

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

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**Meeting Date:** April 15, 2008 ( X ) Consent ( ) Regular  
( ) Workshop ( ) Public Hearing

**Department**  
**Submitted By:** Environmental Resources Management

**Submitted For:** Environmental Resources Management

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**I. EXECUTIVE BRIEF**

**Motion and Title: Staff recommends motion to approve:** Amendment No. 1 to the ANO-47 Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT) for the County's \$2,547,626 advance funding of the SR-710/Beeline Highway Bridge Construction and Roadway Reconstruction (R2004-0932, dated May 18, 2004) to include Federal and State Audit provisions and change the State's project identifying number.

**Summary:** The JPA provided for the County to advance funding for bridge construction and culvert replacement west of the Beeline Highway and Northlake Boulevard for \$2,547,626 in FY2005 to improve waterflow to and through the Loxahatchee Slough and the northwest fork of the Loxahatchee River thereby advancing the State's construction schedule. Advanced funding was secured through the issuance of 2004 \$5.6M Sunshine Loan No. 6. The amendment provides for the inclusion of Federal and State Audit provisions and changes the State's project identifying number from FM403619-1-52-01 to FM403619-1-A8-01. The County is eligible to invoice for reimbursement after July 1, 2008 contingent upon legislative budget approval for State Fiscal Year 2008-2009. When the State provides a reimbursement to the County, Palm Beach County's Office of Financial Management and Budget will arrange to pay off the Sunshine Loan. Districts 1 and 6 (SF)

**Background and Justification:** The FDOT agreed to advance by four years, construction of the bridge and culvert crossing west of the intersection of the Beeline Highway and Northlake Boulevard where the highway crosses over the remnant Loxahatchee Slough if the County advanced the \$2,547,626 funding. The FDOT will reimburse the County upon invoicing in Fiscal Year 2008, State Fiscal Year 2009. Upon reimbursement by FDOT, the County will pay off the loan from the Sunshine Pool.

**Attachments:**

1. Amendment No. 1
  2. Joint Participation Agreement
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**Recommended by:** Richard E. Wabuly 3/20/08  
Department Director Date

**Approved by:** CRW 4/4/08  
County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2008	2009	2010	2011	2012
Debt Service Cost	\$2,547,626	_____	_____	_____	_____
Capital Expenditures	_____	_____	_____	_____	_____
External Revenues	< \$2,547,626 >	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<b>-0-</b>	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes \_\_\_\_\_ No X

Budget Account No.: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_

Program \_\_\_\_\_

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

A budget amendment will be brought forward when the reimbursement is confirmed by the State adopting their 2009 Budget to include the SR-710/Beeline Bridge construction in their appropriations.

**C. Department Fiscal Review:** *J*

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and /or Contract Administrator Comments:**

*Sturillwhite 4-1-08* / *Don J. Jacobs 4/2/08*  
 OFMB *4/1/08* *3/25* Contract Administrator

**B. Legal Sufficiency:**

*Morgan Ford*  
 Assistant County Attorney

*4/12/08*

**This amendment complies with our review requirements.**

**C. Other Department Review:**

\_\_\_\_\_

**Contract No.: ANO-47**  
**FM No: 403619-1-52-01**  
**Vendor No: VF 596-000-785**

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
AND  
PALM BEACH COUNTY  
ADVANCE REIMBURSEMENT LOCALLY FUNDED 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 33406**, hereinafter called the **PARTICIPANT**.

**WITNESSETH**

**WHEREAS**, on **July 28<sup>th</sup>, 2004**, the parties entered into a Locally Funded Agreement, hereinafter referred to as the **AGREEMENT**, wherein the **PARTICIPANT** agreed to provide advance funding for certain improvements in connection with SR-710/Beeline Highway Bridge Construction and Roadway Reconstruction in Palm Beach County, Florida for **FM# 403619-1-52-01** and hereinafter referred to as the **PROJECT**; 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 Joint Participation Agreement dated **July 28, 2004**, as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The Financial Management (FM) Number of the Agreement is hereby amended. The original FM number of **403619-1-52-01** is amended to FM No. **403619-1-A8-01**.
3. The **AGREEMENT** is amended to include the Federal and State Audit provisions set forth in **Attachment "A"**, annexed hereto and made part hereof.

All provisions, covenants, terms and conditions of the **AGREEMENT** between the parties theretofore entered into on **July 28<sup>th</sup>, 2004**, 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.

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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. \_\_\_\_\_ on. \_\_\_\_\_, 2007, 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: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: CHAIR  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

BY: \_\_\_\_\_  
ROSIELYN QUIROZ  
DIRECTOR OF TRANSPORTATION SUPPORT

**ATTEST:**  
**SHARON R. BOCK**

**APPROVED: (AS TO FORM)**

\_\_\_\_\_  
**CLERK & COMPTROLLER (SEAL)**  
**CIRCUIT COURT**

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: Richard E. Walcott

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## Attachment "A"

### FEDERAL AND/OR STATE 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 recipient agrees to comply with any additional instructions provided by the Department staff to **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. 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)(1), 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. 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  
Robert Bostian, 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 10<sup>th</sup> 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  
Robert Bostian, 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  
Robert Bostian, Project Manager**

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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  
Robert Bostian, 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  
Robert Bostian, 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 &amp; Title)</u>	<u>Amount</u>
DOT (Department of Transportation)	55.023 State Highway Project Reimbursement	\$2,547,626.00

**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.*

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R2004 0932 MAY 18 2004

FM No: 403619-1-52-01  
FEID No: VF-596-000-785

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
LOCALLY FUNDED AGREEMENT**

THIS AGREEMENT, entered into this 28<sup>th</sup> day of July, 2004, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and PALM BEACH COUNTY, located at 3323 Belvedere Road, Bldg. # 502, West Palm Beach, Florida 33406-1548, hereinafter called the PARTICIPANT.

**WITNESSETH**

WHEREAS, the DEPARTMENT and the PARTICIPANT are desirous of having the DEPARTMENT make certain improvements in connection with Financial Management (FM) Number 403619-1-52-01 in Fiscal Year 2008/2009 for SR-710/Beeline Highway Bridge Construction & Roadway Reconstruction in Palm Beach County, Florida. Refer to Exhibit "A" of this Agreement for a detailed Scope of Services; and,

WHEREAS, for purposes of this agreement, improvements to be made as stated above are hereinafter referred to as the "PROJECT"; and,

WHEREAS, in order to expedite the PROJECT in advance of the DEPARTMENT'S schedule, the PARTICIPANT is prepared to advance the funding of the PROJECT in Fiscal Year 2004/2005 for construction, pursuant to *Section 339.12 Florida Statutes*; and,

WHEREAS, the DEPARTMENT is prepared to commit funds for the reimbursement of PARTICIPANT'S advance funding, subject to the appropriation of funds by the Legislature; and,

WHEREAS, said PROJECT is on the State Highway System, is not revenue producing and is contained in the DEPARTMENT'S Adopted Work Program; and,

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

WHEREAS, the PARTICIPANT by Palm Beach County Board of County Commissioners Agenda Item No., 603, Resolution No. R-2004-0932 executed on May 18, 2004, a copy of which is attached hereto and made a part hereof, authorizes the proper officials to enter into this AGREEMENT.

NOW, THEREFORE, in consideration of the mutual benefits to be derived from this locally funded agreement on the PROJECT, the parties agree to the following:

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1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The **DEPARTMENT** shall be responsible for assuring that the Project complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards.
3. The **PARTICIPANT** agrees to make all previous studies, maps, drawings, surveys and other data and information pertaining to the Project available to the **DEPARTMENT** at no extra cost.
4. The **DEPARTMENT** shall have the sole responsibility for resolving claims and requests for additional work for the Project. The **DEPARTMENT** will make reasonable efforts to obtain the **PARTICIPANT'S** input in its decisions. The costs for additional work shall be paid first with the interest from the interest-bearing escrow account established by the **DEPARTMENT** for the **PARTICIPANT'S** initial deposit and, secondly, by the **PARTICIPANT**. The **DEPARTMENT** shall reimburse the **PARTICIPANT** for any additional costs paid by the **PARTICIPANT** when the **PARTICIPANT** invoices the **DEPARTMENT** for the total costs of the **PROJECT** as described in Section 5.
5. The construction of the **PROJECT** is estimated to be completed in **January, 2007**. The **PARTICIPANT'S** advanced participation for this project is **TWO MILLION FIVE HUNDRED FORTY SEVEN THOUSAND SIX HUNDRED TWENTY SIX DOLLARS (\$2,547,626.00)**. The **DEPARTMENT** agrees to reimburse the **PARTICIPANT** for their participation in accordance with **Section 339.12(4)(c), Florida Statutes**. The **PARTICIPANT** will not invoice the **DEPARTMENT** prior to **July 1, 2008**, the fiscal year the **PROJECT** is scheduled in the **DEPARTMENT'S** work program. After receipt of the invoice requesting reimbursement, payment will be made to the **PARTICIPANT** in an amount not to exceed, **TWO MILLION FIVE HUNDRED FORTY SEVEN THOUSAND SIX HUNDRED TWENTY SIX DOLLARS (\$2,547,626.00)**. This expenditure of funds by the **DEPARTMENT** is subject to legislative budget approval.

The **PARTICIPANT** agrees that it will, within ninety (90) days of execution of this Agreement, furnish the **DEPARTMENT** with a check in the amount of **TWO MILLION FIVE HUNDRED FORTY SEVEN THOUSAND SIX HUNDRED TWENTY SIX DOLLARS (\$2,547,626.00)** towards the Project Costs.

Remittance shall be made payable to the **Department of Financial Services, Revenue Processing**. Payment shall be clearly marked to indicate that it is to be

applied to FM project No. 403619-1-52-01. The **DEPARTMENT** shall utilize this deposit for payment of the costs of project No. 403619-1-52-01.

Payment shall be mailed to:  
Florida Department of Transportation  
Professional Services Unit  
**Attention: Leos A. Kennedy, Jr.**  
3400 W. Commercial Boulevard  
Fort Lauderdale, Florida 33309-3421

- (A) The **DEPARTMENT** intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred and sixty days (360) of final payment to the **Contractor**. The **DEPARTMENT** considers the project complete when the final payment is made to the **Contractor**, not when the construction work is complete. All project cost records and accounts shall be subject to audit by a representative of the **PARTICIPANT** for a period of three (3) years after final close out of the project. The **PARTICIPANT** will be notified of the final cost.
- (B) The payment of funds under this Locally Funded Agreement will be made:  
  
Directly to the **DEPARTMENT** for deposit and as provided in the attached MOA between **PARTICIPANT** and the Department and the State of Florida, Department of Financial Services, Division of Treasury.
- (C) The **DEPARTMENT'S** obligation to pay is contingent upon an annual appropriation by the Florida Legislature.
6. In the event it becomes necessary for the **DEPARTMENT** or **PARTICIPANT** to institute suit for the enforcement of the provisions of the **AGREEMENT**, each party shall be responsible to pay their own attorney's fees and court costs.
7. Should the **DEPARTMENT** and the **PARTICIPANT** 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.

This **AGREEMENT** and any interest herein shall not be assigned, transferred or otherwise encumbered by the **PARTICIPANT** under any circumstances without the prior written consent of the **DEPARTMENT**. However, this **AGREEMENT** shall benefit the **DEPARTMENT** and its successors.

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8. Except as otherwise set forth herein, 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** and the reimbursement-in-full of the **PARTICIPANT** for all costs incurred.
9. The **PARTICIPANT** warrants that it has not employed or obtained any company or person, other than bona fide employees of the **PARTICIPANT**, to solicit or secure this AGREEMENT, and it has not paid or agreed to pay any company, corporation, firm or individual, other than a bona fide employee employed by the **PARTICIPANT**, to solicit or secure this AGREEMENT. For breach or violation of this provision, the **DEPARTMENT** shall have the right to terminate the AGREEMENT without liability.
10. To the extent allowed by the Laws of Florida, the **PARTICIPANT** 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 **PARTICIPANT**, arising out of this contract or the work which is the subject hereof. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the **DEPARTMENT** for its own negligence.
11. This AGREEMENT is governed by and construed in accordance with the laws of the State of Florida.
12. 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.
13. 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:

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**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: **Robert Bostian**  
A second copy to: District General Counsel

**If to the PARTICIPANT:**

**Palm Beach County**  
**Department of Environmental Resources Mgmt.**  
3323 Belvedere Road, Bldg. 502  
West Palm Beach, Florida 33406  
Attn: **Allen Trefry**

With a copy to: The County Attorney's Office  
301 North Olive Avenue  
West Palm Beach, FL 33401

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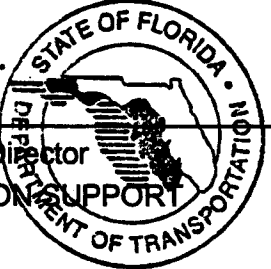
14

IN WITNESS WHEREOF, this Agreement is to be executed by the parties below for the purposes specified herein. Authorization has been given to enter into and execute this Agreement by Palm Beach County Board of County Commissioners Agenda Item No. 603, Resolution No. R-2004-0932, hereto attached.

**PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS**

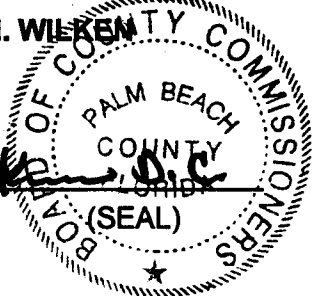
**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**

BY: [Signature] MAY 18 2004  
~~Karen T. Marcus, Chair~~  
~~Tony Macilotti, Vice Chair~~

BY: [Signature]  
Rosielyn Quiroz, Director  
TRANSPORTATION SUPPORT  


ATTEST: DOROTHY H. WILKINSON

APPROVED: (AS TO FORM)

BY: [Signature]  
COUNTY CLERK  


BY: [Signature]  
DISTRICT GENERAL COUNSEL

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

APPROVED:

BY: [Signature]  
PALM BEACH COUNTY ATTORNEY

BY: [Signature]  
Administrator  
PROFESSIONAL SERVICES

APPROVED AS TO TERMS AND CONDITIONS

BY: [Signature]  
Richard E. Walesky, Director  
ENVIRONMENTAL RESOURCES MGMT.

BY: [Signature]  
George Webb, P.E.  
COUNTY ENGINEER

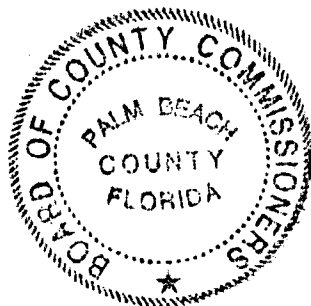
R2004 0932

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## Exhibit "A"

### Scope of Services

- 1) Construct two new bridges approximately 75 feet in length with a minimum clearance above the design high water elevation of 8 feet.
- 2) Reconstruct one-half mile of roadway reconstruction in order to meet vertical geometric criteria.
- 3) Provide CEI services
- 4) Geotechnical services to be provided by FDOT.



STATE OF FLORIDA, COUNTY OF PALM BEACH  
I, DOROTHY H. WILKEN, ex-officio Clerk of the  
Board of County Commissioners, certify this to be a  
true and correct copy of the original filed in my office

on May 18, 2004  
DATED at West Palm Beach, FL on 8-2-04  
DOROTHY H. WILKEN, Clerk  
By: Barbara J. DeKruick

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