

FIRST AMENDMENT TO

INTERLOCAL AGREEMENT

(Pursuant to the Florida Interlocal Cooperation Act of 1969, Part I, Chapter 163, Florida Statutes)

By and between

City of Orlando, Florida,

and

Central Florida Regional Transportation Authority (d/b/a LYNX)

Relating to

**Design and Construction Management Services, including Construction and
Engineering Inspection (CEI) Services for Construction of the Creative Village
Moving Parramore Forward (BRT) Project**

_____, 2017

Orlando City Council

Regular Meeting of _____, _____, 2017

Central Florida Regional Transportation Authority Governing Board

Regular Meeting of _____, _____, 2017

THIS DOCUMENT PREPARED BY:

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THIS FIRST AMENDMENT TO INTERLOCAL AGREEMENT (“Amendment”), made in the City of Orlando, County of Orange, State of Florida, this _____ day of _____, 2017, is made and entered into by and between the **CITY OF ORLANDO, FLORIDA**, a Florida municipal corporation duly created, organized, and existing under, and by virtue of, the laws of the State of Florida, and having its principal place of business at Orlando City Hall, 400 S. Orange Ave., Orlando, Florida 32801 (the “**City**”), and the **CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY, d/b/a LYNX**, a Florida body politic and corporate, duly created, organized, and existing under, and by virtue of, Part II, Chapter 343, Florida Statutes, and having its principal place of business at Lynx Central Station, 455 N. Garland Ave., Orlando, Florida 32801 (the “**Authority**”).

WITNESSETH

WHEREAS, as provided by Article VIII, section 2(b) of the Constitution of the State of Florida, and section 166.021(1), Florida Statutes, the **City**, a Florida municipal corporation, enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, the **Authority** was created and established by Part II, Chapter 343, Florida Statutes, for the purpose of governing and operating a public transportation system and public transportation facilities in Seminole, Orange, and Osceola Counties, and may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of said purpose; and

WHEREAS, this Agreement is made and entered into by the **City**, and the **Authority** pursuant to the Florida Interlocal Cooperation Act of 1969, Part I, Chapter 163, Florida Statutes, the purpose of which is “to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities”; and

WHEREAS, the City has created a Downtown Orlando Transportation Plan to evaluate existing facilities, projects, future demand and identify future transportation enhancements, and which makes specific recommendations based on the analysis of streets, transit, parking, Intelligent Transportation Systems (ITS), traffic signalization, transportation demand management, freight, land use, and the bicycle and pedestrian network; and

WHEREAS, pursuant to the Downtown Orlando Transportation Plan, the expansion of the LYMMO network is a key component of the future multi-modal transportation system to mitigate congestion in Downtown Orlando; and

WHEREAS, pursuant to that certain Interlocal Agreement, dated June 8, 2009 (the “Interlocal Agreement”), the Authority contracted for the performance of a LYMMO expansion alternatives analysis study (the “AA Study”), the purpose of which is to provide data and analysis related to existing and future travel demand, trip patterns, modal preferences, and

transportation needs within the Downtown Orlando, Florida area in order to improve the LYMMO network; and

WHEREAS, the Parties desire to increase the “not to exceed” amount for reimbursement purposes by One Hundred Thousand Dollars (\$100,000.00), and

WHEREAS, pursuant to that certain Amended and Restated Interlocal Agreement, dated August 15, 2011, (the “Amended Interlocal Agreement”), the Authority has contracted for the performance of the Parramore BRT Project, as defined below, the purpose of which is to accomplish the design, engineering and construction of a bus rapid transit (BRT) extension of the LYMMO system to serve the Parramore community west of I-4 and the Creative Village; and

WHEREAS, pursuant to that certain Interlocal Agreement, dated January 23, 2012 (the “Original Interlocal Agreement”), the **City** and **Authority** agreed that the City would provide the Authority with design and construction management services in connection with the construction of the Parramore BRT Project, including construction and engineering inspection (CEI) services (“**CEI Services**”) and the Authority would reimburse the City for such services in an amount not to exceed Four Hundred Ninety Eight Thousand One Hundred Eight Dollars (\$498,108.00); and

WHEREAS, the Parties desire to increase the reimbursement amount by One Hundred Thousand Dollars (\$100,000.00), and

WHEREAS, the City Council of the City of Orlando, Florida, hereby finds and declares that this Agreement promotes a valid and important public purpose and is in the best interest of the public health, safety, and welfare of the citizens of the City of Orlando.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, and other good and valuable consideration, each to the other provided, the receipt and sufficiency of which is hereby acknowledged, the **City** and the **Authority** agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are hereby incorporated into and made a part of this Agreement as if fully set forth hereinafter.
2. **Amendment.** Section 4(c) of the Original Interlocal Agreement is hereby amended to read as follows:

“4. Project CEI Expenses.

(c) Notwithstanding anything to the contrary set forth herein, the Authority shall not be required to reimburse the City for CEI Expenses pursuant to Section 4(a) in excess of **Five Hundred Ninety Eight Thousand One Hundred Eight Dollars (\$598,108.00)** (the “**Not to Exceed Amount**”). If at any time the Authority or the City believes that the City’s cost to perform CEI Services related to the Project will exceed said amount, then the Authority or the City shall notify the other party of such belief and the City and the Authority shall discuss whether or not and

to what extent, if any, (i) the Authority will provide additional monies to fund the performance of the City's CEI Services and/or (ii) to what extent the scope of the City's CEI Services should be reduced. Should the Authority and the City fail to reach an agreement, then either party may terminate this Agreement by delivering to the other party written notice of its desire to terminate this Agreement. In such an event, this Agreement shall be terminated on the date which is 30 days following the receipt of the notice of termination (or such later date as specified in such notice). All costs incurred by City under this Agreement prior to the date of termination shall be paid by Authority as provided in this Section 4."

3. **Severability.** The invalidity or unenforceability of any term or provision of this Amendment or the non-applicability of any such term or provision to any person or circumstance shall not impair or affect the remainder of this Amendment, and the remaining terms and provisions hereof shall not be invalidated but shall remain in full force and effect but shall be construed as if such invalid, unenforceable, or non-applicable provisions were omitted.

4. **Entire Agreement.** This Amendment represents the entire understanding and agreement between the parties with respect to the subject matter hereof. None of the terms and provisions hereof may be amended, supplemented, waived or changed orally, but only by a writing signed by each of the parties hereto.

5. **Rules of Construction.** Whenever used herein, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

6. **Amendment Execution. Use of Counterpart Signature Pages.** This Amendment may be executed in any number of counterparts, each of which when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same instrument.

7. **Full Force And Effect Of Interlocal Agreement.** Except as Section 5.3 and Section 6(b) of the Interlocal Agreement are specifically amended herein, and except as the definitions of Parramore BRT Grant, Parramore BRT Project and Parramore BRT Local Match are amended herein, all other terms and provisions of the Interlocal Agreement remain valid, effective and in full force.

IN WITNESS WHEREOF, the **City** and the **Authority** and the **CRA** have duly and lawfully approved this Agreement and have authorized its execution and delivery by their respective officers, who have set their hands and had their seals affixed below, all as of the date first written hereinabove.

SIGNATURES START NEXT PAGE

SIGNATURE PAGE BY CITY

FOR THE CITY OF ORLANDO, FLORIDA, a
Florida municipal corporation:

Mayor / Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

Interim City Clerk

Date

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

Chief Assistant City Attorney

Date

SIGNATURE PAGE BY AUTHORITY

**FOR THE CENTRAL FLORIDA REGIONAL
TRANSPORTATION AUTHORITY, a Florida
statutory agency:**

By: _____
John M. Lewis, Jr., Chief Executive Officer

ATTEST:

By: _____

Name: _____

Title: _____

Date: _____

This Agreement is approved as to form only for execution by the Authority, and this approval is not to be relied upon by any other person or for any other purpose.

AKERMAN SENTERFITT

Name: Patrick T. Christiansen
Title: Shareholder

SIGNATURE PAGE BY CRA

**COMMUNITY REDEVELOPMENT
AGENCY OF THE CITY OF ORLANDO,
FLORIDA**

By: _____
Buddy Dyer, as its Chairman

ATTEST:

By: _____
Thomas Chatmon, as its Executive Director

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Buddy Dyer and Thomas Chatmon, Chairman and Executive Director, respectively, of the Community Redevelopment Agency of the City of Orlando, Florida, They are personally known to me or have produced valid Florida drivers' licenses as identification.

(SEAL)

Printed/Typed Name: _____
Notary Public-State of Florida
Commission Number: