. Any funding by the County for a change order shall not exceed the County's original contribution of \$500,000 (Five Hundred Thousand Dollars).

8. Progress Reports. The County shall communicate with the City and provide periodic progress reports regarding the progress of the design and construction of the Project as requested by the City. The City shall be provided the date, time and location of any scheduled meetings between the County and the contractor related to the design or construction of the Project.
9. Joint Inspection. The City and County shall conduct joint inspections of the work at Substantial Completion, Final Completion and Public Construction Bond release, which takes place one year from the date of the Project's completion and acceptance by the County. Upon Final Completion, a bill of sale shall be issued by the County to the City, as needed, for the improvements associated with the Project.

10. Maintenance Responsibilities. The City agrees to take over the portion of Babcock St SE, the limits to be more specifically defined by the study, once the traffic signal is put into service. The County shall prepare a county deed and resolution and any other documents necessary to effectuate the conveyance and transfer of the roadway portion, including the traffic signal, drainage, and all associated improvements. The County shall deliver to the City, and the City shall accept, assignment of any authorizations and permits issued to the County for the portion of Babcock Street to be transferred. The Parties shall coordinate with the Town of Grant-Valkaria, as needed, to effectuate the conveyance and transfer. The City agrees to pass a resolution accepting transfer of ownership and maintenance of the roadway portion and new traffic signal from the County. The transfer shall be completed within sixty (60) calendar days of completion of the Project. This Agreement has no impact on the ownership and maintenance responsibilities for Eldron Blvd. nor Grant Rd., which shall continue to be the responsibility of the City and the Town of Grant-Valkaria, respectively. Nothing herein shall be deemed to preclude or otherwise prevent the ability of either jurisdiction to transfer responsibility for the operation and maintenance of their respective right(s)-of-way.

11. Indemnification/Hold Harmless. The County and City acknowledge that each entity is an agency or subdivision of the State of Florida. To the extent permitted under Section 768.28(19), Florida Statutes, as may be amended, each Party shall indemnify, defend, and hold harmless, and free from the liability, the other Party, its officers, agents, or employees while acting as such from all damages,

costs, and expenses, including attorney's fees, which any of them may become obligated to pay by reason of the services contemplated hereunder except to the extent caused by the sole negligence of a Party. All contracts entered into by the County for the design or construction of the Project shall require the party contracting with the County to hold harmless, indemnify and defend the City and County and its consultants, agents, officers and employees from any and all claims, losses, penalties, fees, or any expense, damage, or liability incurred by any of them, whether for personal injury, property damage, direct or consequential damages, or economic loss arising directly or indirectly on account of or in connection with the work done by the County 's consultant or contractor pertaining to the design and construction of the Project by any person, firm or corporation to whom any portion of the Project work is subcontracted by the County 's consultant or contractor.

12. Governing Law; Waiver of Jury Trial. The validity, construction and enforcement of and the remedies under this agreement shall be governed in accordance with the laws of the State of Florida, and venue of any proceeding shall be Brevard County, Florida. **ANY TRIAL TO ENFORCE OR INTERPRET THIS AGREEMENT SHALL BE NON-JURY.**

13. Attorney's Fees. In the event any litigation arises out of this Agreement or under this Agreement, each Party shall bear its own attorney's fees and costs.

14. Default. If either Party fails to perform any act or obligation required to be performed under this Agreement, the other Party shall deliver a written notice of such failure to the non-performing party. The Parties recognize that they are

entities subject to dispute resolution procedures set out in Chapter 164, Florida Statutes. In the event of a dispute between the Parties concerning this Agreement, the Parties agree to attempt to resolve the dispute as expeditiously and inexpensively as feasible. Specifically, their respective staffs will meet within ten (10) business days of provision of notice of the dispute and attempt in good faith to resolve the dispute. They may jointly agree to a mediator to expedite and effectuate a resolution. If they are unable to agree upon a mediator, within ten (10) business days thereafter, they shall jointly request the Chief Judge of the 18th Judicial Circuit to appoint a mediator qualified in construction law to mediate the dispute in accordance with the court's pre-suit mediation procedures. The mediation shall occur within ten (10) business days after the mediator is appointed. If the dispute cannot be resolved at this level, the Chapter 164 remedies shall be available. Each Party shall pay equally in the cost of the mediation.

15. Effective Date. Pursuant to Chapter 163, Florida Statutes, the effective date of this Agreement shall be the date on which it is recorded with the Clerk of the Circuit Court in and for Brevard County.

16. Recording. Upon execution of this Agreement, the County shall record a fully executed original of this Agreement in the Public Records of Brevard County, Florida, and shall return a recorded original of the Agreement to the City.

17. Notices. Any Notice required by this Agreement should be in writing and should be delivered by first class United States mail, hand delivery, or by electronic mail (email). Notice delivered in person shall be deemed accepted by the

recipient. Notice by United States mail shall be deemed delivered five (5) business days after the mail is deposited in the United States mail, postage prepaid and addressed to the representative. Notice by email shall be deemed delivered as of the date the email was sent if during regular business hours of the recipient or the next business day if the email was sent after regular business hours of the recipient. Notice should be sent to:

City: City of Palm Bay
120 Malabar Road SE
Palm Bay, Florida 32907
Attention: City Manager
citymanager@palmbayfl.gov

County: Brevard County
2725 Judge Fran Jamieson Way, Suite A-201
Viera, Florida 32940
Attention: Public Works Director
marc.bernath@brevardfl.gov

With copy to:
Brevard County
2725 Judge Fran Jamieson Way, Suite A-201
Viera, Florida 32920
Attention: Suzanne Reider, Grants and JPA
Writer/Coordinator
suzanne.reider@brevardfl.gov

18. Insurance. The County and the City shall maintain insurance in at least the minimum amounts and types as required by Florida Statutes. Nothing in this Agreement shall operate as a waiver of the sovereign immunity afforded to the Parties as provided in Section 768.28, Florida Statutes.

19. No Third-Party Beneficiaries. The City and County are the only Parties to this Agreement. There are no intended third-party beneficiaries.


20. No Joint Venture. Nothing in this Agreement should be construed to create the existence of an agency relationship or joint venture between the Parties.

21. Severability. If any part of this Agreement is found invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the Parties contained herein are not materially prejudiced and if the intentions of the parties can still be accomplished.


22. Execution in Counterparts. This Agreement may be executed in counterparts, each of which so executed shall be deemed to be an original and such counterparts, together, shall constitute one in the same instrument.

IN WITNESS WHEREOF, this Agreement has been fully executed on behalf of the Parties by their duly authorized representatives on the respective dates below in counterparts that, when taken together, shall be construed as one document.

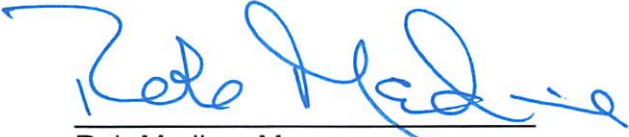
ATTEST:



Terese M. Jones, City Clerk




CITY OF PALM BAY, a Florida
municipal corporation



Rob Medina, Mayor
Date: MAY 5, 2025

Approved as to form:



Patricia D. Smith, City Attorney

BREVARD COUNTY, FLORIDA

~~Frank Abbate, County Manager~~ James P. Liesenfelt
Date: _____ Interim County Manager
As approved by the Board on: 05-20-2025

Approved for legal form and content
solely for Brevard County:



Deputy County Attorney

Attachment A
Babcock St SE - Grant Rd/Eldron Blvd SE Intersection Improvements Project Area

