

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: November 21, 2006 ☒ Consent ☐ Regular
 ☐ Workshop ☐ Public Hearing

Department:
 Submitted By: Engineering & Public Works
 Submitted For: Traffic Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) Approve a Joint Participation Agreement (JPA), Amendment Number One, to an Agreement previously approved May 3, 2005, under Resolution 2005-0862, with the Florida Department of Transportation (FDOT) for improvements along Okeechobee Boulevard, from I-95 to east of Australian Avenue.
- B) Adopt a Resolution authorizing the JPA Amendment.

Summary: In order to construct additional lanes, FDOT and Palm Beach County (County) have partnered to make improvements with FDOT's proposed resurfacing project. This Amendment will allow additional time for construction and reimbursement of funds with regard to the previously approved Agreement.

District: 7 (M.R.E.)

Background and Justification: FDOT has programmed a resurfacing, restoration, and rehabilitation (RRR) project along the segment of Okeechobee Boulevard (State Road 704), from I-95 to east of Australian Avenue. The County improvements include construction of additional through lanes, replacement of bridges, installation of a traffic count station, and sign structures. FDOT and the County entered into a JPA on May 23, 2005, to construct all these improvements as one project. The County will construct these improvements and shall be reimbursed up to \$933,359.00. It is now necessary to extend the original construction period from December 31, 2006, to December 31, 2009. Construction shall be accepted and reimbursement completed by FDOT prior to December 31, 2009.

Attachments:

- 1. Location Sketch
- 2. Joint Participation Agreement Amendment (6 copies).
- 3. Resolution (3 copies)
- 4. Joint Participation Agreement – May 23, 2005

Recommended By: Don Musby 10/18/06 *Don*
 ☒ Division Director Date

Approved By: Sgt. T. Webb 10/25/06 *T. Webb*
 County Engineer Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-0-	-0-	-0-	-0-

ADDITIONAL FTE

POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes _____

No _____

Budget Acct No.: Fund _____ Dept. _____ Unit _____ Object _____
Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

This item has no additional fiscal impact.

C. Departmental Fiscal Review: R. D. Ward 10/18/06

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

10-28-06
OFMB
Contract Dev and Control
10/27/06
10-26-06
10-25-06
10/26/06

B. Approved as to Form and Legal Sufficiency:

Monique R. Attie 11/1/06
Assistant County Attorney

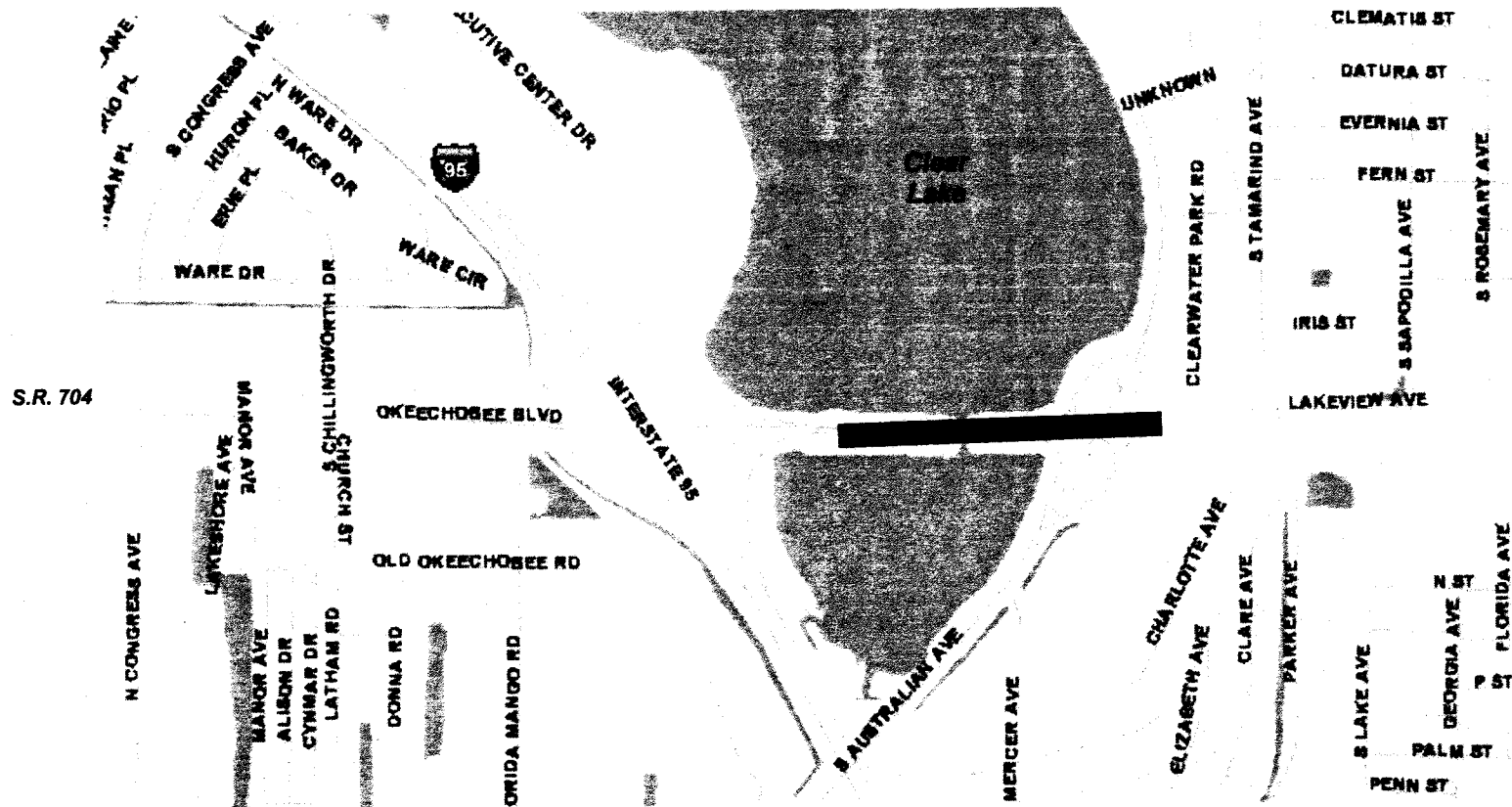
This amendment complies with our review requirements.

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

District 7



Project Limits



OKEECHOBEE BOULEVARD FROM WEST OF
CLEAR LAKE BRIDGE TO AUSTRALIAN AVENUE
PBC PROJECT #2002103

Location Map

FIGURE
1

02-15-05

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
PALM BEACH COUNTY
JOINT PARTICIPATION AGREEMENT
AMENDMENT NUMBER ONE**

THIS AMENDMENT, made and entered into this _____ day of _____, 200____, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter called the **DEPARTMENT**, and **PALM BEACH COUNTY**, located at **2300 NORTH JOG ROAD, WEST PALM BEACH, FLORIDA 33411**, hereinafter called the **COUNTY**.

WITNESSETH

WHEREAS, on May 23rd, 2005, the parties entered into a Joint Participation Agreement, hereinafter referred to as the **AGREEMENT**, wherein the **PARTICIPANT** agreed to provide certain improvements in connection with the **Preparation of a Complete Set of Roadway Plans for SR-704/Okeechobee Road 3R (Resurfacing, Restoration, and Rehabilitation) Project from Clear Lake Bridge to East of Australian Avenue overpass Palm Beach County** and hereinafter referred to as **FM No. 229755-1-58-01**, and,

WHEREAS, the parties desire to amend the **AGREEMENT**; and

WHEREAS, the parties hereto mutually agree that this Amendment is in their best interest;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree to amend the Agreement dated May 23rd, 2005, as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. Paragraph Nine, page 2 of 5 is amended to read as follows: Except as otherwise set forth herein, this **AGREEMENT** shall continue in effect and be binding to both the **COUNTY** and the **DEPARTMENT** until the Project is completed as evidenced by the written acceptance of the **DEPARTMENT** or **December 31, 2009**, whichever occurs first.
3. The Agreement is further amended to include the Federal and State Audit provisions set forth in **Exhibit "B"**, are incorporated herein and made part hereof.

All other provisions, covenants, terms and conditions of the **AGREEMENT** dated May 23rd, 2005, which are not expressly amended or modified are hereby ratified and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties below have executed this Amendment and it is effective on the day first written above. Authorization has been given to enter into and execute this Amendment by Resolution No. _____, hereto attached.

PALM BEACH COUNTY, FLORIDA
A POLITICAL SUBDIVISION OF THE
STATE OF FLORIDA
BOARD OF COUNTY COMMISSIONERS

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: _____
CHAIR

BY: _____
ROSELYN QUIROZ
DIRECTOR OF TRANSPORTATION SUPPORT

ATTEST:
SHARON R. BOCK, CLERK & COMPTROLLER

APPROVED: (AS TO FORM)

CLERK OR DEPUTY CLERK (SEAL)

BY: _____
DISTRICT GENERAL COUNSEL

APPROVED AS TO FORM AND:
LEGAL SUFFICIENCY:

APPROVED:

BY: _____
ASSISTANT COUNTY ATTORNEY

BY: _____
PROFESSIONAL SERVICES ADMINISTRATOR

APPROVED AS TO TERMS AND CONDITIONS:

BY: Dan Weisberg
DAN WEISBERG, P. E.
DIRECTOR - PBC TRAFFIC DIVISION

Exhibit "B"

FEDERAL AND/OR STATED FUNDED CONTRACTS

The administration of resources awarded by the Department to **PALM BEACH COUNTY** may be subject to audits and/or monitoring by the Department, as described in this section.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this agreement, the recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the recipient is appropriate, the **PALM BEACH COUNTY** regarding such audit. **PALM BEACH COUNTY** further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the FDOT's Office of Inspector General (OIG) and Florida's Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

Recipients of federal funds (i.e. state, local government, or non-profit organizations as defined in OMB Circular A-133, as revised) are to have audits done annually using the following criteria:

1. In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this agreement indicates Federal resources awarded through the Department by this agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1., the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities).
4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

PART II: STATE FUNDED

Recipients of state funds (i.e. a nonstate entity as defined by Section 215.97(2)(l), Florida Statutes) are to have audits done annually using the following criteria:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services and the CFO; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this

agreement indicates state financial assistance awarded through the Department by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

PART III: OTHER AUDIT REQUIREMENTS

The recipient shall follow up and take corrective action on audit findings. Preparation of a summary schedule of prior year audit findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the FDOT, the Department of Financial Services, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:
 - A. The Department at each of the following addresses:

Florida Department of Transportation,
3400 W. Commercial Blvd.
Ft. Lauderdale, FL 33309
Antonette P. Adams, Professional Services Administrator
John Olson, Project Manager
 - B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132
 - C. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. In the event that a copy of the reporting package for an audit required by PART I of this agreement and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the Department for reasons pursuant to section .320 (e)(2), OMB Circular A-133, as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited schedule of expenditures of Federal awards directly to each of the following:

Florida Department of Transportation,
3400 W. Commercial Blvd.
Ft. Lauderdale, FL 33309
Antonette P. Adams, Professional Services Administrator
John Olson, Project Manager

In addition, pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the Department at each of the following addresses:

Florida Department of Transportation,
3400 W. Commercial Blvd.
Ft. Lauderdale, FL 33309
Antonette P. Adams, Professional Services Administrator
John Olson, Project Manager

3. Copies of financial reporting packages required by PART II of this agreement shall be submitted by or on behalf of the recipient directly to each of the following:

A. The Department at each of the following addresses:

Florida Department of Transportation,
3400 W. Commercial Blvd.
Ft. Lauderdale, FL 33309
Antonette P. Adams, Professional Services Administrator
John Olson, Project Manager

B. The Auditor General's Office at the following address:

Auditor General's Office
Room 401, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

4. Copies of reports or the management letter required by PART III of this agreement shall be submitted by or on behalf of the recipient directly to:

A. The Department at each of the following addresses:

Florida Department of Transportation,
3400 W. Commercial Blvd.
Ft. Lauderdale, FL 33309
Antonette P. Adams, Professional Services Administrator
John Olson, Project Manager

5. Any reports, management letter, or other information required to be submitted to the Department pursuant to this agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

6. Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION

1. The recipient shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of at least five years from the date the audit report is issued, and shall allow the Department, or its designee, CFO, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department, or its designee, CFO, or Auditor General upon request for a period of at least five years from the date the audit report is issued, unless extended in writing by the Department.

FEDERAL and/or STATE resources awarded to the recipient pursuant to this agreement should be listed below. If the resources awarded to the recipient represent more than one Federal or State program, provide the same information for each program and the total resources awarded. Compliance Requirements applicable to each State program should also be listed below. If the resources awarded to the recipient represent more than one program, list applicable compliance requirements for each program in the same manner as shown here:

STATE RESOURCES

<u>State Agency</u>	<u>Catalog of State Financial Assistance (Number & Title)</u>		<u>Amount</u>
DOT (Department of Transportation)	55.023	State Highway Project Reimbursement	\$933,359.00

Compliance Requirements

1. Exhibit "A" Scope of Services
2. a) Most projects are administered by or through State Transportation Departments or Federal agencies
- b) The Participant must follow specific laws, guidelines or regulations regarding allowable program expenditures.
- 3.

RESOLUTION NO. R-2006-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY FLORIDA, AUTHORIZING EXECUTION OF AMENDMENT NO. ONE TO A JOINT PARTICIPATION AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND PROVIDING WHEN THIS RESOLUTION WILL TAKE EFFECT.

WHEREAS, the State of Florida Department of Transportation (FDOT) and Palm Beach County desire to amend a Joint Participation Agreement (JPA) entered into on May 23, 2005 by both parties, and;

WHEREAS, this Amendment to the Agreement involves FDOT funding the construction of improvements on Okeechobee Boulevard from I-95 to east of Australian Avenue, by Palm Beach County, and;

WHEREAS, the State of Florida has requested Palm Beach County to execute and deliver to the State of Florida Department of Transportation, the First Amendment to the Agreement.

NOW, THEREFORE BE IT RESOLVED BY THE Board of County Commissioners of Palm Beach County, Florida, that the Chairperson is hereby authorized to execute, and deliver to the State of Florida Department of Transportation, the First Amendment to the aforementioned JPA.

1. The recitations set forth herein above are true, accurate and correct and are incorporated herein, and will take effect upon adoption.

The foregoing resolution was offered by Commissioner _____ who moved it's adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote as follows:

KAREN T. MARCUS	-
JEFF KOONS,	-
WARREN H. NEWELL	-
MARY MCCARTY	-
BURT AARONSON	-
ADDIE L. GREENE	-

The Chairperson thereupon declared the Resolution duly passed and
adopted this _____ day of _____, 2006

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

Assistant County Attorney

SHARON R. BOCK,
CLERK & COMPTROLLER
CIRCUIT COURT

BY: _____
Deputy Clerk



Florida Department of Transportation
PROFESSIONAL AND OTHER CONTRACTUAL SERVICES - DISTRICT IV
3400 W. Commercial Boulevard, Ft. Lauderdale, Florida 33309-3421
Telephone: (954) 777-4603/fax (954) 777-4602

JEB BUSH
GOVERNOR

JOSÉ ABREU
SECRETARY

May 23, 2005

RECEIVED

MAY 24 2005

TRAFFIC ENGINEERING

Ms. Amy Harris, P.E.
Palm Beach County
Dept. of Engineering & Public Works- Traffic Division
160 Australian Avenue
West Palm Beach, FL 33416

RE: Joint Participant Agreement, AO-143
FM Number: 229755-1-58-01
Description: Preparation of a Complete Set of Roadway Plans for SR-704/Okeechobee Bvd. 3R (Resurfacing, Restoration, & Rehabilitation) Project from Clear Lake Bridge to East of Australian Avenue overpass in Palm Beach County

Dear Ms. Harris:

Enclosed please find a copy of a fully executed Joint Participation Agreements - with original signatures - for the above referenced project. Also included is a copy of the Agenda Item R-2005-0862. Said documents are to be retained for your records.

If you have any questions, please do not hesitate to contact me. I can be reached at (954) 777-2285.

Sincerely,

Leos A. Kennedy, Jr.
Professional Services Unit
District Four

lk/s

enc: JPA
copy: John Olson, P.E., Project Manager
District Financial Services
Mike DeRosa, Program Development Manager
File

*Orig to minutes
5/25/05 DP*

www.dot.state.fl.us

RECYCLED PAPER

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
R2005 0862 JOINT PARTICIPATION AGREEMENT
MAY 03 2005

THIS AGREEMENT, entered into this 23rd day of May 2005, by and between the State of Florida Department of Transportation hereinafter called the **DEPARTMENT**, and the **PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS**, State of Florida, located at **160 AUSTRALIAN AVENUE, WEST PALM BEACH, FLORIDA 33406** hereinafter called the **COUNTY**.

WITNESSETH

WHEREAS, the **DEPARTMENT** and the **COUNTY** are desirous of having the **COUNTY** make certain improvements in connection with State FM Number **229755-1-58-01** for the **Preparation of a Complete Set of Roadway Plans for SR-704/Okeechobee Road 3R (Resurfacing, Restoration, & Rehabilitation) Project from Clear Lake Bridge to East of Australian Avenue overpass in Palm Beach County, Florida;** and incorporated into Palm Beach County Project # 2002103 for Widening Okeechobee Boulevard and removing the Bridge Structure over Clear Lake, further described as the **PROJECT**. Refer to Exhibit "A" of this AGREEMENT for a detailed Scope of Services; and,

WHEREAS, the improvements are in the interest of both the **COUNTY** and the **DEPARTMENT** and it would be more practical, expeditious, and economical for the **COUNTY** to perform such activities; and,

WHEREAS, the **COUNTY** authorizes the proper officials to enter into this AGREEMENT and the **DEPARTMENT** will accept a certified copy of the Board of County Commissioners meeting minutes approving this AGREEMENT.

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the **PROJECT**, the parties agree to the following:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The **COUNTY** shall be responsible for assuring that the Project complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards.
3. The **DEPARTMENT** agrees to make all previous studies, maps, drawings, surveys and other data and information pertaining to the Project available to the **COUNTY** at no extra cost.
4. The **COUNTY** shall have the sole responsibility for resolving claims and requests for additional work for the Project. The **COUNTY** will make reasonable efforts to obtain the **DEPARTMENT** input in its decisions.
5. The **DEPARTMENT** agrees to pay the **COUNTY** for the services described in Exhibit "A" of this

Agreement. The **DEPARTMENT'S** participation towards this project is a maximum amount of **NINE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED FIFTY NINE DOLLARS (\$933,359.00)**. The **COUNTY** will be paid an amount not to exceed **NINE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED FIFTY NINE DOLLARS (\$933,359.00)**, to be made in monthly payments, based on the percentage of completion for actual cost incurred. If the actual cost of the project exceeds the **DEPARTMENT'S** participation of **NINE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED FIFTY NINE DOLLARS (\$933,359.00)**, the cost overrun shall be the sole responsibility of the **COUNTY**.

6. The **DEPARTMENT'S** obligation to pay is contingent upon an annual appropriation by the Florida Legislature.
7. Should the **DEPARTMENT** and the **COUNTY** decide to proceed with subsequent phases of the Project, the **AGREEMENT** may be amended to identify the respective responsibilities and the financial arrangements between the parties.
8. This **AGREEMENT** and any interest herein shall not be assigned, transferred or otherwise encumbered by the **COUNTY** under any circumstances without the prior written consent of the **DEPARTMENT**. However, this **AGREEMENT** shall run to the **DEPARTMENT** and its successors.
9. Except as otherwise set forth herein, this **AGREEMENT** shall continue in effect and be binding to both the **COUNTY** and the **DEPARTMENT** until the Project is completed as evidenced by the written acceptance of the **DEPARTMENT** or **December 31, 2006**, whichever occurs first.
10. Bills for fees or other compensation for services of expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.
11. If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the **COUNTY**. Interest penalties of less than one (1) dollar will not be enforced unless the **COUNTY** requests payment. Invoices that have to be returned to a **COUNTY** because of **COUNTY** 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**.
12. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the Department of Financial Services's Hotline, 1-800-848-3792.
13. Records of costs incurred under the 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 three years after final payment is made. Copies of these documents and records shall be furnished to the **DEPARTMENT** upon request. Records of cost incurred includes the **COUNTY'S** general accounting records and the project records, together with

supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the **DEPARTMENT** for a proper audit of costs.

14. In the event this contract is for services in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and 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 such 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; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year."

15. The **COUNTY** warrants that it has not employed or obtained any company or person, other than bona fide employees of the **COUNTY**, to solicit or secure this **AGREEMENT**, and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee employed by the **COUNTY**. For breach or violation of this provision, the **DEPARTMENT** shall have the right to terminate the **AGREEMENT** without liability.
16. To the extent allowed by the Laws of Florida, the **COUNTY** hereby agrees to indemnify, defend, save, and hold harmless the **DEPARTMENT** from all claims, demands liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission, or commission of the **COUNTY**, its agents, or employees, arising out of this contract or the work which is the subject hereof. In addition, with respect to any of the **COUNTY'S** agents, consultants, contractors, and /or sub-contractors, such party in any contract for this project shall agree to indemnify, defend, save and hold harmless the **DEPARTMENT** from all claims, demands, liabilities, and suites of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission or commission of such agents, consultants, contractors, and/or subcontractors. The **COUNTY** shall provide to the **DEPARTMENT** written evidence of the foregoing upon the request of the **DEPARTMENT**. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the **DEPARTMENT** for its own negligence.
17. This **AGREEMENT** is governed by and construed in accordance with the laws of the State of Florida.
18. 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 contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

19. Any or all notices (except invoices) given or required under this Agreement shall be in writing and either personally delivered with receipt acknowledged or sent by certified mail, return receipt requested. All notices delivered shall be sent to the following addresses:

If to the DEPARTMENT:

Florida Department of Transportation - District Four
3400 West Commercial Blvd.
Fort Lauderdale, Florida 33309-3421
Attn: **Leos A. Kennedy, Jr.**
With a copy to: **John Olson**
A second copy to: District General Counsel

If to the COUNTY:

Palm Beach County
Department of Engineering & Public Works
160 Australian Avenue
West Palm Beach, Florida 33406
Attn: **Amy Harris**
With a copy to: **Assistant County Attorney**
Ms. Marlene Everitt

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Agreement is to be executed by the parties below for the purposes specified herein. [If Local Government: Authorization has been given to enter into and execute this Agreement by Resolution No. _____, hereto attached.]

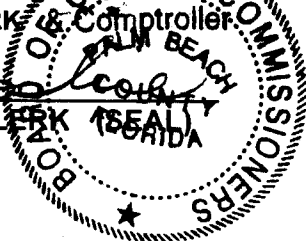
R2005 0862
MAY 03 2005

PALM BEACH COUNTY, Florida, A
Political Subdivision of the State of Florida
BOARD OF COUNTY COMMISSIONERS

BY: Addie Greene
NAME: TONY MASILOTTI
TITLE: CHAIRMAN

 day of 20
Addie L. Greene, Vice Chairperson

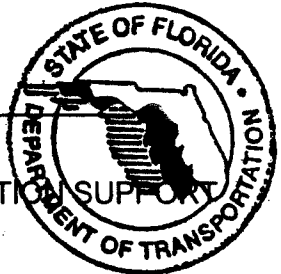
ATTEST:

SHARON R. BOCK, CLERK & Comptroller
Judith C. Bock
CLERK OR DEPUTY CLERK


APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: Mark R. Butts
COUNTY ATTORNEY

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: Rosilyn Quiroz
ROSIELYN QUIROZ
DIRECTOR OF TRANSPORTATION SUPPORT


APPROVED: (AS TO FORM)

BY: [Signature]
DISTRICT GENERAL COUNSEL

APPROVED:

BY: Antoinette P. O'Donoghue
PROFESSIONAL SERVICES ADMINISTRATOR

APPROVED AS TO TERMS AND CONDITIONS:

BY: Dan Meisburg
Director, Traffic Engineering

EXHIBIT "A"

SCOPE OF SERVICES

The **COUNTY** will provide a complete Roadway Contract Plan Set for the widening and resurfacing of SR-704 (Okeechobee Blvd.) from Clear Lake Bridge to East of Australian Avenue overpass including MP 8.178 to MP 8.522 as shown in Palm Beach County Project No. 2002103.

The scope of the project will include, but not be limited to:

- Resurfacing of an urban section with a closed drainage system
- Relocation of existing lighting
- Irrigation sleeves for future irrigation systems
- Landscaping (to be constructed by the City of West Palm Beach)
- Installation of a traffic monitoring site (traffic count station)
- Replacement of all single and double post mounted signs
- Replacement of FDOT bridges no. 930156 and 930211 with a culvert
- Replacement of sign panels on the overhead guide signs and new sign structures where necessary
- Construction of an additional westbound through lane west of Tamarind Ave. that then becomes a ramp onto northbound Australian Ave. as well as a westbound right turn lane into the driveway just west of Tamarind Ave.

The **COUNTY** will submit plan sets to the **DEPARTMENT** for review at Initial Engineering, Final Engineering, and Production Complete. The plans shall be produced to **DEPARTMENT** standards using the current editions of the Standard Index and Plans Preparation Manual. Said **PROJECT** shall be certified to be in conformance with the approved plans and specifications by a responsible Project Engineer.

The **COUNTY** is responsible for obtaining all necessary permits from the **DEPARTMENT**, local governments, and permitting agencies and utility relocation schedules and agreements.

The **COUNTY** shall design the project to lie within existing right of way. If the **COUNTY** expands the project to include features outside the existing right of way, it shall be the **COUNTY'S** responsibility to acquire the necessary property rights according to the **DEPARTMENT'S** policies and procedures at no cost to the **DEPARTMENT**.

The **COUNTY** must submit the following for **DEPARTMENT** approval prior to initial engineering:

- a) Community Awareness Plan
- b) Typical Section Package
- c) Pavement Design Package
- d) FDOT General Permit

- e) Permits Application Package
- f) Drainage Report and Calculations
- g) Conceptual Traffic Control Plans
- h) Draft Right of Way Acquisition Package (If applicable)

The **COUNTY** must submit the following items/documents prior to construction of the Project:

- a) Copies of all permits from applicable agencies
- b) Signed maintenance agreements for lighting and landscaping (executed between the **DEPARTMENT** and the City of West Palm Beach)
- c) Final Right of Way Documentation
- d) Signed Utility Relocation Schedule and agreements
- e) All electronic CADD files that were used to produce the Roadway Contract Plan Set and conform to the **DEPARTMENT'S** CADD Manual and Production Criteria Handbook
- f) Signed and sealed plans and Specifications Package

The **COUNTY** will advertise the project, select a contractor, and let the project to contract. The **COUNTY** will provide construction engineering inspection prior to the beginning of construction until the **DEPARTMENT** accepts the completed construction project. The road shall be constructed and delivered in accordance with the **DEPARTMENT'S** current Standards Specification for Road and Bridge Construction and supplements thereto.

The **COUNTY** shall provide the following items/documents after construction of the Project:

- a) Signed and Sealed copies of as-built plans
- b) All electronic CADD files that were used to produce the Roadway Contract Plan Set and conform to the **DEPARTMENT'S** CADD Manual and Production Criteria Handbook
- c) Certification from the Construction Engineering Inspection Project Engineer that the road was built in accordance with plans and specifications

The **COUNTY** may choose to split the work described in this agreement into two projects with the westbound widening east of Australian Ave. occurring in Phase II. If this is the case, the total reimbursement for Phase I will be \$ 884,438 and the total reimbursement for Phase II will be \$ 48,921, each being payable upon completion of the respective work and receipt by the **DEPARTMENT** of the corresponding invoices in accordance with this agreement.