

Agenda Item #: 3-C-6

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

Meeting Date: April 7, 2009

☒ Consent
☐ Workshop

☐ Regular
☐ Public Hearing

Department:

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

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: A Resolution to approve Amendment Number One to the Transportation Regional Incentive Program (TRIP) Agreement approved on June 5, 2007, (R-2007-0837) with the State of Florida Department of Transportation, in the amount of \$6,286,595 for the construction of SR-806/Atlantic Avenue from west of Lyons Road to Starkey Road.

SUMMARY: Approval of this Amendment will extend the term of the TRIP Agreement from June 30, 2009 to June 30, 2011 and will not amend the dollar amount.

District 5 (MRE)

Background and Justification: The West Atlantic Project will reconstruct an existing two-lane roadway to a four-lane divided roadway. The TRIP Agreement was approved by the Board of County Commissioners on June 5, 2007, (R-2007-0837). This Amendment will extend the expiration date of the Agreement from June 30, 2009 to June 30, 2011. Per the Atlantic Avenue Agreement R2006-0529, Palm Beach County was to pursue TRIP funding for the construction of SR-806/Atlantic Avenue from west of Lyons Road to Starkey Road.

Attachments:

1. Location Sketch
2. Amendment No. One (7 originals)
3. Resolution (7 originals)
4. Agreement (R-2007-0837)

Recommended by: _____
Division Director Date

Approved By: S. T. Webb 3/30/09
County Engineer Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
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 fiscal impact.

C. Departmental Fiscal Review: Prof

III. REVIEW COMMENTS

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

No additional fiscal impact

Jim D. 3-19-09
OFMB 2/18/09
3/17/09
CN 3/16/09
JP 3/16/09

Jim J. Jacoby 3/30/09
Contract Dev. and Control
3/30/09

B. Approved as to Form and Legal Sufficiency:

M. R. 3/31/09
Assistant County Attorney

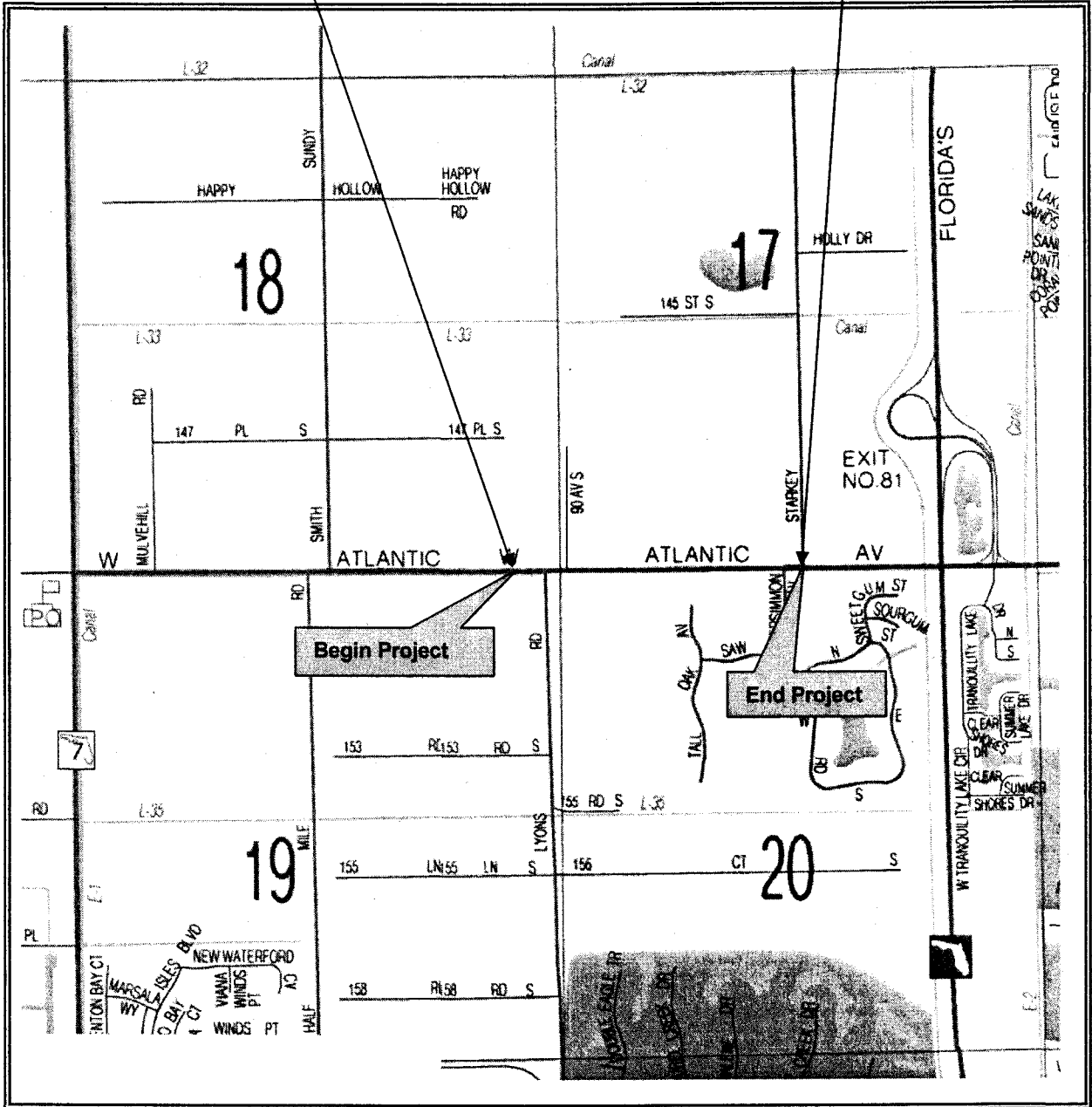
This amendment complies with
our review requirements.

C. Other Department Review:

Department Director

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

PROJECT LOCATION
SR 806/ ATLANTIC AVENUE
W. OF LYONS ROAD TO STARKEY ROAD
PALM BEACH COUNTY PROJECT #2004602



LOCATION MAP

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

THIS AMENDMENT, made and entered into this _____ day of _____, 200__, 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 **July 18, 2007**, the parties entered into a Transportation Regional Incentive Program Agreement, hereinafter referred to as the **AGREEMENT**, wherein the **COUNTY** agreed to provide certain improvements in connection^{with} the **Construction and Construction Engineering Inspection (CEI) Services of the SR-806/Atlantic Avenue from West of Lyons Road to Starkey Road in Palm Beach County, Florida** for **FM# 229658-3-58-01** and hereinafter referred to as the **PROJECT**; and

WHEREAS, the parties desire 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 Transportation Regional Incentive Program Agreement dated **July 18, 2007**, as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. Paragraph 2A of the Agreement entitled, **TERM**, page 2, is amended to read as follows: Except as otherwise set forth herein, this Agreement shall continue in effect and be binding on both the **COUNTY** and the **DEPARTMENT** until the **PROJECT** is completed as evidenced by the written acceptance of the **DEPARTMENT** or **June 30, 2011**, whichever occurs first.

All provisions, covenants, terms and conditions of the **AGREEMENT** between the parties theretofore entered into of **July 18, 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. _____, 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: JOHN F. KOONS
TITLE: CHAIRMAN
_____ day of _____, 20__

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

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: ^{02/14} ~~HBK~~ Orlando A. Fernandez

RESOLUTION NO. R-2009-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA; AUTHORIZING THE CHAIRMAN TO EXECUTE AMENDMENT NUMBER ONE TO THE TRANSPORTATION REGIONAL INCENTIVE PROGRAM AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION CONCERNING SR-806/ATLANTIC AVENUE

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

WHEREAS, the FDOT has requested that the County enter into a Joint Participation Agreement outlining the responsibilities of each party with respect to the Transportation Regional Incentive Program (TRIP) grant for the SR-806/ Atlantic Avenue 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 Transportation Regional Incentive Program (TRIP) Agreement Amendment Number One 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 Chairman 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:

John F. Koons, Chairman	-
Burt Aaronson, Vice Chair	-
Karen Marcus	-
Shelley Vana	-
Steven L. Abrams	-
Jess R. Santamaria	-
Addie L. Greene	-

The Chair thereupon declared the Resolution duly passed and adopted this _____ day of _____ 2009.

APPROVED AS TO FORM
AND LEAGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY
ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK, CLERK AND
COMPTROLLER

By: _____
Assistant County Attorney

By: _____
Deputy Clerk

R2007 0837

JUN 05 2007

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

TRANSPORTATION REGIONAL INCENTIVE PROGRAM AGREEMENT

THIS AGREEMENT, entered into this 18th day of July, 2007, 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 Fla. Stat. §334.044, to enter into this Agreement; and

WHEREAS, the Transportation Regional Incentive Program was created by Fla. Stat. §339.2819 to provide funds to improve regionally significant transportation facilities in "regional transportation areas" pursuant to Fla. Stat. §339.155 (5); and

WHEREAS, the COUNTY has certified to the DEPARTMENT that it has met the eligibility requirements of Fla. Stat. §339.2819; and

WHEREAS, the Southeast Florida Transportation Council, acting as a designated regional partnership under Fla. Stat. §339.155 (5)(c) and formed by an interlocal agreement, designated SR-806/Atlantic Avenue as a regional facility by resolution, a copy of which is attached hereto and made a part hereof as Exhibit "B".

WHEREAS, the DEPARTMENT is willing to provide the COUNTY with financial assistance under Financial Management (FM) No. 229658-3-58-01 for Construction and Construction Engineering Inspection (CEI) Services of the SR-806/Atlantic Avenue from West of Lyons Road to Starkey Road, hereinafter referred to as the "PROJECT," in accordance with Fla. Stat. §339.2819; and

WHEREAS, the COUNTY by Resolution No. R 2007 - 0837 dated the 5th day of June, 2007, a copy of which is attached hereto and made a part hereof, has authorized the Chairman of its Board of Commissioners or designee 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 PROJECT consists of: Construction and CEI Services of SR-806/Atlantic Avenue from west of Lyons Road to Starkey Road.
- 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 in writing that the PROJECT has been completed in accordance with the applicable standards, statutes, rules and regulations.

The COUNTY must apply for and be granted a permit, from the DEPARTMENT, before the COUNTY can proceed with construction.

- 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. The COUNTY shall provide the DEPARTMENT with quarterly progress reports.
- D) The COUNTY shall not sublet, assign or transfer any work under this Agreement without prior written consent of the DEPARTMENT.
- E) All notices under this Agreement shall be directed to the following addresses:

TO DEPARTMENT:	TO COUNTY:
Florida Department of Transportation	Palm Beach County- Dept of Engineering & Public Works
3400 West Commercial Blvd.	2300 North Jog Road
Fort Lauderdale, FL 33309-3421	West Palm Beach, FL 33411-2475
Attn: Leos A. Kennedy, Jr.	Attn: Tanya N. McConnell, P.E.
With a copy to: Barbara Handrahan	With a copy to: County Attorney

2. TERM

- A) Except as otherwise set forth herein, this Agreement shall continue in effect and be binding to both the COUNTY and the DEPARTMENT until the PROJECT is completed as evidenced by the written acceptance of the DEPARTMENT or June 30, 2009, whichever occurs first.
- 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 and contingent upon the DEPARTMENT'S Director of Transportation Development or Designee's Approval.

3. COMPENSATION AND PAYMENT

- A) The COUNTY and the DEPARTMENT agree to share the cost of this PROJECT FM# 229658-3-58-01. The COUNTY agrees to provide one-half (1/2) of the match for PROJECT expenditures and the DEPARTMENT agrees to provide the other one-half (1/2) pursuant to Fla. Stat. §339.2819.
- B) The estimated total cost as set forth in the DEPARTMENT'S adopted work program for this PROJECT is **TWELVE MILLION FIVE HUNDRED SEVENTY THREE THOUSAND ONE HUNDRED NINETY DOLLARS (\$12,573,190.00)**. The estimated COUNTY share for one-half (1/2) the PROJECT is **SIX MILLION TWO HUNDRED EIGHTY SIX THOUSAND FIVE HUNDRED NINETY FIVE DOLLARS (\$6,286,595.00)**. The estimated DEPARTMENT share for one-half (1/2) the PROJECT is **SIX MILLION TWO HUNDRED EIGHTY SIX THOUSAND FIVE HUNDRED NINETY FIVE DOLLARS (\$6,286,595.00)** which is the maximum participation by the DEPARTMENT, for actual costs incurred during the construction and CEI phase. The parties further agree all remaining costs of the PROJECT shall be the sole responsibility of the COUNTY.

- i) In the event the **COUNTY** proceeds with the construction/construction inspection of the **PROJECT** with its own forces, the **COUNTY** will only be reimbursed for direct costs (this excludes general and administrative overhead).
- ii) 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.
- C) Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the **DEPARTMENT** under Section 334.044 (29), Florida Statutes.
- D) If this Agreement involves units of deliverables, then such units must be received and accepted in writing by the Contract Manager prior to payments.
- F) The **COUNTY** acknowledges and agrees that the **DEPARTMENT'S** obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.
- G) Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit.
- H) Travel costs will not be reimbursed.
- I) 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.
- J) 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.
- K) The **COUNTY** providing goods and services to the **DEPARTMENT** should be aware of the following time frames. Upon receipt, the **DEPARTMENT** has five (5) working days to inspect and approve the goods and services. The **DEPARTMENT** has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.
- L) If a payment is not available within forty (40) days, separate interest penalty at a rate as established pursuant to Section 55.03(1), F.S., will be due and payable, in addition to the invoice amount, to the **COUNTY**. Interest penalties of less than one (1) dollar will not be enforced unless the **COUNTY** requests payment. Invoices that have to be returned to a **COUNTY** because of **COUNTY** preparation error will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the **DEPARTMENT**.
- M) 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

payments(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the Department of Financial Services Hotline, 1-800-848-3792.

- N) 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 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 **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.
- O) 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.

4. ROADWAY LEVEL OF SERVICE

- A) **Fla. Stat. §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 for level of service purposes are **Lyons Road to SR-93/ Florida 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 **SR-806/Atlantic Avenue** 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**.

5. INDEMNITY AND INSURANCE

A) INDEMNITY

- i) When either party receives notice of claim for damages that may have been caused by the other party in the performance of services required under this Agreement, that party will immediately forward the claim to the other party. Each party will evaluate the claim, and report its findings to each other within fourteen (14) working days and jointly discuss options in defending the claim. A party's failure to promptly notify the other of a claim will not act as a waiver or any right herein.

- 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/or subcontractor 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, contractor, subcontractor, their officers, agents, or employees. Neither the consultant, contractor, 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."

B) LIABILITY INSURANCE.

- i) The **COUNTY** shall carry and keep in force during the period of this Agreement a general liability 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. However, in the event the **COUNTY** maintains a self-insurance fund to cover such liability, the **COUNTY** agrees to maintain sufficient reserves in the fund to pay the above-described liability limits. In addition to any other forms of insurance or bonds required under the terms of this Agreement, the **COUNTY** must comply or cause its contractor to comply with §7-13 of the **DEPARTMENT'S** Standard Specifications for Road and Bridge Construction (2000), as amended.

C) WORKERS' COMPENSATION.

- i) The **COUNTY** shall also carry and keep in force Workers' Compensation insurance as required for the State of Florida under the Workers' Compensation Law.

6. 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, 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 Agreement.
- 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 Agreement for purposes other than those set out in §337.274, Florida Statutes.

7. 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

(1) 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:

(2) 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. **EXHIBIT "A"** to 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.

(3) 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.

(4) 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).

(5) 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. **EXHIBIT "A"** to 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**.

8. TERMINATION AND DEFAULT

- A) This Agreement may be canceled by either the **COUNTY** or the **DEPARTMENT** upon sixty (60) days written notice.
- 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 as 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**.

9. 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.

The parties agree that all commitments, agreements, or understandings concerning the subject matter of this Agreement are 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 or conditions contained herein shall be effective unless contained in a written document executed by the **COUNTY** and the **DEPARTMENT**.

- 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 with respect to judicial proceedings arising out of this Agreement shall be in Broward 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 Paragraph 8 **TERMINATION AND DEFAULT**.
- H) An entity or affiliate which 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.
- I) 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.

IN WITNESS WHEREOF, the **COUNTY** has caused this Agreement to be executed in its behalf, by the Chairman/Councilman of **PALM BEACH COUNTY** or its designee, as authorized by Resolution Number **R2007-0837**, and the **FLORIDA DEPARTMENT OF TRANSPORTATION** has caused this Agreement to be executed in its behalf through its District Secretary or authorized designee:

PALM BEACH COUNTY, FLORIDA

ATTEST

SHARON R. BOCK
Clerk & Comptroller

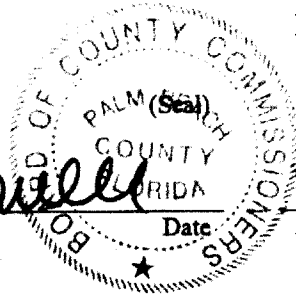
R2007 0837

JUN 05 2007

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

By:

Mary Powell
Deputy Clerk



By:

Addie L. Greene
Addie L. Greene, Chairperson

Date

Maria Gutierrez

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

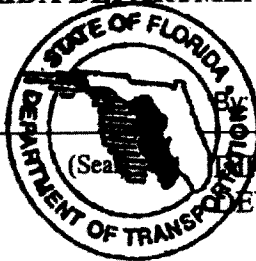
HA 024 Omaha A. Turner

APPROVED AS TO TERMS AND
CONDITIONS

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST

Maria Gutierrez
EXECUTIVE SECRETARY



Gerry O'Reilly
DIRECTOR OF TRANSPORTATION
DEVELOPMENT

DISTRICT 4

Maria Gutierrez
Print Name

7/16/07
Date

Gerry O'Reilly P.E.

Print Name

7-16-07
Date

Fla. Dept. of Trans. Legal Review:

By:

As to Form
[Signature]
Date

Availability of Funds Approval:

7-9-2007

Date

EXHIBIT - "A"

STATE RESOURCES:

<u>State Agency</u>	<u>Catalog of State Financial Assistance (Number & Title)</u>	<u>Amount</u>
DOT (Department of Transportation)	55.026 Transportation Regional Incentive Program	\$6,286,595.00

Compliance Requirements

1. The project must be regionally significant and derived from a regional transportation plan.
2. The regional transportation plan must be created by a regional transportation area created pursuant to Section 339.155(5) Florida Statutes.
3. The project must meet the minimum eligibility criteria listed in Section 339.2819 Florida Statutes.
4. Funds will only be provided for capital expenses. Operations are not covered through TRIP.
5. For roadway projects, the Florida Department of Transportation's level of service must be adopted for the logical termini specified in the Joint Participation Agreement once the additional capacity from the project is available for purposes of concurrency under Fla. Stat. §163.3180.

NOTE: Section .400(d) of OMB Circular A-133, as revised, and Section 215.97(5)(a), Florida Statutes, require that the information about Federal Programs and State Projects included in Exhibit "A" be provided to the recipient.

Exhibit "B"

**MINUTES
SOUTHEAST FLORIDA TRANSPORTATION COUNCIL**

**Thursday, November 2, 2006 – 11:00 AM
Fort Lauderdale Grande Hotel
1881 SE 17th Street, Ft. Lauderdale, FL**

MEMBERS Mayor Richard J. Kaplan, City of Lauderhill, Chair
PRESENT: Commissioner Jeff Koons, Palm Beach County
Commissioner Joe Martinez, Miami-Dade County

ALSO Jim Wolfe, Secretary, FDOT District IV
PRESENT: Lois Busch, FDOT District IV
Stacy Miller, FDOT District IV
Roger Del Rio, Acting Director, Broward MPO
Randy Whitfield, Director, Palm Beach MPO
Jose Mesa, Director, Miami-Dade MPO

Call to order.

Adoption of Agenda

The Chair informed the attendees that the Regional Corridor Amendments were presented at a prior meeting. Regarding the Transportation Regional Incentive program priorities, a scrivener's error was noted and corrected, i.e. that NW 31 Avenue should read NW 31 Street in the City of Margate. The motion was approved unanimously.

Randy Whitfield read staff recommendation: "The SEFTC approve the revised Regional Corridor criteria with the additions and approve the amended Regional Corridors list and map to include the facilities meeting the criteria". The members approved the Regional Corridor criteria and map unanimously.

Jim Wolfe, FDOT District Secretary informed the audience that the agency reviewed and approved the prioritization list for TRIP and the Department concurs that it is in compliance with the Growth Management Statutes and that both Districts IV and VI will be able to proceed with programming the TRIP funds. However, during prior discussions with SEFTC Jim Wolfe noted the desirable look and feel of that list. He noted that the list should be combined, merged, and it should be prioritized. He moreover noted, that while the list is in compliance and is being approved, it is not the way FDOT needs it to be in the future. He suggested that staff work together between now and the next SEFTC meeting and come up with a plan that merges and prioritizes the list, so that SEFTC members can see what it looks like and if they like it.

Jim Wolfe recommended that by the next SEFTC meeting they can adopt a revised list, with the same projects, but in a different format. Commissioner

Martinez concurred that the list should not be divided by districts and that if SEFTC was to be an example of regional cooperation for the entire state, and perhaps even the country, that these provisions be made; that a consolidated list with priorities and perhaps tiers be prepared.

Mayor Kaplan confirmed that such list was initially requested to staff, and Randy Whitfield added that Broward and Palm Beach counties are preparing an evolving prioritized list. Jim Wolfe continued saying that SEFTC has an opportunity to be the model for the rest of the state, because in fact merging and prioritization has been a difficult issue around Florida; that we are not the only ones struggling with this issue, but that we have an opportunity to get out ahead. There is a larger context than whether FDOT can program the TRIP funds and do the TRIP process that also needs regional planning, prioritization. In fact South Florida is one transportation network and FDOT has lots of issues to grapple with over the future. FDOT looks at projects like the commuter rail on FEC and that we all will have to come together on this issue and have one merged plan to figure out how to do that. There are other projects that cross county and district lines. Behind the 2003 agreement to do some mutual planning, SEFTC took a large leap in that direction complying with the spirit of the Growth Management Plan.

Roger Del Rio stated that SR7 Bus Rapid Transit was a Broward County project originally designated by the MPO for future funding. The MPO has allocated 10 M Dollars for the purchase of buses and bus stop amenities, but the funding for operating the system is missing and we do not have that commitment from the tri-counties.

The Chair reiterated two subjects from the previous SEFTC meeting:

1. The process to develop a website and information for public knowledge of what this organization is doing. He would like a report on how public participation is included in the goals of this regional body. We need to make ourselves more visible, put the regional plan out for everyone to be informed.
2. To start looking for a dedicated funding source as a region by creating a dedicated funding source available to all similar regions so that we are not on our own trying to do this. Each county can do a little bit, but that there is nothing on a regional level. Although TRIP funds are available, they are not a dedicated funding source of a renewable nature and they need to be created if we want a regional system.

Commissioner Martinez followed on the subject of regional unification by expressing that the SEFTC letterhead has three different logos. He directed staff to design one logo for SEFTC to show everybody that we are united.

Adjournment. There was no other business to come before the SEFTC, therefore the meeting adjourned at 11:30 a.m.

Regional Projects for TRIP Funding for FY 2006-07

Regional Project Description	Project Type	Total Cost (in \$1,000)	TRIP Funds (in \$1,000)
NW 37 Avenue/Rod Road/SR 823 - from NW 116 Street/W 63 Street to NW 138 Street/W 84 Street	Add 2-lanes (from 4 to 6 lanes)	\$15,100	\$7,550
Kendall Drive/SW 88 Street/SR 94 - from SW 157 Avenue to SW 177 Avenue/SR 997	Add 2-lanes (from 4 to 6 lanes)	\$3,800	\$1,900
NW 36 Street/SR 25 - Grade Separation over NW 72 Avenue/SR 969	Grade Separation Overpass Construction	\$32,000	\$16,000
SW 8 Street/Tamiami Trail/SR 90 - Grade Separation over SW 87 Ave/SR 973	Grade Separation Overpass Construction	\$32,000	\$16,000
Bus Rapid Transit (BRT) on Kendall Drive/SW 88 Street/SR 94 - from the Dadeland North Station to SW 167 Avenue	BRT implementation	\$10,000	\$5,000
Bus Rapid Transit (BRT) on Biscayne Boulevard/SR 5/US 1 - from Aventura Mall to the Omni Terminal	BRT implementation	\$18,500	\$9,250
Special Lane Lanes - Premium Transit Service on Expressway Right shoulder: Dolphin/SR 836 (from 107 Avenue to Downtown Miami - special use lanes only on limited segments)	Premium Transit Service Implementation on expressway right shoulder	\$4,000	\$1,250
Palmetto/SR 826 (from Pankratic Lake Mall to Palmetto Metrorail Station - special use lanes from NW 67 to NW 74 Street)	Premium Transit Service Implementation on expressway right shoulder	\$2,000	\$1,000
Turquoise (from west Kendall to Downtown Miami - special use lanes from SW 88 Street /Kendall Drive to SR 836)	Premium Transit Service Implementation on expressway right shoulder	\$4,000	\$1,250
Don Shula/SR 874 (from west Kendall to Dadeland North Metrorail Station - special use lanes from SW 104 Street to Sanguier Creek/SR 879)	Premium Transit Service Implementation on expressway right shoulder	\$72,195	\$26,609
Sanguier Creek/SR 878 (from west Kendall to Dadeland North Metrorail Station - special use lanes from Don Shula/SR 874 to US 1)	Add 2L and Reconstruct 4L (6LD)		
SR 7 - from Miami-Dade/Broward County line to N. of Hallandale Beach Blvd	New Limited Stop Capital	\$1,980	\$990
Federal Highway - from Sanguier Road to Aventura Mall	Capital	\$1,983	\$991
Transit Centers & Infrastructure	Capital	\$1,500	\$750
Bus Stop/Bus Bays	Transit Center Site Development	\$2,600	\$500
Lauderdale Mall Transit Center	Intersection Improvement	\$11,317	\$3,535
Eligible intersections			
Palm Tran Transit	Purchase 10 Buses	\$3,500	\$1,750
Okeechobee Blvd - from SR 7 to East of Florida's Turnpike	Add 2L and Reconstruct 6L	\$44,060	\$14,380
Atlantic Avenue - from W of Lyons Road to Stanley Avenue	Add 2L and Reconstruct 2L	\$16,000	\$6,000
Infrastructure improvements at Dadeland, Fort Lauderdale Airport, and Punguero Beach Tri-Rail stations	Design	\$1,156	\$578
Infrastructure construction to provide direct connection for Tri-Rail and Metrorail riders	Design	\$364	\$182
Construction of additional pedestrian overpass to connect the Golden Glades Intermodal Center to business Park west of the CRX tracks	Plan/Design	\$782	\$391
Development of a station-area transit-oriented-development plan for 18 Tri-Rail stations	Plan	\$500	\$250