



THREE PARTY ESCROW AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of Florida, Department of Transportation ("FDOT"), Lee County ("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: Burnt Store Road from Van Buren Parkway to Charlotte County
line
Project #: 436928-2-32-01
County: Lee

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 account shall remain in the account for the purposes of the Project.

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.

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



For FDOT-OOC (signature)

Name and Title

59-3024028

Federal Employer I.D. Number

Date

FDOT Legal Review:

DC

For Escrow Agent (signature)

Name and Title

Date

For PARTICIPANT (signature)

Mike Greenwall, Chair
Name and Title

Federal Employer I.D. Number

4/8/24
Date

Approved as to Form for the
Reliance of Lee County Only

By:
Office of the County Attorney

AGENDA ITEM REPORT

DATE: April 2, 2024
DEPARTMENT: Transportation
REQUESTER: Randy Cerchie
TITLE: Approve FDOT Funding Agreement for Burnt Store Road North

I. MOTION REQUESTED

- A) Approve and authorize the Chair to execute the attached Agreement and Resolution with the Florida Department of Transportation for funding of Burnt Store Road North in the amount of \$2,500,000.
- B) Approve the creation of CIP Project #200802, approve Transfer of Funds from Project #204088 in Fund #30721 in the amount of \$3,500,000 and amend the FY 2023/24 CIP accordingly.

II. ITEM SUMMARY

Execute an agreement with the Florida Department of Transportation (FDOT) in which the County will contribute \$2,500,000 to the design phase of Burnt Store Road North. The Project Development & Environmental Study to include design up to 30% is being funded and managed by FDOT. FDOT has agreed to continue the design to 60% with creation of a design/build criteria package if the County will contribute \$2,500,000 to the project. The County will be responsible for acquisition of right-of-way for the project and this action includes establishing a \$1,000,000 budget to begin the ROW phase. Funding for this is available in County's Burnt Store widening project and will be transferred to the newly create project for Burnt Store North.

III. BACKGROUND AND IMPLICATIONS OF ACTION

A) Board Action and Other History

The Florida Department of Transportation began a Project Development and Environment (PD&E) Study in January 2020 along approximately 5.7 of Burnt Store Road from Van Buren Parkway to just north of the Charlotte County Line. The study is evaluating alternatives to widen this segment of Burnt Store Road from a two-lane undivided roadway to a four-lane divided roadway and expandable to six lanes in the future when need arises. FDOT has agreed to modify the PD&E contract to include advancing design plans to 60% and development of a design-build criteria package that can be provided to the County for completion of the project.

This action will approve County funding for the next phase of design to 60% in the amount of \$2,500,000. Also included in this action is funding of \$1,00,000 to begin right-of-way purchases that will be handled by the County.

B) Policy Issues

C) BoCC Goals

D) Analysis

Funding for construction has not been identified yet. The County and State will partner to apply for Federal and State grant opportunities.

E) Options

IV. FINANCIAL INFORMATION

A)	Current year dollar amount of item:	\$3,500,000
B)	Is this item approved in the current budget?	Yes
C)	Is this a revenue or expense item?	Expense
D)	Is this Discretionary or Mandatory?	Discretionary

E)	Will this item impact future budgets? If yes, please include reasons in III(D) above.	Yes
F)	Fund: Surplus Cape Coral Program: Capital Projects Project: Burnt Store North Account Strings: 20080230721	
G)	Fund Type?	Enterprise
H)	Comments:	

V. RECOMMENDATION

Approve

VI. TIMING/IMPLEMENTATION

VII. FOLLOW UP

ATTACHMENTS:

Description	Upload Date	Type
436928-2 Locally Funded Agreement Between FDOT and Lee County	3/18/2024	Agreement
436928-2 Three Party Escrow Agreement	3/18/2024	Agreement
Resolution	3/18/2024	Resolution
Budget Transfer	3/22/2024	Transfer of Funds

REVIEWERS:

Department	Reviewer	Action	Date
Transportation	Cerchie, Randy	Approved	3/22/2024 - 10:45 AM
Budget Services	Guttery, Angela	Approved	3/22/2024 - 12:04 PM
Budget Services	Winton, Peter	Approved	3/22/2024 - 1:16 PM
County Attorney	Adams, Joseph	Approved	3/25/2024 - 9:37 AM
County Manager	Hamer, David	Approved	3/25/2024 - 3:24 PM