

Agenda Item #: 3-C-2

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: April 10, 2007

Consent
 Workshop

Regular
 Public Hearing

Department:

Submitted By: Engineering & Public Works
Submitted For: Roadway Production Division

Project No. 2000503A

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A. Approve Amendment Number Three to the County Incentive Grant Program (CIGP) Agreement with the State of Florida Department of Transportation (FDOT), approved on December 18, 2001, to add Transportation Regional Incentive Program (TRIP) funds to the Agreement. This Amendment will add an additional amount of \$17,483,000, which will bring the total Agreement amount to \$23,983,000 for the construction of SR-704 / Okeechobee Boulevard from west of SR-7 to east of Jog Road widening and resurfacing improvements.
- B. Adopt a Resolution concerning this Agreement.

Summary: This action approves an Amendment to the CIGP Agreement with FDOT for the widening and resurfacing of SR-704 / Okeechobee Boulevard from 0.5 miles west of SR-7 to 0.1 miles east of Jog Road. This amendment adds funding of \$17,483,000 from the TRIP to the CIGP Agreement.

District: 2 and 6 (PK)

Background and Justification: On December 18, 2001, the Board of County Commissioners approved a County Incentive Grant Program Agreement with the FDOT. This Agreement provides Palm Beach County (County) with financial assistance for the widening and resurfacing of SR-704 / Okeechobee Boulevard from State Road 7 to Florida's Turnpike. Amendment Number One was approved by the Board of County Commissioner's on March 30, 2004, to revise the representatives for the FDOT Professional and Other Contractual Services, and the schedule of Project activities. Amendment Number Two was approved by the Board of County Commissioner's on June 20, 2006, to revise the project limits, funding amounts and schedule for project activities. Since that time, additional funds have become available through the TRIP, requiring an additional amendment to the Agreement be approved by the Board of County Commissioners. This Amendment is in the best interest of the County as it provides for additional funds for the Okeechobee Boulevard widening project. This project is included in the Five-Year Road Program.

Attachments:

- 1. Location Sketch
- 2. Amendment Number Three (7 originals)
- 3. Amendment Number Two
- 4. Amendment Number One
- 5. CIGP Agreement
- 6. Resolution (7 originals)

Recommended by:

Ornelo G. Fernandez
Division Director

3/5/07
Date

Approved By:

Greg J. Webb
County Engineer

3/14/07
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
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)	-0-	-0-	-0-	-0-	-0-

Is Item Included In Current Budget? Yes _____ No _____

Budget Account No.:

Fund Agency Organization Object

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

Transportation Improvement Fund
 Okeechobee Blvd/ W of SR 7 to E of Jog Rd & E of Jog to Turnpike
 State Grant – Transportation/Road & Street Improvements

This project has been delayed due to difficulties in obtaining acceptable bid prices. At the time of awarding the construction contract, we will recognize the fiscal impact by means of a budget amendment for the funding provided by this agreement plus the \$6,500,000 provided by CIGP Grant funds awarded in June, 2006 as well as the funding from County resources required for the 50% match of these agreements. The County will be responsible for all costs in excess of these grant funds and this amount can only be determined at the time of awarding the construction contract.

C. Departmental Fiscal Review: R. D. Ward 2/28/07

III. REVIEW COMMENTS

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

John Burt 3-15-07
 OFMB 2/15/07
 3/15/07
 3/14/07
 03/14/07
John J. Juculent 3/16/07
 Contract Dev. and Control
 3/14/07

B. Legal Sufficiency:

Paul F. J. 3/19/07
 Assistant County Attorney

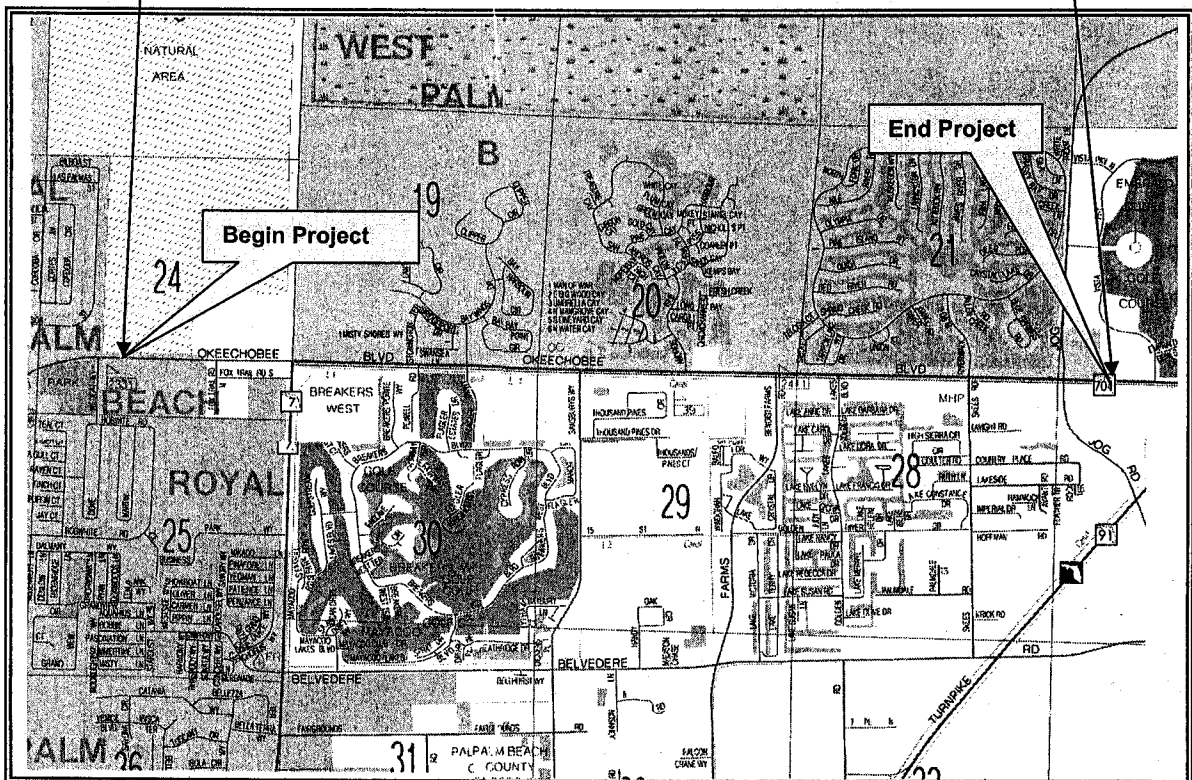
This amendment complies with our review requirements.

C. Other Department Review:

 Department Director

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

PROJECT LOCATION
SR 704/ OKEECHOBEE BOULEVARD
0.5 MILES WEST OF SR 7 TO 0.1 MILE EAST OF JOG ROAD
PALM BEACH COUNTY PROJECT #2000503A



LOCATION MAP

Contract No.: AL-563
FM No: 409701-1-54-01
409701-1-58-01
Vendor No: VF 596-000-758-051

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
PALM BEACH COUNTY
COUNTY INCENTIVE GRANT PROGRAM AGREEMENT
AMENDMENT NUMBER THREE

THIS AMENDMENT, made and entered into this _____ day of _____, 2007, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, an agency of the State of Florida, hereinafter called the **DEPARTMENT**, and **PALM BEACH COUNTY**, 2300 North Jog Road, West Palm Beach, Florida 33406, hereinafter called the **COUNTY**.

WITNESSETH

WHEREAS, on February 28, 2002, the parties entered into a County Incentive Grant Program Agreement, hereinafter referred to as the **AGREEMENT**, wherein the **COUNTY** agreed to provide certain improvements in connection with Widening & Resurfacing of SR-704/Okeechobee Blvd. from 0.5 miles west of SR-7 to 0.1 miles East of Jog Road and hereinafter referred to as **Project # 409701-1-54-01 and 409107-1-58-01**; and

WHEREAS, the parties amended the **AGREEMENT** on April 27, 2004 (**AMENDMENT NUMBER ONE**) and August 4th, 2006 (**AMENDMENT NUMBER TWO**); 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 further amend that certain County Incentive Grant Program Agreement dated February 28, 2002, as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The fourth Whereas paragraph of the Agreement and Amendment Number 2 is amended to read as follows: **WHEREAS**, the **DEPARTMENT** is willing to provide the **COUNTY** with financial assistance under Financial Project No. 409701-1-54-01 and 409107-1-58-01 Widening & Resurfacing of SR-704/Okeechobee Blvd. from 0.5 miles west of SR-7 to 0.1 miles East of Jog Road, hereinafter referred to as the "PROJECT," in accordance with *F.S. 339.2817 and 339.2819*, respectively; and
3. A sixth Whereas paragraph is added to the Agreement as follows: **WHEREAS**, the Transportation Regional Incentive Program (TRIP) was created by *F.S. 339.2819*, to provide funds to improve regionally significant transportation facilities in "regional transportation areas" pursuant to *F.S. 339.155 (5)*; and
4. A seventh Whereas paragraph is added to the Agreement as follows: **WHEREAS**, the **COUNTY** has certified to the **DEPARTMENT** that it has met the eligibility requirements of said *F.S. 339.2819*; and

5. An eighth Whereas paragraph is added to the Agreement as follows:
WHEREAS, the Southeast Florida Transportation Council, acting as a designated regional partnership under *F.S. 339.155 (5)(c)* and formed by an interlocal agreement, designated **SR-704/Okeechobee Blvd.** as a regional facility by resolution, a copy of which is attached hereto and made a part hereof as **Exhibit "A"**.
6. A ninth Whereas paragraph is added to the Agreement as follows:
WHEREAS, as a result of the foregoing, the **COUNTY** is eligible to receive funds from the TRIP program in the amount of \$17,483,000.00 upon condition that it matches the payment of those funds; and
7. The **COUNTY** shall furnish construction and construction engineering inspection services to construct the **PROJECT** as defined in Amendment Number Two.
8. The **DEPARTMENT** agrees to pay the **COUNTY**, for additional services needed to complete the widening and resurfacing of SR-704/Okeechobee Blvd. in Palm Beach County, an additional amount from the TRIP program of **SEVENTEEN MILLION FOUR HUNDRED EIGHTY THREE THOUSAND DOLLARS (\$17,483,000.00)** for **FM Number 409701-1-58-01**, which will make the total compensation to the **COUNTY TWENTY THREE MILLION NINE HUNDRED EIGHTY THREE THOUSAND DOLLARS AND NO CENTS (\$23,983,000.00)** for all services required under the Agreement and subsequent Amendments. The **DEPARTMENT'S** obligation to pay is contingent upon an annual appropriation by the Florida Legislature.

Paragraph 6 of Amendment Number 2 (which amended Paragraph 3 of the Agreement) shall remain in full force and effect.

9. Paragraph 3A of the Agreement entitled, **Compensation and Payment**, page 3 of 9, is amended to read as follows: The **COUNTY** and the **DEPARTMENT** agree to share the cost of this project. The **COUNTY** agrees to provide one-half of the matching funds for the **PROJECT** and the **DEPARTMENT** agrees to provide the other one-half (1/2) pursuant to *F.S. 339.2819*.

Paragraph 3A of the Agreement entitled, **Compensation and Payment**, page 3 of 9, is amended to add the following financial provision:

The estimated total cost as set forth in the **DEPARTMENT'S** adopted work program for this **PROJECT** is **FORTY SEVEN MILLION DOLLARS NINE HUNDRED SIXTY SIX THOUSAND DOLLARS (\$47,966,000.00)**. The estimated **COUNTY** share for one-half (1/2) the **PROJECT** is **TWENTY THREE MILLION NINE HUNDRED EIGHTY THREE THOUSAND DOLLARS AND NO CENTS (\$23,983,000.00)** of local funding. The estimated **DEPARTMENT** share for one-half (1/2) the **PROJECT** is **TWENTY THREE MILLION NINE HUNDRED EIGHTY THREE THOUSAND DOLLARS AND NO CENTS (\$23,983,000.00)** which is comprised of **SEVENTEEN MILLION FOUR HUNDRED EIGHTY THREE THOUSAND DOLLARS (\$17,483,000.00)** of TRIP funding and **SIX MILLION FIVE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$6,500,000.00)** of CIGP funding. Any cost overruns or cost increases for the **PROJECT** in excess of the **DEPARTMENT'S** share of **TWENTY THREE MILLION NINE HUNDRED EIGHTY THREE THOUSAND DOLLARS AND NO CENTS (\$23,983,000.00)**, shall be the sole responsibility of the **COUNTY**.

Paragraph 3A i), page 3 of 9, of the Agreement is amended to read as follows:

The **COUNTY** shall submit one invoice (3 copies) plus supporting documentation required by the **DEPARTMENT** to the Project Manager for approval and processing on a monthly basis.

Paragraph 3A iii), of the Agreement is amended to read as follows: In the event the **COUNTY** proceeds with construction of the **PROJECT** with its own employees, the **COUNTY** will only be reimbursed for direct costs (this excludes general and administrative overhead).

10. The COUNTY must apply for and be granted a permit, from the DEPARTMENT, before the COUNTY can proceed with construction.
11. The Agreement is amended to add a paragraph **8 ROADWAY LEVEL OF SERVICES** as follows:
 - A) **Florida Statute 163.3180** requires that facilities funded through the Transportation Regional Incentive Program adopt the level of service standards established by the DEPARTMENT for the PROJECT limits.
 - B) The logical termini (length of project) for Level of Services (LOS) purposes are **SR-7 to SR91/Florida's Turnpike**
 - C) The COUNTY agrees that once the additional capacity from the PROJECT is available for purposes of concurrency under **Fla. Stat. §163.3180**, it will officially adopt the **DEPARTMENT'S** level of service for the segment of **SR704/Okeechobee Blvd** between the logical termini specified in (B), above. This will be accomplished through an update to the comprehensive plan within one year of the completion of the PROJECT.
12. Paragraph 4i) and Paragraph 4ii) of the Agreement entitled, **Indemnity and Insurance** is replaced in its entirety and is amended as follows:

A) INDEMNITY

i) To the extent allowed by law, the COUNTY shall indemnify, defend, and hold harmless the DEPARTMENT and all of its officers, agents, and employees from any claim, loss, damages, cost, charge, or expense arising out of any act, error, omission, or negligent act by the COUNTY, its agents, or employees, during the performance of the Agreement, except that neither the COUNTY, its agents, or its employees will be liable under this paragraph for any claim, loss, damages, cost, charge, or expense arising out of any act, error, omission, or negligent act by the DEPARTMENT, or any of its officers, agents, or employees, during the performance of the Agreement.

ii) The COUNTY agrees to include the following indemnification in all contracts with contractors/subcontractors, consultants/subconsultants, who perform work in connection with this Agreement:

"The consultant, subconsultants, contractor, and subcontractors, shall indemnify, defend, save, and hold harmless the DEPARTMENT and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the consultant, subconsultants, contractors, subcontractors, their officers, agents, or employees. Neither the consultant, subconsultant, contractor, and/or subcontractor, nor any of its officers, agents, or employees will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the DEPARTMENT or any of its officers, agents, or employees."

13. Paragraph 5E of the Agreement entitled, **Compliance with Laws** is replaced in its entirety and shall read as follows:

5E) AUDITS

- A) The administration of resources awarded by the DEPARTMENT to the COUNTY may be subject to audits and/or monitoring by the DEPARTMENT, as described in this section.

B) MONITORING

i) 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 recipient agrees to comply with any additional instructions provided by the Department staff to the **COUNTY** regarding such audit. The **COUNTY** further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the **DEPARTMENT'S** Office of the Inspector General, the Chief Financial Officer (CFO) or Auditor General.

C) AUDITS

i) 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 for fiscal years ending after December 31, 2003 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. This agreement indicates Federal resources awarded through the **DEPARTMENT** by this agreement, if applicable. 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 for fiscal years ending after December 31, 2003 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. In the event that the recipient expends less than \$500,000 for fiscal years ending after December 31, 2003 in Federal awards in its fiscal year and 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.

ii) PART II: STATE FUNDED

1. Recipients of state funds (i.e. a nonstate entity as defined by Section 215.97(2) (1), Florida Statutes) are to have audits done annually using the following criteria:

2. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 for fiscal years ending on September 30, 2004, and thereafter in any fiscal year of such recipient, 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. This agreement indicates state financial assistance awarded through the DEPARTMENT by this agreement, if applicable. 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.
3. 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.
4. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year ending on September 30, 2004, and thereafter, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in state financial assistance in its fiscal year and 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).
5. 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.

iii) PART III: OTHER AUDIT REQUIREMENTS

1. 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.
2. 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 Comptroller, 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.

iv) 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:

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

2. 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**

3. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.
4. 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 the following:

**Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132**

5. 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 the following address:

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

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

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

7. 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**

8. 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 the Department at the following address:

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

9. 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.
10. 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.

v) 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, the state CFO or Auditor General access to such records upon request. The recipient shall ensure that the independent audit working papers are made available to the **DEPARTMENT**, or its designee, the state 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**.

STATE RESOURCES

<u>State Agency</u>	<u>Catalog of State Financial Assistance (Number & Title)</u>	<u>Amount</u>
DOT (Department of Transportation)	55.008 County Incentive Grant Program	\$6,500,000.00
DOT (Department of Transportation)	55.026 Transportation Regional Incentive Program	\$17,483,000.00

Compliance Requirements - (CIGP)

To be considered eligible for funding, the project must satisfy the following minimum requirements. It must:

1. Be a facility. CIGP funds cannot be used for operational expenses.
2. Be either located on the State Highway System or relieve traffic congestion on the State Highway System.
3. Be consistent to the maximum extent feasible with the Florida Transportation Plan (FTP).

4. Be consistent to the maximum extent feasible, where appropriate, with the local Metropolitan Planning Organization (MPO) Long Range Transportation Plan (LRTP).
5. Be consistent with, to the maximum extent feasible, with any local comprehensive plans.

Compliance Requirements - (TRIP)

1. Support those transportation facilities that serve national, statewide, or regional functions and function as an integrated regional transportation system.
2. Be identified in the capital improvements element of a comprehensive plan that has been determined to be in compliance with part II of chapter 163, after July 1, 2005, or to implement a long-term concurrency management system adopted by a local government in accordance with *F.S. 163.3177(9)*. Further, the project shall be in compliance with local government comprehensive plan policies relative to corridor management.
3. Be consistent with the Strategic Intermodal System Plan developed under *F.S. 339.64*.
4. Have a commitment for local, regional, or private financial matching funds as a percentage of the overall project cost.

14. Paragraph 6A of the Agreement entitled, Termination and Default, page 6 of 9, is amended to read as follows: This Agreement may be cancelled by either the COUNTY or the DEPARTMENT upon sixty (60) days written notice, in accordance with notice provisions of paragraph 3 of Amendment Number 2.

All provisions, covenants, terms and conditions of the AGREEMENT between the parties theretofore entered into on February 28, 2002 and amended on April 27, 2004 and August 4, 2006, respectively, as originally set forth therein, which are not hereby expressly amended or modified and not in conflict with the terms hereof, are hereby ratified and confirmed and shall remain the same and be unaffected by these presents.

IN WITNESS WHEREOF, this AMENDMENT to be executed by the parties below for the purposes specified herein. Authorization has been give 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

BY: _____
NAME: _____
TITLE: _____
_____ day of _____, 20__

ATTEST:
SHARON R. BOCK

CLERK & COMPTROLLER (SEAL)
CIRCUIT COURT

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: _____
GERRY O'REILLY, P.E.
DIRECTOR OF TRANSPORTATION DEVELOPMENT

APPROVED: (AS TO FORM)

BY: _____
DISTRICT GENERAL COUNSEL

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

APPROVED:

BY: _____
COUNTY ATTORNEY

BY: _____
PROFESSIONAL SERVICES ADMINISTRATOR

APPROVED AS TO TERMS AND CONDITIONS:

BY: #B0 *Orville G. Furness*

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
PALM BEACH COUNTY
COUNTY INCENTIVE GRANT PROGRAM AGREEMENT
AMENDMENT NUMBER TWO

JUN 20 2006 R 2006 1060

THIS AMENDMENT, made and entered into this 4th day of August, 2006, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the DEPARTMENT, and PALM BEACH COUNTY, 160 Australian Avenue, West Palm Beach, Florida 33406, hereinafter called the COUNTY.

WITNESSETH

WHEREAS, on December 18, 2001, the parties entered into a County Incentive Grant Program Agreement, hereinafter referred to as the AGREEMENT, wherein the COUNTY agreed to provide certain improvements in connection with Widening & Resurfacing of SR-704/Okeechobee Blvd. from SR-7/US-441 to Florida's Turnpike and hereinafter referred to as **Project # 409701-1-54-01**; and

WHEREAS, the parties amended the AGREEMENT on April 28, 2004 (AMENDMENT NUMBER ONE); 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 further amend that certain County Incentive Grant Program Agreement dated December 18, 2001, as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The fourth Whereas paragraph of the Agreement is amended. The new project limits for this PROJECT shall read: Widening & Resurfacing of SR-704/Okeechobee Road from 0.5 miles west of SR-7 to 0.1 miles East of Jog Road.

An additional Financial Management (FM) number is being added to the Original FM Number. Said FM No. is 409701-1-58-01.

3. Paragraph 2 of Amendment Number One is amended as follows:

F. All notices under this Agreement shall be directed to the following addresses:

TO DEPARTMENT:	TO COUNTY:
Leos A. Kennedy, Jr.	George Webb, County Engineer
Florida Department of Transportation	Palm Beach County
3400 W. Commercial Blvd	160 Australian Avenue
Ft. Lauderdale, Florida 33309	West Palm Beach, Florida 33416-1229

4. Paragraph 3 of Amendment Number One is amended as follows:
 - A. The parties hereto acknowledge that the design work has not been completed, with only one (1) of two (2) sets of plans completed. This AGREEMENT shall continue in effect and be binding to both

the PARTICIPANT and the DEPARTMENT until the Project is completed as evidenced by the written acceptance of the DEPARTMENT or June 30, 2008, whichever occurs first.

5. The DEPARTMENT agrees to pay the COUNTY for additional services needed to complete the widening and resurfacing of SR-704/Okeechobee Blvd. in Palm Beach County an additional amount of TWO MILLION NINE HUNDRED THIRTY THOUSAND DOLLARS (\$2,930,000.00) for FM Number 409701-1-58-01, which will make the total compensation to the COUNTY SIX MILLION FIVE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$6,500,000.00) for all services required under the Original Agreement and this Amendment. The DEPARTMENT'S obligation to pay is contingent upon an annual appropriation by the Florida Legislature.

6. Paragraph 3 of the Agreement entitled, Compensation and Payment, page 3 of 9, is amended to add the following financial provision:

The COUNTY must submit the final invoice to the DEPARTMENT within 180 days after the final acceptance of the project. Invoices submitted after the 180-day time period will not be paid.

7. Paragraph 7: Miscellaneous, Paragraph G, page 8 of 9, of the Agreement is amended to read as follows:

This Agreement shall be effective upon execution by both parties and shall continue in effect and be binding on the parties until the PROJECT is completed as evidenced by the written acceptance of the DEPARTMENT or June 30, 2008 whichever occurs first or unless terminated in accordance with Paragraph 6 of the Agreement.

All provisions, covenants, terms and conditions of the AGREEMENT between the parties theretofore entered into of December 18, 2001 and amended on April 27, 2004, respectively, as originally set forth therein, which are not hereby expressly amended or modified and not in conflict with the terms hereof, are hereby ratified and confirmed and shall remain the same and be unaffected by these presents.

IN WITNESS WHEREOF, this AMENDMENT to be executed by the parties below for the purposes specified herein. Authorization has been give to enter into and execute this Amendment by Resolution No. R-2006-1060, hereto attached.

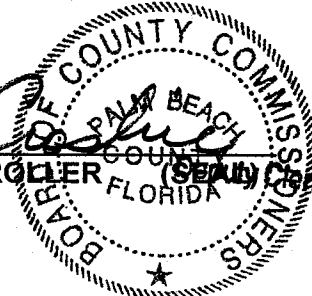
R2006 1060

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

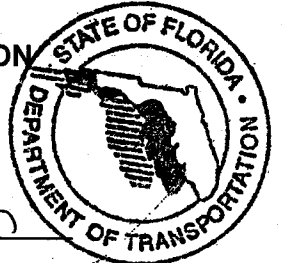
Karen T. Marcus for

BY: *[Signature]*
NAME: TONY MASILOTTI
TITLE: CHAIRMAN
____ day of JUN 20 2006, 20 06

ATTEST:
SHARON R. BOCK

[Signature]
CLERK & COMPTROLLER
CIRCUIT COURT


STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION



BY: *[Signature]*
GERRY O'REILLY P.E.
DIRECTOR OF TRANSPORTATION SUPPORT DEVELOPMENT

APPROVED: (AS TO FORM)

BY: *[Signature]*
DISTRICT GENERAL COUNSEL

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED:

BY: Paul F. [Signature]
COUNTY ATTORNEY

for

BY: Liz Holmes
PROFESSIONAL SERVICES ADMINISTRATOR

APPROVED AS TO TERMS AND CONDITIONS:

BY: [Signature]

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
PALM BEACH COUNTY
COUNTY INCENTIVE GRANT PROGRAM AGREEMENT
AMENDMENT NUMBER ONE

THIS AMENDMENT, made and entered into this 27th day of April, 2004, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the DEPARTMENT, and PALM BEACH COUNTY, 160 Australian Avenue, West Palm Beach, Florida 33406, hereinafter called the COUNTY.

WITNESSETH

WHEREAS, on December 18, 2001, the parties entered into a County Incentive Grant Program Agreement, hereinafter referred to as the AGREEMENT, wherein the COUNTY agreed to provide certain improvements in connection with Widening & Resurfacing of SR-704/Okeechobee Blvd. from SR-7/US-441 to Florida's Turnpike and hereinafter referred to as Project # 409701-1-54-01, 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 that certain County Incentive Grant Program Agreement dated December 18, 2001, as follows:

- 1. The recitals set forth above are true and correct and are deemed incorporated herein.
- 2. Paragraph 1F, on page 2 of 9, of the AGREEMENT is amended as follows:

F. All notices under this Agreement shall be directed to the following addresses:

TO DEPARTMENT:	TO COUNTY:
Leos A. Kennedy, Jr.	George Webb, County Engineer
3400 W. Commercial Blvd	160 Australian Avenue
Ft. Lauderdale, Florida 33309	West Palm Beach, Florida 33416-1229

- 3. The Item 2A, on page 2 of 9, of the AGREEMENT is amended as follows:
 - A. The COUNTY shall perform the PROJECT activities in accordance with the following schedule:
 - a) Design to be completed on or before December 31, 2004.
 - b) Construction contract to be let on or before December 31, 2005
 - c) Construction to be completed on or before December 31, 2006.

All provisions, covenants, terms and conditions of the AGREEMENT between the parties theretofore entered into of December 18, 2001, as originally set forth therein, which have not been previously amended, and which are not hereby expressly amended or modified and not in conflict with the terms hereof, are hereby ratified and confirmed and shall remain the same and be unaffected by these presents.

IN WITNESS WHEREOF, this AMENDMENT to be executed by the parties below
For the purposes specified herein

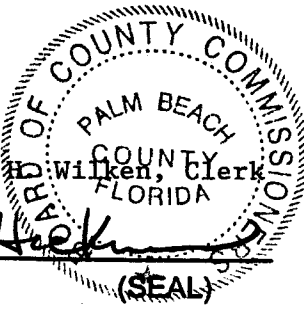
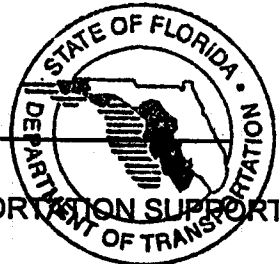
R2004 0546

PALM BEACH COUNTY, FLORIDA BY
ITS BOARD OF COUNTY COMMISSIONERS

By: [Signature]
Karen T. Marcus, Chair **MAR 30 2004**

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: [Signature]
ROSIELYN QUIROZ
DIRECTOR OF TRANSPORTATION SUPPORT



ATTEST: Dorothy H. Wilken, Clerk
[Signature]
COUNTY CLERK
or Deputy Clerk

APPROVED: (AS TO FORM)
BY: [Signature]
DISTRICT GENERAL COUNSEL

Approved As To Terms and
Conditions: [Signature]

APPROVED:
BY: [Signature]
PALM BEACH COUNTY ATTORNEY

APPROVED:
BY: [Signature]
PROFESSIONAL SERVICES ADMINISTRATOR

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this day of MAR 30 2004, 2004, by Karen T. Marcus Chair, Board of County Commissioners who is personally known to me and who did not take an oath.

 Gloria Madison
Commission #DD251037
Expires: Oct 19, 2007
Bonded Thru
Atlantic Bonding Co., Inc.

[Signature]
Gloria Madison
Print Name

R2001 2157 DEC 18 2001

Form 525-010-41
OGC - POLICY PLANNING
1 of 9

Catalog of State Financial Assistance No. 55.008

Financial Project No.: 409701-1-54-01
COUNTY: Palm Beach

563

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
COUNTY INCENTIVE GRANT PROGRAM AGREEMENT

This is an Agreement by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT", and PALM BEACH COUNTY, hereinafter referred to as the "COUNTY".

WITNESSETH

WHEREAS, the DEPARTMENT has the authority, under Section 334.044, Florida Statutes, to enter into this Agreement; and

WHEREAS, the County Incentive Grant Program has been created by Section 339.2817, Florida Statutes, to provide grants to counties to improve a transportation facility which is located on the State Highway System or which relieves traffic congestion on the State Highway System; and

WHEREAS, the COUNTY has certified to the DEPARTMENT that it has met the eligibility requirements of said Section 339.2817, Florida Statutes; and

WHEREAS, the DEPARTMENT is willing to provide the COUNTY with financial assistance under Financial Project No. 409701-1-54-01 for the widening and resurfacing of SR704/ Okeechobee Blvd. From SR7/441 to Florida's Turnpike, hereinafter referred to as the "PROJECT," in accordance with Section 339.2817, Florida Statutes; and

WHEREAS, the COUNTY by Resolution No. R-2001-2157 dated the 18 day of December, 2001, a copy of which is attached hereto and made a part hereof, has authorized the Chairman of its Board of Commissioners to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations contained herein, the parties agree as follows:

1-SERVICES AND PERFORMANCE

A. The COUNTY shall furnish the services with which to construct the PROJECT. Said PROJECT consists of: construction and construction engineering inspection.

**COUNTY INCENTIVE GRANT PROGRAM
AGREEMENT Pg. 2 of 9**

Form 525-010-41
OGC - POLICY PLANNING
2 of 9

B. The COUNTY agrees to undertake the construction of the PROJECT in accordance with all applicable federal, state and local statutes, rules and regulations, and standards. The COUNTY shall be responsible for obtaining clearances/permits required for the construction of the PROJECT from the appropriate permitting authorities. Upon completion of the PROJECT, the COUNTY shall certify to the DEPARTMENT that the PROJECT has been completed in accordance with the applicable standards, statutes, rules and regulations in writing.

C. The DEPARTMENT will be entitled at all times to be advised, at its request, as to the status of work being done by the COUNTY and of the details thereof. Coordination shall be maintained by the COUNTY with representatives of the DEPARTMENT. COUNTY shall provide the DEPARTMENT with quarterly progress reports.

D. i) For projects located on the State Highway System, the DEPARTMENT must approve any consultant and/or contractor scope of services including project budget. COUNTY shall obtain DEPARTMENT approval of plans and specifications prior to bidding the project. This provision applies only to projects located on the State Highway System.

ii) The COUNTY must certify that the consultant has been selected in accordance with the Consultants= Competitive Negotiation Act (Section 287.055, Florida Statutes). Contractor must be prequalified by the DEPARTMENT as required by Section 2 of the Standard Specification for Road and Bridge Construction (2000), as amended.

E. The COUNTY shall not sublet, assign or transfer any work under this Agreement without prior written consent of the DEPARTMENT.

F. All notices under this Agreement shall be directed to the following addresses:

TO DEPARTMENT:	TO COUNTY:
Josephine Softy	George Webb, County Engineer
3400 W. Commercial Boulevard	160 Australian Avenue
Ft. Lauderdale, Florida 33309	West Palm Beach, FL 33406

2-TERM

A. The COUNTY shall perform the PROJECT activities in accordance with the following schedule:

- a) Design to be completed on or before December 31, 2003
- b) Construction contract to be let on or before December 31, 2004
- c) Construction to be completed on or before December 31, 2005

B. This Agreement shall not be renewed. Any extension shall be in writing and executed by both parties, and shall be subject to the same terms and conditions set forth in this Agreement.

3-COMPENSATION AND PAYMENT

A. The parties agree that the estimated total project costs are \$8,000,000. The parties further agree that the DEPARTMENT'S maximum participation is \$3,570,000 and all remaining costs of the project will be borne by the COUNTY.

i) The COUNTY shall submit one invoice (4 copies) plus supporting documentation required by the DEPARTMENT to the Project Manager for approval and processing:

- monthly, or

- quarterly, or

- once the PROJECT has been accepted by the COUNTY and approved by the DEPARTMENT.

ii) Any provisions for an advance payment are provided in Exhibit "A" attached to this agreement.

iii) In the event the COUNTY proceeds with the design, construction and construction engineering inspection services (CEI) of the PROJECT with its own forces, the COUNTY will only be reimbursed for direct costs (this excludes general and administrative overhead).

iv) All costs charged to the PROJECT shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.

B. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Department's Comptroller under Section 334.044 (29), Florida Statutes.

C. If this contract involves units of deliverables, then such units must be received and accepted in writing by the Contract Manager prior to payments.

D. The DEPARTMENT'S obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

E. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

F. Travel costs will not be reimbursed.

G. A Vendor Ombudsman has been established within the Department of Banking and Finance. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payments(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the State Comptroller's Hotline, 1-800-848-3792.

H. Records of costs incurred under 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

COUNTY INCENTIVE GRANT PROGRAM
AGREEMENT Pg. 4 of 9

Form 325-010-41
OGC - POLICY PLANNING
4 of 9

records shall be furnished to the DEPARTMENT upon request. Records of costs incurred includes the COUNTY's general accounting records and the project records, together with supporting documents and records of the COUNTY and all subcontractors performing work on the project, and all other records of the COUNTY and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs.

I. 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 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. Accordingly, the State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

J. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

4-INDEMNITY AND INSURANCE

A. i) To the extent allowed by Section 768.28, Florida Statutes, the COUNTY hereby agrees to indemnify, defend, save and hold harmless the DEPARTMENT and all of its officers, agents or employees from all suits, actions, claims, demands, liabilities of any nature, whatsoever arising out of, because of, or due to breach of this Agreement by the COUNTY, its officers, agents, employees, or due to any negligent act or occurrence of omission or commission of the COUNTY, its officers, agents, employees. Neither COUNTY nor any of its officers, agents, employees, contractors/subcontractors, consultants/subconsultants will be liable under this section for the negligence of the DEPARTMENT or any of its officers, agents or employees.

ii) The COUNTY agrees to include the following indemnification in all contracts with contractors/subcontractors, consultants/subconsultants, who perform work in connection with this Agreement:

"The contractor/consultant shall indemnify, defend, save and hold harmless the

COUNTY INCENTIVE GRANT PROGRAM
AGREEMENT PG. 5 of 9

Form 525-010-41
OGC - POLICY PLANNING
5 of 9

DEPARTMENT and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the contractor, its officers, agents or employees. Neither the contractor/consultant, nor any of its officers, agents or employees will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the DEPARTMENT or any of its officers, agents or employees."

B. **LIABILITY INSURANCE.** The COUNTY shall carry and keep in force during the period of this Agreement a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$100,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$50,000 each occurrence, for the services to be rendered in accordance with this Agreement. In addition to any other forms of insurance or bonds required under the terms of the agreement, when it includes construction within the limits of a railroad right-of-way, the COUNTY must provide or cause its contractor to provide insurance coverage in accordance with Section 7-13 of the DEPARTMENT's Standard Specification for Road and Bridge Construction (2000), as amended.

C. **WORKER'S COMPENSATION.** The COUNTY shall also carry and keep in force Worker's Compensation insurance as required for the State of Florida under the Worker's Compensation Law.

5-COMPLIANCE WITH LAWS

A. The COUNTY shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the COUNTY in conjunction with this Agreement. Failure by the COUNTY to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the DEPARTMENT.

B. The COUNTY shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex or national origin in the performance of work under this Contract.

C. No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch, or a state agency.

D. The COUNTY and the DEPARTMENT agree that the COUNTY, its employees, and subcontractors are not agents of the DEPARTMENT as a result of this Contract for purposes other than those set out in Section 337.274, Florida Statutes.

E. Recipients of state funds are to have audits done annually using the following criteria.

COUNTY INCENTIVE GRANT PROGRAM
AGREEMENT Pg. 6 of 9

Form 525-010-41
OGC - POLICY PLANNING
6 of 9

State awards will be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the awarding state agency.

In the event that a recipient expends \$300,000 or more in State awards during its fiscal year, the recipient must have a state single or program specific audit conducted in accordance with Section 215.97, Florida Statutes, and Chapter 10.600, Rules of the Auditor General.

If a recipient expends less than \$300,000 in State awards during its fiscal year, an audit conducted in accordance with Section 215.97, Florida Statutes, and Chapter 10.600, Rules of the Auditor General is not required. If a recipient expends less than \$300,000 in State awards during its fiscal year and elects to have an audit conducted in accordance with Section 215.97, Florida Statutes, and Chapter 10.600, Rules of the Auditor General, the cost of the audit must be paid from non-State funds.

Reporting Packages and management letters generated from audits conducted in accordance with Section 215.97, Florida Statutes, and Chapter 10.600, Rules of the Auditor General shall be submitted to the awarding FDOT office, by the recipient, within 30 days of receiving it. The afore mentioned items are to be received by the appropriate FDOT office no later than 9 months after the end of the recipient's fiscal year.

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 finding is required. Current year audit findings require corrective action and status of finding.

Project records shall be retained and available for at least 3 years from the date the audit report is issued. 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 workpapers shall be given FDOT, the Comptroller, and the Office of the Auditor General.

The recipient shall submit required audit documentation as follows:

A Financial Reporting Package of audits conducted in accordance with Section 215.97, Florida Statutes, and Chapter 10.600, Rules of the Auditor General shall be sent to:

State of Florida Auditor General
Attn: Ted J. Sauerbeck
Room 574, Claude Pepper Building
111 West Madison Street
Tallahassee, FL 32302-1450

6-TERMINATION AND DEFAULT

A. This Contract may be canceled by the DEPARTMENT in whole or in part at any time the interest of the DEPARTMENT requires such termination. The DEPARTMENT also reserves the right to seek termination or cancellation of this Agreement in the event the COUNTY

COUNTY INCENTIVE GRANT PROGRAM
AGREEMENT PG. 7 of 9

Form 525-010-41
OGC - POLICY PLANNING
7 of 9

shall be placed in either voluntary or involuntary bankruptcy. The DEPARTMENT further reserves the right to terminate or cancel this Agreement in the event an assignment is made for the benefit of creditors. This Contract may be canceled by the COUNTY upon (60) days written notice to the DEPARTMENT.

B. If the DEPARTMENT determines that the performance of the COUNTY is not satisfactory, the DEPARTMENT shall have the option of (a) immediately terminating the Agreement, or (b) notifying the COUNTY of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or (c) taking whatever action is deemed appropriate by the DEPARTMENT.

C. If the DEPARTMENT requires termination of the Agreement for reasons other than unsatisfactory performance of the COUNTY, the DEPARTMENT shall notify the COUNTY of such termination, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

D. If the Agreement is terminated before performance is completed, the COUNTY shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress will become the property of the DEPARTMENT and will be turned over promptly by the COUNTY.

7-MISCELLANEOUS

A. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

B. The DEPARTMENT shall not be obligated or liable hereunder to any party other than the COUNTY.

C. In no event shall the making by the DEPARTMENT of any payment to the COUNTY constitute or be construed as a waiver by the DEPARTMENT of any breach of covenant or any default which may then exist, on the part of the COUNTY, and the making of such payment by the DEPARTMENT while any such breach or default exists shall in no way impair or prejudice any right or remedy available to the DEPARTMENT with respect to such breach or default.

D. 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

COUNTY INCENTIVE GRANT PROGRAM
AGREEMENT PG. 8 OF 9

Form 525-010-11
OGC - POLICY PLANNING
8 OF 9

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.

E. If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.

F. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue of any judicial proceedings arising out of this Agreement shall be in Palm Beach County, Florida.

G. This Agreement shall be effective upon execution by both parties and shall continue in effect and be binding on the parties until the PROJECT is completed and accepted and payment made by the DEPARTMENT or terminated in accordance with Section 6.

H. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

COUNTY INCENTIVE GRANT PROGRAM
AGREEMENT Pg. 9 of 9

Form 525-010-41
OGC - POLICY PLANNING
9 of 9

IN WITNESS WHEREOF, the COUNTY has caused this Agreement to be executed in its behalf this 18 day of DECEMBER, 2001, by the Chairman of the Board of Commissioners, authorized to enter into and execute same by Resolution Number P-2001-4157 of the Board on the 18 day of December, 2001, and the DEPARTMENT has executed this Agreement through its District Secretary for District 4, Florida Department of Transportation, this 28 day of FEBRUARY, 2002.

PALM BEACH COUNTY, FLORIDA R2001 2157
DOROTHY H. WILKEN, CLERK
Board of County Commissioners
By Andre C. Hebert
ATTEST: DEPUTY CLERK
CLERK
CHAIRMAN, BOARD OF
COUNTY COMMISSIONERS
DEC 18 2001

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ATTEST: Andre Van Buren
EXECUTIVE SECRETARY
BY: Rich Chesser
DISTRICT SECRETARY
DISTRICT 4
NAME: _____

DOT Legal Review:
Kan Kame
Availability of Funds Approval:

(Date)

APPROVED AS TO TERMS
AND CONDITIONS
BY: [Signature]

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY: [Signature]
County Attorney

RESOLUTION NO. R-2007-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA; AUTHORIZING THE CHAIRPERSON TO EXECUTE AMENDMENT NUMBER THREE TO THE COUNTY INCENTIVE GRANT PROGRAM AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION CONCERNING SR-704/OKEECHOBEE BOULEVARD

WHEREAS, the Florida Department of Transportation (FDOT) has awarded a Transportation Regional Incentive Program (TRIP) Grant to help finance improvements to Okeechobee Boulevard; and

WHEREAS, the FDOT has requested that the County amend an existing County Incentive Grant Program (CIGP) Agreement to include the Transportation Regional Incentive Program (TRIP) grant for the SR-704/ Okeechobee Boulevard project; and

WHEREAS, through this agreement, the County will accomplish the project including construction and construction engineering inspection; and

WHEREAS, the Board of County Commissioners has determined execution of the amendment to the CIGP Agreement to be in the best interest of the citizens and residents of Palm Beach County.

(Intentionally Left Blank)

NOW, THEREFORE be it resolved by the Board of County Commissioners of Palm Beach County, Florida, that the Chairperson is hereby authorized to execute the Transportation Regional Incentive Program (TRIP) Agreement.

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

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

Addie L. Greene, Chairperson	-
John F. Koons, Vice Chair	-
Karen T. Marcus	-
Warren H. Newell	-
Mary McCarty	-
Burt Aaronson	-
Jess R. Santamaria	-

The Chair thereupon declared the Resolution duly passed and adopted this _____ day of _____ 2007.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
COMMISSIONERS

PALM BEACH COUNTY, FLORIDA BY
ITS BOARD OF COUNTY

SHARON BOCK, CLERK AND
COMPTROLLER

By: _____
Assistant County Attorney

By: _____
Deputy Clerk