

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

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**Meeting Date:** September 23, 2008 ☒ **Consent** ☐ **Regular**  
☐ **Workshop** ☐ **Public Hearing**

**Department:**

**Submitted By:** Engineering & Public Works

**Submitted For:** Traffic Division

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**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: Amendment number one to the Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT) for intersection improvements at Blue Heron Boulevard and Congress Avenue.

**SUMMARY:** The FDOT and Palm Beach County have partnered together to design additional eastbound and westbound left turn lanes, extend the existing left turn lane and add eastbound and westbound right turn lanes at the intersection of Blue Heron Boulevard and Congress Avenue under a JPA approved on January 25, 2007. Approval of this Amendment will allow the partial invoicing of design services.


District 7 (MRE)

**Background and Justification:** FDOT and Palm Beach County (County) entered into a JPA for design of intersection improvements at Blue Heron Boulevard and Congress Avenue on January 25, 2007 (R2007-0011, FM #417062-2-A8-01). This Amendment is necessary to allow the partial invoicing of design services. The County will design additional eastbound and westbound left turn lanes, extend the existing left turn lane and add eastbound and westbound right turn lanes at the intersection of Blue Heron Boulevard and Congress Avenue. The County shall be reimbursed up to \$400,000. Design shall be completed and accepted by FDOT prior to December 31, 2009.

**Attachments:**

1. Location Map
  2. Joint Participation Agreement (JPA) Amendment Number One (6)
  3. Resolution (6)
  4. R2007-0011
- 

**Recommended By:**  08/22/08  
 Division Director Date

**Approved By:**  8/26/08  
County Engineer Date

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-0-	-0-	-0-	-0-

# ADDITIONAL FTE  
POSITIONS (Cumulative) \_\_\_\_\_

Is Item Included in Current Budget? Yes \_\_\_\_\_ No \_\_\_\_  
Budget Acct No.: Fund \_\_\_\_\_ Dept. \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_  
Program \_\_\_\_\_

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

This item has no additional fiscal impact.

C. Departmental Fiscal Review:                     *Ortiz*                    

## III. REVIEW COMMENTS

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

                    *atwillhite* 9.2.08                                         *Art J. Javel* 9/3/08                      
OFMB *SN 9/2/08 VO 8/29* Contract Dev. and Control *9/3/08*  
*9/3/08* This amendment complies with our review requirements.

### B. Approved as to Form and Legal Sufficiency:

                    *Morlock R. Galt* 9/5/08                      
Assistant County Attorney

### C. Other Department Review:

\_\_\_\_\_  
Department Director

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

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

## AGENDA ITEM SUMMARY

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**SUMMARY:** The FDOT and Palm Beach County have partnered together to design additional eastbound and westbound left turn lanes, extend the existing left turn lane and add eastbound and westbound right turn lanes at the intersection of Blue Heron Boulevard and Congress Avenue under a JPA approved on January 25, 2007. Approval of this Amendment will allow the partial invoicing of design services.

District 7 (MRE)

**Background and Justification:** FDOT and Palm Beach County (County) entered into a JPA for design of intersection improvements at Blue Heron Boulevard and Congress Avenue on January 25, 2007 (R2007-0011, FM #417062-2-A8-01). This Amendment is necessary to allow the partial invoicing of design services. The County will design additional eastbound and westbound left turn lanes, extend the existing left turn lane and add eastbound and westbound right turn lanes at the intersection of Blue Heron Boulevard and Congress Avenue. The County shall be reimbursed up to \$400,000. Design shall be completed and accepted by FDOT prior to December 31, 2009.

**Attachments:**

1. Location Map
2. Joint Participation Agreement (JPA) Amendment Number One (6)
3. Resolution (6)
4. R2007-0011

Recommended By: Jan Vresbury 08/22/01 WHL  
 (AH) Division Director Date

Approved By: S. T. Webb 8/26/08  
County Engineer Date

## II. FISCAL IMPACT ANALYSIS

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


Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-0-	-0-	-0-	-0-

# ADDITIONAL FTE  
POSITIONS (Cumulative) \_\_\_\_\_

Is Item Included in Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_.  
Budget Acct No.: Fund\_\_\_\_ Dept.\_\_\_\_ Unit\_\_\_\_ Object\_\_\_\_  
Program

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

This item has no additional fiscal impact.

C. Departmental Fiscal Review: \_\_\_\_\_ 

## III. REVIEW COMMENTS

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

\_\_\_\_\_  
OFMB Contract Dev. and Control

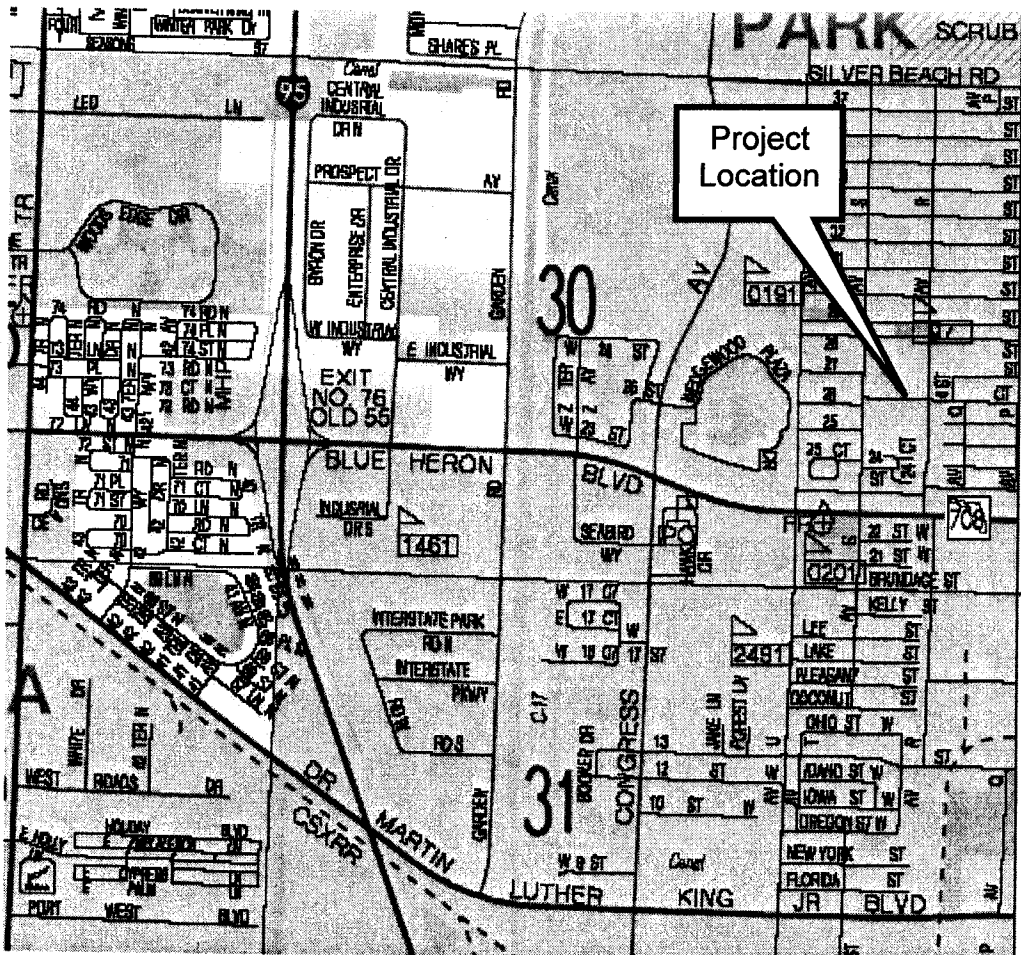
### B. Approved as to Form and Legal Sufficiency:

\_\_\_\_\_  
Assistant County Attorney

### C. Other Department Review:

\_\_\_\_\_  
Department Director

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



PBC #2005102



**BLUE HERON BOULEVARD (SR 708) AND  
CONGRESS AVENUE - PHASE II  
INTERSECTION IMPROVEMENTS**

FIGURE

**Location Map**

**1**

10-04

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

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

**WITNESSETH**

**WHEREAS**, on January 25, 2007, the parties entered into a Joint Participation Agreement, hereinafter referred to as the **AGREEMENT**, wherein the **COUNTY** agreed to provide certain improvements in connection with Intersection Improvements at SR-708/Blue Heron Boulevard and Congress Avenue- Phase II in Palm Beach County, Florida for **FM# 417062-2-A8-01** 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 January 25, 2007, as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. Paragraph Six, page 2 of 6 of the Agreeemnt is amended to read as follow:

The **COUNTY** shall be paid for all services detailed in Exhibit A of the Agreement. The **DEPARTMENT** will pay the **COUNTY** an amount not to exceed **FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00)** which will be invoiced and paid based on the percentage of completion of the **PROJECT**, for actual cost incurred as detailed in progress reports. The **COUNTY** will invoice the **DEPARTMENT** on a quarterly basis.

The **COUNTY** will not invoice the **DEPARTMENT** prior to **July 1, 2007**, the fiscal year the **PROJECT** is scheduled in the **DEPARTMENT'S** work program.

The **COUNTY** will comply with the Federal and State Audit provisions and the Single Audit Compliance Requirements set forth in **Exhibit "A"** and **Exhibit "B"**, respectively which are attached hereto and made part of this Amendment.

3. Exhibit "B" of the Agreement is removed in its entirety and replaced with the Exhibit A & B, respectively, of this Amendment.

All provisions, covenants, terms and conditions of the AGREEMENT between the parties theretofore entered into on **January 25, 2007**, 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. \_\_\_\_\_ on \_\_\_\_\_, 2008, 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: **ADDIE L. GREENE**  
TITLE: **CHAIRPERSON**  
\_\_\_\_\_ 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: \_\_\_\_\_  
**DAN WEISBERG, DIRECTOR, TRAFFIC ENGINEERING**

**EXHIBIT 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)(l), Florida Statutes) are to have audits done annually using the following criteria:

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

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  
Karen Maxon, District Single Audit Liaison

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  
Karen Maxon, District Single Audit Liaison

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  
Karen Maxon, District Single Audit Liaison

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  
Karen Maxon, District Single Audit Liaison

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.

**EXHIBIT B**  
**SINGLE AUDIT COMPLIANCE REQUIREMENTS**

**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	\$400,000.00

**Activities Allowed:** Project costs must be incurred subsequent to agreement execution (contract provision). Project scope of services identifies the types of work that are eligible for reimbursement (contract provision).

**Allowable Costs:** Identified in the contract document up to a lump sum or maximum limiting amount.

**Eligibility:** Project must be on the State Highway System.

**Period of Availability:** State Fiscal Year: July 1 to June 30. The contract must be executed during the fiscal year for which state funds are programmed. Once committed, the funds certify forward across fiscal years for the life of the contract.

**Reporting:** Project costs are reviewed and approved upon receipt of an invoice from the county of municipality.

**Subrecipient Monitoring:** The county or municipality is responsible for monitoring to work of subrecipients. Subrecipient invoices are reviewed, verified and paid by the county of municipality. County or municipality invoices are then reviewed and approved for payment by FDOT. Subrecipients do not invoice FDOT directly.

**RESOLUTION NO. R-2008-**

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

**WHEREAS**, the State of Florida Department of Transportation (FDOT) and Palm Beach County desire to amend a Joint Participation Agreement (JPA) (R2007-0011; FM# 417062-2-A8-01) entered into on January 25, 2007 by both parties, and;

**WHEREAS**, this Amendment to the Agreement involves FDOT funding the design of improvements at the intersection of Blue Heron Boulevard (SR 708) and Congress Avenue, in Palm Beach County, and;

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

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

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

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

ADDIE L. GREENE, CHAIRPERSON	-
JEFF KOONS, VICE CHAIR	-
KAREN T. MARCUS	-
ROBERT J. KANJIAN	-
MARY MCCARTY	-
BURT AARONSON	-
JESS R. SANTAMARIA	-

The Chairperson thereupon declared the Resolution duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Attest: \_\_\_\_\_  
Title

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY,  
FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

\_\_\_\_\_  
Assistant County Attorney

SHARON R. BOCK,  
CLERK & COMPTROLLER  
CIRCUIT COURT

BY: \_\_\_\_\_  
Deputy Clerk

R2007-0011  
JAN 09 2007

Contract No.: \_\_\_\_\_  
FM Nos.: 417062-2-A8-01  
FEID No.: VF-596-000-785

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
JOINT PARTICIPATION AGREEMENT**

**THIS AGREEMENT**, entered into this \_\_\_\_ day of \_\_\_\_\_, 2007, by and between the State of Florida Department of Transportation hereinafter called the **DEPARTMENT**, and **PALM BEACH COUNTY**, at 2300 NORTH JOG ROAD, WEST PALM BEACH, FLORIDA 33411-2745, hereinafter referred to as the **COUNTY**.

**WITNESSETH**

**WHEREAS**, the **DEPARTMENT** and the **COUNTY** are desirous of having the **COUNTY** make certain improvements in connection with Financial Management (FM) (**Funded in Fiscal Year 2008**) 417062-2-A8-01 for:

1. The design for adding second left turn lanes on the East and West approaches, extending all left turn lanes, adding right turn lanes on the East and West approaches at the intersection of SR-708/Blue Heron Boulevard and Congress Avenue in Palm Beach County; Refer to Exhibit "A", Scope of Services attached hereto and made of part hereof; 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 **COUNTY** is prepared to advance the **PROJECT** in **Fiscal Year 2006/2007** for the preliminary engineering design component, pursuant to **Section 339.12 Florida Statutes**; 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 **COUNTY** and the **DEPARTMENT** and it would be more practical, expeditious, and economical for the **COUNTY** to perform such activities; and,

**WHEREAS**, the **COUNTY** by Palm Beach County Board of County Commissioners Resolution No. \_\_\_\_\_ adopted on \_\_\_\_\_, 2007, 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 joint participation on the **PROJECT**, the parties agree to the following:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The **COUNTY** shall have the responsibility to complete the **PROJECT** in accordance with the Scope of Services set forth in Exhibit "A".

3. The **COUNTY** shall be responsible for assuring that the **PROJECT** complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards. The **COUNTY** shall be responsible for preparation of the construction plans and contract documents.
4. The **DEPARTMENT** agrees to make all previous studies, maps, drawings, surveys and other data and information pertaining to the **PROJECT** available to the **COUNTY** at no cost.
5. The **COUNTY** shall have the sole responsibility for resolving claims and requests for additional work for the **PROJECT**. The **COUNTY** will make best efforts to obtain the **DEPARTMENT** input in its decisions.
6. For satisfactory completion and upon written approval and acceptance of all services detailed in Exhibit "A" (Scope of Services) of this Agreement, the **DEPARTMENT** will pay the **COUNTY** a lump sum amount not to exceed **FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00)**, for actual cost incurred.

The **COUNTY** will not invoice the **DEPARTMENT** prior to **July 1, 2007**, the fiscal year the **PROJECT** is scheduled in the **DEPARTMENT'S** work program.

The **PARTICIPANT** will comply with the Federal and State Audit provisions set forth in **Exhibit "B"** which are attached hereto and made part of this Agreement.
7. The **PARTICIPANT** must submit the final invoice to the **DEPARTMENT** within 180 days after the final acceptance of the Project. Invoices submitted after the 180 days time period will not be paid.
8. The **COUNTY** acknowledges and agrees that the **DEPARTMENT'S** obligation to pay the sum set forth herein is contingent upon an annual appropriation by the Florida Legislature.
9. In the event the **PROJECT** costs or **PROJECT** modifications increase or exceed the amount authorized in paragraph 6, the **DEPARTMENT** and the **COUNTY** shall meet and attempt to mutually agree to the amount and distribution of the additional funding needed to complete the **PROJECT**. Any funding increase or modifications to the **PROJECT** shall be added by means of a Supplemental Amendment to the original Agreement to be signed by both parties before work is undertaken. However, in the event the **COUNTY** and the **DEPARTMENT** fail to negotiate a Supplemental Amendment for any reason whatsoever, then the increase in the **PROJECT** costs will be the sole responsibility of the **COUNTY**.
10. In the event it becomes necessary for the **DEPARTMENT** or **COUNTY** to institute suit for the enforcement of the provisions of this Agreement, each party shall be responsible to pay their own attorney fees and court costs. Venue with respect to any such litigation shall be in State of Florida court in Broward County.



11. Should the **DEPARTMENT** and the **COUNTY** decide to proceed with subsequent phases of the **PROJECT**, the Agreement may be amended to identify the respective responsibilities and the financial arrangement between the parties.
12. This Agreement and any interest herein shall not be assigned, transferred or otherwise encumbered by the **COUNTY** under any circumstances without the prior written consent of the **DEPARTMENT**. However, this Agreement shall run to the **DEPARTMENT** and its successors.
13. Except as otherwise set forth herein, this Agreement shall continue in effect and be binding to both the **COUNTY** and the **DEPARTMENT** until the **PROJECT** is **completed** as evidenced by the written acceptance of the **DEPARTMENT**, and the **COUNTY** has been reimbursed pursuant to paragraph 6 above, or **December 31, 2009**, whichever occurs first.
14. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Department of Financial Services under Section 215.422(14), Florida Statutes, or by the Department's Comptroller under Section 334.044(29), Florida Statutes.
15. If this Agreement involves units of deliverables, then such units must be received and accepted in writing by the **DEPARTMENT'S** Project Manager prior to payments. The **DEPARTMENT** will render a decision on the acceptability of services within 10 working days of receipt of a Progress Report. The **DEPARTMENT** reserves the right to withhold payments for work not completed, or work completed unsatisfactorily, or work that is deemed inadequate or untimely by the **DEPARTMENT**. Any payment withheld will be released and paid to the **COUNTY** promptly when work is subsequently performed.
16. Bills for fees or other compensation for services for expenses shall be submitted in detail sufficient for proper preaudit and postaudit thereof.
17. **COUNTY** providing goods and services to the **DEPARTMENT** should be aware of the following time frames. Upon receipt of an invoice from the **COUNTY**, the **DEPARTMENT** has (10) ten working days to inspect and approve the goods and services where working day is defined as any day of the week excluding Saturday, Sunday and any legal holiday as designated in Section 110.117, Florida Statutes. The **DEPARTMENT** has 20 calendar days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 calendar days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.
18. If payment is not available within 40 calendar days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the **COUNTY**. Interest penalties of less than one (1) dollar will not be enforced. The invoice payment requirements do not start until a properly completed invoice is provided to the **DEPARTMENT**.

19. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850)410-9724 or by calling the State Comptroller's Hotline, 1-800-848-3792.
20. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the **DEPARTMENT** at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and 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 contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the **DEPARTMENT** for a proper audit of costs.
21. In the event this contract is for services in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The **DEPARTMENT**, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The **DEPARTMENT** shall require a statement from the Comptroller of the **DEPARTMENT** that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the **DEPARTMENT** which are for an amount in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year."
22. The **COUNTY** will comply with all Federal, State, and Local laws and ordinances applicable to the work or payment for work thereof, and will not discriminate on the grounds of race, color, religion, sex, national origin, age, or disability in the performance of work under the Agreement.
23. The **COUNTY** warrants that it has not employed or obtained any company or person, other than bona fide employees of the **COUNTY**, to solicit or secure this Agreement, and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee employed by the **COUNTY**. For breach or violation of this provision, the **DEPARTMENT** shall have the right to terminate the Agreement without liability.
24. To the extent allowed by the Laws of Florida, the **COUNTY** hereby agrees to indemnify, defend, save, and hold harmless the **DEPARTMENT** from all claims, demands liabilities, and suits of any nature arising out of, because of or due to any

intentional and/or negligent act or occurrence, omission, or commission of the **COUNTY**, and its employees, arising out of this contract or the work which is the subject hereof. In addition, with respect to any of the **COUNTY'S** agents, consultants, contractors, and/or sub-contractors, such party in any contract for this project shall agree to indemnify, defend, save and hold harmless the **DEPARTMENT** from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission or commission of such agents, consultants, contractors, and/or sub-contractors. The **COUNTY** shall provide to the **DEPARTMENT** written evidence of the foregoing upon the request of the **DEPARTMENT**. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the **DEPARTMENT** for its own negligence.

25. This Agreement is governed by and construed in accordance with the laws of the United States, State of Florida.
26. 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.
27. Any or all notices (except invoices) given or required under this Agreement shall be in writing and either personally delivered with receipt acknowledged or sent by certified mail, return receipt requested. All notices delivered shall be sent to the following addresses:

**If to the DEPARTMENT:**

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

**If to the COUNTY:**

Palm Beach County  
Dept. of Engineering and Public Works  
2300 North Jog Road, 3<sup>RD</sup> Floor  
West Palm Beach, Florida 33411-2745  
Attn: **Ms. Ali Sardinas**  
With A Copy to: **Ms. Marlene Everitt,**  
**Assistant County Attorney**  
**301 N. Olive Avenue, 6<sup>th</sup> Floor**  
**West Palm Beach, FL 33401**

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 Resolution No. RESOLUTION 2007-0011, hereto attached.

JAN 09 2007

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

**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION**

BY: [Signature]  
NAME: Addie L. Greene  
TITLE: Addie L. Greene, Chairperson

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

**ATTEST:**  
SHARON R. BOCK, CLERK & COMPTROLLER

**APPROVED: (AS TO FORM)**

\_\_\_\_\_  
CLERK OR DEPUTY CLERK (SEAL)

BY: \_\_\_\_\_  
DISTRICT GENERAL COUNSEL

**APPROVED AS TO FORM AND:  
LEGAL SUFFICIENCY:**

**APPROVED:**

BY: [Signature]  
COUNTY ATTORNEY

BY: \_\_\_\_\_  
PROFESSIONAL SERVICES ADMINISTRATOR

**APPROVED AS TO TERMS AND CONDITIONS:**

BY: \_\_\_\_\_  
ENGINEERING DEPARTMENT

**EXHIBIT "A"**  
**SCOPE OF SERVICES**

The **COUNTY** will provide a complete Roadway Contract Plan Set for the **PROJECT** (FM# 417062-2-a8-01). The scope of the project will include, but not be limited to drainage system, signal system, lighting, and landscaping (as needed).

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

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

The **COUNTY** shall be responsible for coordinating, preparing, holding all project public involvement per **DEPARTMENT** guidelines and procedures.

The **COUNTY** shall design the project to lie within existing right-of-way. If the **COUNTY** expands the **PROJECT** to include features outside the existing right-of-way, it shall be the **COUNTY'S** responsibility to provide design requirements, documents and legal descriptions to the **DEPARTMENT** for the **DEPARTMENT** to acquire the properties using the funds in the Work Program under FM No. 417062-2.

The **COUNTY** must submit, for each of the proposed improvements listed in the **PROJECT**, the following for **DEPARTMENT** approval prior to initial engineering:

- a) Community Awareness Plan (Level 2)
- b) Typical Section Package
- c) Pavement Design
- d) FDOT General Permit
- e) Permits Package
- f) Drainage Report and Calculations
- g) Conceptual Traffic Control Plans

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

- a) Copies of all permits from applicable agencies.
- b) Copies of signed maintenance agreements, from City of Riviera Beach, for lighting and landscaping.
- c) Perpetual Drainage easements (if required) will be provided in favor of the **DEPARTMENT**, based upon the **COUNTY'S** Engineer's final roadway design plans.
- d) Signed Utility Relocation Schedules and Agreements.
- e) Level II Contamination Assessments (if required).
- f) Certification that all proposed construction is within existing or previously obtained roadway R/W.
- g) Signed and sealed plans and Specification Packages.

**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 **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)(l), Florida Statutes) are to have audits done annually using the following criteria:

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

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

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

### **PART III: OTHER AUDIT REQUIREMENTS**

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

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

### **PART IV: REPORT SUBMISSION**

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

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

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

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

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

A. The Department at each of the following addresses:

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

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

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

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

A. The Department at each of the following addresses:

Florida Department of Transportation,  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Antonette P. Adams, Professional Services Administrator  
John Thompson, 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	\$400,000.00

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.