

**JOINT PARTICIPATION AGREEMENT  
BETWEEN  
STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION  
AND  
LOCAL GOVERNMENT**

**THIS AGREEMENT**, hereinafter referred to as the “Agreement,” is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between the State of Florida Department of Transportation, hereinafter referred to as the “DEPARTMENT,” and City of Delray Beach, a municipal corporation of the State of Florida, hereinafter referred to as the “LOCAL GOVERNMENT.”

**RECITALS:**

**WHEREAS**, the DEPARTMENT is authorized to enter this Agreement pursuant to Section 334.044(7) and (24), Florida Statutes (F.S.); and

**WHEREAS**, the LOCAL GOVERNMENT is authorized to enter this Agreement, and the ratification or resolution approving the Agreement is attached hereto as Exhibit “A” - Local Government’s Resolution, and incorporated by reference;

**WHEREAS**, the purpose of this Agreement is for the DEPARTMENT to assist the LOCAL GOVERNMENT in replacing and upgrading traffic safety components in school areas, school crossings, and school zones in the State of Florida; and

**WHEREAS**, the DEPARTMENT, through Rule 14-15.010 of the Florida Administrative Code, adopted the Federal Highway Administration’s (“FHWA”) Manual on Uniform Traffic Control Devices (“MUTCD”) and all its revisions thereafter; and

**WHEREAS**, the DEPARTMENT under the authority of Chapter 316, Florida Statutes created the Speed Zoning for Highways, Roads and Streets in Florida Manual (“Speed Zoning Manual”) to promote uniformity in the establishment of state, municipal, and county speed zones throughout the State of Florida in accordance with the MUTCD; and

**WHEREAS**, the DEPARTMENT released the Speed Zoning Manual with an effective date of August 30, 2018 and revised Chapter 15 (Establishing School Zones and School Crossings) to adopt revisions to the MUTCD for the installation of traffic control devices and pavement markings for school areas, school crossings and school zones; and

**WHEREAS**, Chapter 15 of the Speed Zoning Manual (Establishing School Zones and School Crossings) also established a deadline of July 1, 2023 for all existing school areas, school crossings, and school zones in the State of Florida to adhere to the new school traffic control regulations; and

**WHEREAS**, through this Agreement the DEPARTMENT will assist municipal and county governments in complying with Chapter 15 of the Speed Zoning Manual by purchasing

“EQUIPMENT,” defined as devices and materials such as signs, flashing beacons, posts, solar panels, batteries, cabinets, timer/controllers, wireless communications, speed feedback flashers, etc., as requested by the LOCAL GOVERNMENT and to the extent programmed federal funds are available, hereinafter referred to as the “PROJECT”; and

**WHEREAS**, this is a non-cash agreement through which the DEPARTMENT will provide EQUIPMENT only, and will not pay or transfer funds to the LOCAL GOVERNMENT, as each party is financially responsible for its own effort, work, or services arising from the PROJECT; and

**WHEREAS**, the LOCAL GOVERNMENT shall solely be responsible for all the labor and installation costs associated with planning, coordinating, supervising, administering, engineering, evaluating, and inspecting the installation of the EQUIPMENT furnished by the DEPARTMENT, including all the costs associated with any apparatus, machinery, tools, or other incidentals necessary to perform the installation work, future operations, and maintenance of the EQUIPMENT; and

**NOW, THEREFORE**, in consideration of the premises, the mutual covenants and other valuable considerations contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. INCORPORATION OF RECITALS

The foregoing recitals are true and correct and are incorporated into the body of this Agreement, as if fully set forth herein.

2. GENERAL REQUIREMENTS AND OBLIGATIONS OF THE PARTIES

a. Condition Precedent

Prior to the DEPARTMENT’s performance of any obligation set forth in this Agreement, the LOCAL GOVERNMENT shall provide a list of all the school sites in its jurisdiction that are not in compliance with Chapter 15 of the Speed Zoning Manual. The list shall consist of a detailed spreadsheet containing the school names, locations, devices and materials types, and the quantities required to bring each school into compliance with Chapter 15 of the Speed Zoning Manual. The LOCAL GOVERNMENT shall also certify that it has control and maintains the right-of-way of the school sites listed in the spreadsheet. For school sites that the LOCAL GOVERNMENT does not control or maintain the right-of-way, see Section 2.d of this Agreement.

b. Local Government Responsibilities

In accordance with the DEPARTMENT’s Program Management Office, Program Management Bulletin 18-07, the EQUIPMENT provided through this Agreement shall be limited to the replacement of existing components with a new model/version of an old component. This Agreement does not provide for an upgrade or enhancement to the existing system that would require new design services. The DEPARTMENT will only

supply EQUIPMENT to satisfy the minimum criteria established in the Speed Zoning Manual and to the extent programmed federal funds are available. The LOCAL GOVERNMENT shall solely be responsible for the purchase of equipment above the minimum criteria established in the Speed Zoning Manual.

The LOCAL GOVERNMENT shall develop and submit an installation plan regarding performance of the work, prioritizing the school sites that are most deficient and plan the work in phases. The phases shall be coordinated with the DEPARTMENT's Traffic Engineering Office to maximize the funding available to the DEPARTMENT for purchasing devices and materials within the fiscal years the funding has been programmed by the DEPARTMENT. The DEPARTMENT recommends that the LOCAL GOVERNMENT establish a goal of completing installation of EQUIPMENT for a minimum of seven (7) schools per month.

The LOCAL GOVERNMENT shall also provide a schedule that reflects the date work will start on installing the requested EQUIPMENT. The LOCAL GOVERNMENT shall strictly adhere to the schedule(s). The LOCAL GOVERNMENT is required to begin installation of the EQUIPMENT within thirty (30) calendar days of receiving delivery of the EQUIPMENT from the DEPARTMENT.

The LOCAL GOVERNMENT shall be responsible for ensuring that the installation of the devices and materials provided are in compliance with Chapter 15 of the Speed Zoning Manual, MUTCD, and all applicable federal, state, and local laws, rules, regulations, guidelines, and standards.

The LOCAL GOVERNMENT shall be solely responsible for all the labor and installation costs associated with planning, coordinating, supervising, administering, engineering, evaluating, and inspecting the installation of the EQUIPMENT furnished by the DEPARTMENT, including all the costs associated with the apparatus, machinery, tools, and any other incidentals necessary to perform the installation work per the Local Agency Program Manual, Chapter 24 Force Account (FDOT Topic No. 525-010-300). The LOCAL GOVERNMENT shall also be solely responsible for disposing the devices and materials replaced from each school site.

The EQUIPMENT purchased by the DEPARTMENT must be installed by LOCAL GOVERNMENT in-house forces using non-federal LOCAL GOVERNMENT funds. The LOCAL GOVERNMENT shall not contract any portion of the work, or, once work has begun, perform any work related to physical improvement of the school site with non-in-house forces prior to final acceptance. The LOCAL GOVERNMENT shall not proceed with force account work, including but not limited to installation work, until notified by the DEPARTMENT that FHWA has approved a Finding of Cost Effectiveness document ("FOCE"), as required by Program Management Bulletin 18-07.

The LOCAL GOVERNMENT shall be solely responsible for ensuring adequate and timely maintenance of all devices and materials installed pursuant to this Agreement.

The LOCAL GOVERNMENT's Traffic Engineering representative shall meet with DEPARTMENT's Traffic Operations Office representative monthly to discuss the progress of the PROJECT.

Once the LOCAL GOVERNMENT has taken possession of the EQUIPMENT, the LOCAL GOVERNMENT shall be wholly responsible for its replacement in the event that any of the EQUIPMENT is lost, damaged, stolen, or rendered unusable.

When installation of the EQUIPMENT is complete, the LOCAL GOVERNMENT's Traffic Engineer representative shall co-sign a Local Agency Program Final Inspection and Acceptance of Federal – Aid Project (form # 525-010-42, attached as Exhibit "B") for each school site listed by the LOCAL GOVERNMENT to certify the equipment was installed in accordance with Chapter 15 of the Speed Zoning Manual. Before and after pictures of each school site shall be included with this form.

c. Department Responsibilities

Upon performance by the LOCAL GOVERNMENT of the condition precedent in Section 2.a of this Agreement, and the DEPARTMENT's approval of the LOCAL GOVERNMENT's installation plan set forth in Section 2.b of this Agreement, the DEPARTMENT shall purchase the EQUIPMENT from the DEPARTMENT's Sign Shop or the Statewide Approved Products List (APL) contract in accordance with the spreadsheet submitted by the LOCAL GOVERNMENT and approved by the DEPARTMENT, to the extent programmed federal funds are available.

The DEPARTMENT shall coordinate the delivery of the EQUIPMENT with LOCAL GOVERNMENT staff. The DEPARTMENT's Traffic Operations Office will keep a log of all EQUIPMENT delivered to the LOCAL GOVERNMENT. The equipment log should contain a list of the school sites and locations, quantities and costs of devices and materials purchased for each school, and a running balance of funding for the PROJECT remaining after each purchase.

The DEPARTMENT's Traffic Operations Office representative shall meet with LOCAL GOVERNMENT representatives monthly to discuss the progress of the PROJECT.

The DEPARTMENT's Traffic Operations representative shall be responsible for developing and processing all required DEPARTMENT National Environmental Policy Act (NEPA) documents in coordination with DEPARTMENT Environmental staff for each school site location submitted in the LOCAL GOVERNMENT's list.

Right-of-way Certification documentation for each school site shall also be processed by DEPARTMENT's Traffic Operations representative in coordination with DEPARTMENT Right-of-Way staff.

The DEPARTMENT's Traffic Operations Office shall develop a FOCE. The FOCE must be approved by FHWA prior to the LOCAL GOVERNMENT commencing force account

work. The DEPARTMENT shall notify the LOCAL GOVERNMENT once the FOCE is approved by FHWA.

The DEPARTMENT's Traffic Operations Office will also conduct school site visits to verify equipment was installed in accordance with Chapter 15 of the Speed Zoning Manual and in compliance with Federal requirements.

Upon verification that the EQUIPMENT has been satisfactorily installed in accordance with this Agreement, the DEPARTMENT's Traffic Operations Office shall co-sign a Local Agency Program Final Inspection and Acceptance of Federal – Aid Project (i.e. form # 525-010-42) for every school site listed by the LOCAL GOVERNMENT to certify the equipment was installed in accordance with Chapter 15 of the Speed Zoning Manual. Before and after pictures of each school site shall be included with this form. Execution of this form shall be considered final acceptance of the work for purposes of Sections 2 and 8 of this Agreement.

d. Federal Funding for School Zone Implementation Plan

The DEPARTMENT through its statewide School Zone Implementation Plan has a limited amount of federal funds for the purchase of devices and materials for the PROJECT. The DEPARTMENT shall determine the amount of federal funds available for the PROJECT upon review of the LOCAL GOVERNMENT installation plan. Notwithstanding any other provision of this Agreement, the DEPARTMENT shall not expend more than the amount of programmed federal funds per fiscal year under this Agreement.

e. Schools Eligible for School Zone Implementation Plan Funding

LOCAL GOVERNMENT shall only include school site locations that the LOCAL GOVERNMENT controls or maintains the school sites right-of-way. If the LOCAL GOVERNMENT submits a school site location with a right-of-way that the LOCAL GOVERNMENT does not control or maintain, the LOCAL GOVERNMENT shall submit to the DEPARTMENT a Memorandum of Understanding (MOU) or similar agreement demonstrating which entity is responsible for operating and maintaining the devices and materials requested to be installed.

Additionally, in accordance with Chapter 15 of the Speed Zoning Manual, only public or private elementary, middle schools (Jr. High), or federally funded Headstart facilities providing a full-time educational program are eligible for devices and materials such as signs, flashing beacons, posts, solar panels, batteries, cabinets, timer/controllers, wireless communications, speed feedback flashers, etc. Pavement markings are not to be considered part of this Agreement. If pavement markings are required at a school site, the LOCAL GOVERNMENT shall be solely responsible for the cost of purchasing all the materials necessary for the installation.

EQUIPMENT for High schools will only be considered on a case by case basis, if supported by an engineering study and determined to be eligible in accordance with

Chapter 15 of the Speed Zoning Manual.

### 3. COMMUNICATIONS

All notices, requests, demands, consents, approvals, and other communication which are required to be served or given hereunder, shall be in writing and shall be sent by certified U.S. mail, return receipt requested, postage prepaid, addressed to the party to receive such notices as follows:

To DEPARTMENT: Florida Department of Transportation  
3400 West Commercial Blvd  
Fort Lauderdale, FL 33309  
Attention: District Traffic Services Engineer

To LOCAL GOVERNMENT: City of Delray Beach  
Public Works Department  
100 NW First Avenue  
Delray Beach, FL 33444  
Attention: Joe Frantz

### 4. AGREEMENT TERM

The term of this Agreement becomes effective when both parties execute the Agreement and ends on July 1, 2023. However, all obligations of the LOCAL GOVERNMENT regarding devices or materials provided under this Agreement shall remain in full force and effect throughout the useful life of the devices or materials.

### 5. AMENDMENT

This Agreement may be amended mutually by the DEPARTMENT and the LOCAL GOVERNMENT, as expressed in writing, executed, and delivered by each party.

### 6. COMPLIANCE

If the DEPARTMENT determines that the LOCAL GOVERNMENT is not in compliance with the terms of this Agreement, the LOCAL GOVERNMENT shall be notified, in writing, by the DEPARTMENT, identifying the specifics of the non-compliance and corrective action, if any, required of the LOCAL GOVERNMENT.

The LOCAL GOVERNMENT's failure to satisfactorily remedy the non-compliance shall terminate the Agreement and absolve the DEPARTMENT of continued performance hereunder. In the event the Agreement is terminated due to the LOCAL GOVERNMENT's non-compliance, the LOCAL GOVERNMENT shall be obligated to repay the DEPARTMENT the full amount of funds expended by the DEPARTMENT for any EQUIPMENT delivered to the LOCAL GOVERNMENT for the PROJECT. In the event the Agreement is terminated due to the LOCAL GOVERNMENT's non-compliance, the LOCAL GOVERNMENT shall be obligated to repay the DEPARTMENT the full

amount of funds expended by the DEPARTMENT for any EQUIPMENT purchased but not yet delivered to the LOCAL GOVERNMENT for the PROJECT TERMINATION.

This Agreement, or any part hereof, is subject to termination under any one of the following conditions: (a) as mutually agreed by both parties, (b) FHWA's refusal to approve the Finding of Cost Effectiveness document, (c) LOCAL GOVERNMENT's failure to comply with applicable law or the terms of this Agreement, or (d) LOCAL GOVERNMENT's failure to comply with the Public Records provisions of Chapter 119, Florida Statutes.

## 7. RECORDS RETENTION

The LOCAL GOVERNMENT shall maintain sufficient records demonstrating compliance with the terms of this Agreement. Such records shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this Agreement and for five years from the date of the last final acceptance by the DEPARTMENT. Copies of these documents and records shall be furnished to the DEPARTMENT upon request.

## 8. INDEMNIFICATION

To the extent provided by law, the LOCAL GOVERNMENT shall indemnify, defend, and hold harmless the DEPARTMENT against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of the LOCAL GOVERNMENT, or any of its officers, agents or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by the LOCAL GOVERNMENT hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by the LOCAL GOVERNMENT to indemnify the DEPARTMENT for the negligent acts or omissions of the DEPARTMENT, its officers, agents or employees, or for the acts of third parties. Nothing herein shall be construed as consent by the LOCAL GOVERNMENT to be sued by third parties in any manner arising out of this agreement.

This indemnification shall survive the termination of this Agreement.

## 9. INVALIDITY

If any part of this Agreement shall be determined to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, if such remainder continues to conform to the terms and requirements of applicable law.

## 10. GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of Florida.

## 11. ENTIRE AGREEMENT

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 executed with the same formality and of equal dignity herewith.

## 12. INSPECTOR GENERAL COOPERATION

The LOCAL GOVERNMENT agrees 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.

## 13. LIMITS ON CONTRACTS EXCEEDING \$25,000 AND TERM MORE THAN 1 YEAR.

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:

"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."

## 14. LOBBYING

The LOCAL GOVERNMENT agrees that no federally-appropriated funds have been paid, or will be paid by the LOCAL GOVERNMENT or on its behalf, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative

agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement. If any funds other than federally-appropriated funds have been paid by the LOCAL GOVERNMENT to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. No funds received pursuant to this contract may be expended for lobbying the Legislature, the judicial branch or a state agency.

[Signature page follows.]

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be executed the day and year first above written.

**Florida Department of Transportation**

**Local Government**

**City of Delray Beach**

\_\_\_\_\_  
Name of Local Government

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name of Signatory

\_\_\_\_\_  
Printed Name of Signatory

\_\_\_\_\_  
District Secretary

\_\_\_\_\_  
Shelly Petrolia, Mayor

**Approved as to Legal Sufficiency by:**

\_\_\_\_\_  
District Chief Counsel

\_\_\_\_\_  
Lynn Gelin, City Attorney

**Exhibit "A"**  
**Local Government's Resolution**

To be herein incorporated once approved by the LOCAL GOVERNMENT Council/Commission.

# Exhibit "B"

## Sample Form # 525-010-42

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
LOCAL AGENCY PROGRAM FINAL INSPECTION AND ACCEPTANCE OF  
FEDERAL-AID PROJECT

525-010-42  
PROGRAM MANAGEMENT  
01/15

<b>INSTRUCTIONS:</b> Local Agency to complete this form for each completed exempt project		
FEDERAL PROJECT NO. <div style="border: 1px solid black; height: 15px; width: 100%;"></div>	FINANCIAL PROJECT NO. <div style="border: 1px solid black; height: 15px; width: 100%;"></div>	CONTRACT NO. <div style="border: 1px solid black; height: 15px; width: 100%;"></div>
PROJECT TYPE (CHECK ONE) <input type="checkbox"/> NHS <input type="checkbox"/> NON-NHS		
DESCRIPTION OF IMPROVEMENT AS PROGRAMMED <div style="border: 1px solid black; height: 150px; width: 100%;"></div>		
<b>LOCAL AGENCY</b>	LOCAL AGENCY <div style="border: 1px solid black; height: 15px; width: 100%;"></div>	COUNTY <div style="border: 1px solid black; height: 15px; width: 100%;"></div>
		LAP AGREEMENT AMOUNT <div style="border: 1px solid black; height: 15px; width: 100%;"></div>
	FINAL COMPLETION DATE <div style="border: 1px solid black; height: 15px; width: 100%;"></div>	TOTAL PROJECT COST <div style="border: 1px solid black; height: 15px; width: 100%;"></div>
	<b>NOTICE OF FINAL INSPECTION AND ACCEPTANCE:</b> I certify that this project has been completed in accordance with the terms of the Local Agency Program Agreement and constructed in accordance with the approved plans and specifications.	
	<div style="border-bottom: 1px solid black; width: 50%;"></div> COUNTY/CITY ENGINEER OR DESIGNEE (PRINT NAME) *	<div style="border-bottom: 1px solid black; width: 50%;"></div> TITLE
	<div style="border-bottom: 1px solid black; width: 50%;"></div> SIGNATURE *	<div style="border-bottom: 1px solid black; width: 50%;"></div> DATE
<b>FDOT</b>	INSPECTION DATE <div style="border: 1px solid black; height: 15px; width: 100%;"></div>	INSPECTED BY <div style="border: 1px solid black; height: 15px; width: 100%;"></div>
		FINAL ACCEPTANCE DATE <div style="border: 1px solid black; height: 15px; width: 100%;"></div>
	<b>ACCEPTANCE:</b> The above listed project has been completed by the Local Agency and accepted by the Department.	
	<div style="border-bottom: 1px solid black; width: 50%;"></div> DIST. CONST. ENGINEER OR DESIGNEE (PRINT NAME) *	<div style="border-bottom: 1px solid black; width: 50%;"></div> TITLE
	<div style="border-bottom: 1px solid black; width: 50%;"></div> SIGNATURE *	<div style="border-bottom: 1px solid black; width: 50%;"></div> DATE
<small>* Need a responsible charge Local Agency or Department employee's signature for Final Inspection or Final Acceptance. A non-Local Agency employee (i.e., consultants) cannot sign for Final Inspection or Final Acceptance.</small>		

Distribution:      Federal Aid Management Office (MS 21)  
                          Office of Comptroller, Federal Project Cost Section (MS42)  
                          FHWA Florida Division Office, Program Operations Engineer (MS 29)