





**GRANT AGREEMENT  
BY AND BETWEEN  
MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS  
AND  
PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS  
(Park and Ride Facility)**

**THIS GRANT AGREEMENT** is made and entered into this \_\_\_ day of \_\_\_\_\_, 2009, by and between the Palm Beach County Board of County Commissioners, a political subdivision of the State of Florida, (hereinafter referred to as the "Grantor") and Martin County Board of County Commissioners, a political subdivision of the State of Florida, by and through its Board of County Commissioners (hereinafter referred to as the "Grantee").

**WITNESSETH**

**WHEREAS**, Grantor desires to encourage the creation of a Park and Ride facility connecting Martin County's and Palm Beach County's transit systems linking cities along the I-95 corridor via an express bus transit system; and

**WHEREAS**, the State of Florida Department of Transportation (FDOT) has funds available from its Park and Ride Lot Program, for the construction of park and ride lots which will facilitate express bus services; and

**WHEREAS**, the Grantor has entered into that certain Joint Participation Agreement with FDOT (*i.e.*, Financial Project No. 423865-1, Contract No. APF02), and has or will enter into amendment(s) thereto prior to or after execution of this Agreement (all of which are collectively referred to herein as the "JPA") under which FDOT will provide funds to Grantor to assist with the development of one or more park and ride facilities; and

**WHEREAS**, FDOT has requested that Grantor make available to the Grantee certain JPA funds which are to be used by Grantee to design, permit and construct temporary and permanent Park and Ride Facilities in accordance with the terms and conditions of this Agreement (also referred to herein as the "Grant").

**WHEREAS**, the Grantee will use the funds made available to it under the JPA to design, permit and construct a Park and Ride Facility in Martin County that will be used to encourage and facilitate express bus transit service between the parties.

**NOW, THEREFORE**, in consideration of the mutual terms, conditions, promises, covenants, and obligations set forth herein, the Grantor and the Grantee agree as follows:

Section 1. **Incorporation of Facts:** The facts set forth above, in the Preamble to this

Agreement, are true and correct and incorporated into and made a part of this Agreement.

Section 2. **Purpose:** The purpose of this Agreement is to set forth the various duties, rights and obligations of the parties relating to the Grantee's design, permitting and construction of temporary and permanent Park and Ride Facilities as described in this Agreement (also referred to herein as the "Project" or "Facility") and the operation, use and maintenance thereof.

Section 3. **Contract Representatives and Monitors:** The Grantor's Contract Representative and Monitor during the term of the Agreement shall be the Executive Director of Palm Tran, whose telephone number is 561-841-4200. The Grantee's Contract Representative and Monitor during the term of this Agreement shall be its Associate Project Manager, whose telephone number is (772) 288-5777.

Section 4. **The Project:**

A. Grantor has entered into a JPA with FDOT, which has or will be amended, and under which FDOT has agreed to provide certain funds to Grantor which Grantor is willing to make available to Grantee. Said funds are to be used by Grantee to assist with the design, permitting and construction of a temporary Park and Ride Facility (Phase I) and permanent Park and Ride Facility (Phase II) linking Palm Beach and Martin counties by way of an express bus route transit system. A copy of the JPA is attached hereto as Attachment "A". The parties agree that any amendments to the JPA, whether entered into prior or after execution of this Agreement, shall be attached to and made a part of Attachment "A". Grantee will use a portion of the Grant funds to remove and re-install a gate and add signage (referred to herein as Phase I of the Project) and to design, permit and construct a new and permanent Park and Ride Facility at the Halpatiokee Regional Park, in Martin County, at 7645 Lost River Road, Stuart, Florida (referred to herein as Phase II of the Project).

B. The Phase I costs eligible for reimbursement under this Grant Agreement shall not exceed Thirty Thousand Dollars (\$30,000.00). The Phase II costs eligible for reimbursement shall not exceed Three Hundred Seventy-Seven Thousand Dollars (\$377,000). The total Project costs for Phase I and II eligible for reimbursement shall not exceed the sum of Four Hundred Seven Thousand Dollars (\$407,000.00). Only the permissible Phase I Project expenses described herein and Phase II Project expenses related to the design, permitting and construction of the Park and Ride Facility are eligible for reimbursement as further described in the JPA, and the Project Budget and Project Description attached hereto as Attachment "B". The Grantee shall use the Grant funds in accordance with the terms and conditions of the JPA, this Agreement, and all Federal, State and local laws, rules and regulations that are applicable to the Project. Each party does hereby authorize its Contract Representative and Monitor to approve minor modifications to the Project Budget and Project Description so long as they do not result in an increase in the total not to exceed cost of the Project and they are consistent with the Project's purpose and the JPA.

Section 5. **Effective Date, Term and Project Completion Dates:**

A. This Agreement shall take effect upon execution by the parties and shall remain in full force and effect until December 31, 2029.

B. By July 1, 2009, Phase I of the Project shall have been completed by the Grantee and Phase I shall be open to and accessible by the public. By December 31, 2009, Phase II shall be completed, lawfully available, and in use by the public as provided in this Agreement. In addition, the first invoice for reimbursement of the Project work completed by the Grantee is to be submitted to the Grantor within Calendar Year 2009. Grantee shall submit the final invoice for all Project work no later than March 31, 2010. The completion date for Phase II may be extended by the County's Contract Representative for up to an additional six (6) months due to delays beyond the control of the Grantee.

**Section 6. FDOT Funding and Control, and Other Grantee Obligations:**

A. The Grantee acknowledges that it is to be reimbursed for its design, permitting and construction activities under this Agreement from funds made available to the Grantor under the JPA. The Grantee agrees that its receipt and expenditure of Grant funds will be subject to the same terms and conditions of the JPA applicable to the Grantor's receipt and expenditure of Grant funds. Accordingly, Grantee shall fulfill the obligations of the Agency (the Grantor) under said JPA unless otherwise directed in writing by the Grantor's Contract Representative and Monitor. Grantee shall not perform any act or refuse to comply with any Grantor direction or request which would cause the Grantor to be in violation of any term or condition of the JPA, contribute to or cause the FDOT to seek to terminate the JPA, or cause FDOT to request the return of any FDOT funds provided to the Grantor whether made available to the Grantee or not. Grantee will immediately remedy, at its sole cost and expense, any deficiency or violation of the JPA found by the Grantor upon notice of such from the Grantor or the Grantor may unilaterally terminate this Agreement. The Grantee affirms that it has received a copy of the JPA and other notifications from FDOT containing special conditions or requirements.

B. Grantee further acknowledges and understands that the Grantor, as a recipient of an FDOT grant, has continuing obligations to FDOT under the JPA relating to the use and control of the Project (also referred to hereinafter as the "Facility"). Accordingly, the Grantor may unilaterally terminate this Agreement if the Grantor determines, at any time, that any of the following conditions exist: that the Grantee's use of the grant funds or Grantee's ownership, use, operation or maintenance of the Facility is not in accordance with the terms and conditions of the JPA or any Federal, State or local law, rule or regulation; that any Grant funds were used to reimburse expenses that were not reimbursable or were unlawfully or improperly incurred; or that the Grantee's ownership or use of the Facility does not constitute a valid public purpose.

C. Grantee agrees that all of its records relating to this Grant Agreement and the design, permitting, construction, ownership, use, possession and maintenance of the Facility are public records for the purposes of Chapter 119, F.S. The Grantor shall have the right to unilaterally terminate this Agreement for refusal by the Grantee to allow public access to all documents, paper, records and other materials related to this Agreement.

D. If the Grantor terminates this Agreement as a result of the Grantee's failure to comply

with the requirements of this Agreement or the JPA, the Grantee shall return to the Grantor the Grant funds that were paid to the Grantee under this Agreement or, if deemed appropriate by the Grantor, such other lesser sum equivalent to the value of the remaining useful life of the Facility if such is approved by FDOT. In no case shall such lesser sum be less than the amount owed by the Grantor to FDOT under the JPA, and FDOT must have determined that no other sums are or would be owed by the Grantor to FDOT. In addition, Grantee shall pay to the Grantor all costs and expenses incurred by the Grantor in the administration of the JPA as it relates to the Project and the termination of the Grant Agreement. Grantee shall not have any recourse against the Grantor or FDOT if Grantor shall terminate this Agreement as contemplated under this Agreement.

E. The Grantee will maintain, in Martin County, Florida, all books, records, accounts, and reports required under the JPA and this Agreement for a period of not less than five (5) years after the later of the date of termination or expiration of this Agreement or the date of the last audit report issued by the Grantor, Florida's Chief Financial Officer, Florida's Auditor General, FDOT or its designee. Grantee will make all records, including but not limited to, all insurance policies, project records, including but not limited to all records of costs, payrolls, time, invoices, contracts or vouchers, orders, accounting records, construction records and maintenance logs, available to the Grantor, USDOT or the State, or their respective agencies, officers, employees, contractors, investigators or auditors upon request. In the event claims are asserted or litigation is commenced related to or arising out of the performance of this Agreement, the Grantee agrees that it will maintain all records relating to the Facility, and its maintenance and use, in Martin County, Florida, until the Grantor, FDOT, or other State official or representative have disposed of all such litigation, appeals, claims, or exceptions related thereto. In addition, Grantee shall retain and maintain all records required to satisfy the Agency's audit and record retention obligations under the JPA, and shall satisfy all obligations of the Agency's under the JPA, including but not limited to those described in Section 7.00 through 8.30 and 11.00 of the JPA.

F. Grantee's execution of this Grant Agreement constitutes a certification that it will comply with all of the requirements applicable to Grantor or it under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et. seq.*, and the implementing regulations issued thereunder, as they may be amended or replaced from time to time.

G. Grantee's execution of this Grant Agreement constitutes a certification that it will comply with all of the requirements applicable to Grantor or it under Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601, *et. seq.*, and the implementing regulations issued thereunder, as they may be amended or replaced from time to time.

H. Grantee's execution of this Grant Agreement constitutes a certification that it will comply with all of the requirements imposed by the Americans with Disabilities Act, 42 U.S.C. 12102, *et. seq.*, and the implementing regulations issued thereunder, as they may be amended or replaced from time to time.

I. In carrying out or in connection with any activity related to the Project, the Grantee agrees

that it will not discriminate against any employee or applicant for employment because of race, age, creed, color, disability, sex or national origin. The Grantee will take affirmative action to ensure that applicants are employed, and that employees are treated equally during employment, without regard to their race, age, creed, color, disability, sex or national origin. Such action shall include, but may not be limited to employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Grantee shall insert the foregoing provisions, modified only to show the particular contractual relationship in all of its contracts in connection with the development or operation of the Project, except contracts for standard commercial supplies or raw materials, and shall require all of its contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. Grantee shall post, in conspicuous places available to employees and applicants for employment, notice of this nondiscrimination clause.

J. **Prohibited Interests:** Grantee agrees that none of its members, officers or employees, during their tenure or for two (2) years thereafter, shall have any interest, direct or indirect, in this Grant Agreement, the Facility, or its use. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to the Grantor, the Grantor with prior approval by FDOT, may waive the prohibition contained in this subsection. However, any such present member, officer or employee shall not participate in any action by the Grantee relating to such contract, subcontract, or arrangement. The Grantee shall insert in all contracts entered into in connection with the Facility and shall require its contractors to insert in each of their subcontracts, the following provision:

No, member, officer or employee of the Grantee during their tenure or for two years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

K. Grantee's execution of this Grant Agreement constitutes a certification that it will carry out this Grant Agreement in conformance with all applicable environmental regulations including the securing of any applicable permits. Grantee shall be solely responsible for any liability in the event of non-compliance with applicable environmental or permitting regulations or requirements, and will reimburse the Grantor or FDOT for any loss incurred in connection therewith.

L. Grantee agrees that no federal appropriated funds have been paid or will be paid by or on its behalf, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement. If any funds other than federal appropriated funds have been paid by the Grantee to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a

Member of Congress in connection with this Grant Agreement, the Grantee shall complete and submit Standard Form-LLL A Disclosure Form to Report Lobbying, in accordance with its instructions. The Grantee shall require that the language of this paragraph be included in the award or contract documents for all awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements). All recipients of the grant funds shall certify and disclose accordingly. Furthermore, no funds received pursuant to this Grant Agreement may be expended for lobbying the State Legislature or a state agency.

M. No member or delegate to Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising out of or from this Agreement. No funds received under this Grant Agreement may be expended for lobbying the Legislature or a State agency.

**Section 7. Application of State and Federal Laws:** Grantee shall use the grant funds in conformity with the terms and conditions of this Agreement, the JPA, and all State and Federal laws, rules and regulations relating to the use and expenditure of the funds.

**Section 8. Project Cost, Reimbursement and Submittal of Invoices:**

A. The Grantor will make up to Four Hundred and Seven Thousand Dollars (\$407,000.00) in grant funds available to the Grantee, on a cost reimbursement basis. These funds shall be used by the Grantee solely for eligible or allowable expenses incurred by the Grantee in the performance of the Project, however, the Grantor shall not reimburse any expenses incurred by the Grantee if all permits needed to commence and complete the work have not been obtained by the Grantee.

B. The Grantee shall submit to the Grantor, monthly invoices for reimbursable costs that identify and describe the work, materials, time, and provide such other information, including copies of corresponding paid contractor invoices acceptable to the Grantor, with sufficient clarity to enable the Palm Beach County Clerk & Comptroller to perform her pre-audit functions. Invoices shall be submitted to the Grantor on or before the 10th day of each month for the immediately preceding month. Descriptions shall identify the percentage of work completed and address future time projection for completion of the Facility. Such documentation shall conform to the requirements of the JPA and be sufficient to establish that the expense was actually incurred in the performance of the Project, is eligible for reimbursement and was incurred prior to the expiration of the JPA. The Grantee shall certify that each expenditure was proper, lawful and made in accordance with this Grant Agreement. Invoices shall reference the Grant Agreement and shall contain an original signature of an authorized Grantee official. In the event no reimbursements are sought during a month, then for each such month, the Grantee shall submit a status report indicating the work completed to date.

C. Invoices received from the Grantee will be reviewed and approved by the Grantor to confirm that costs for which reimbursement is sought have been incurred in conformity with the JPA, this Grant Agreement and then sent to the Palm Beach County Finance Department for payment. Invoices will normally be paid within thirty (30) days following the Grantor's representative's approval; provided, that, the Grantor has received the funds from FDOT.

D. All invoices for reimbursement shall be submitted at least thirty (30) days prior to the expiration of the JPA. In order for each party to close its books and records, the Grantee will clearly state "final invoice" on its last and final billing. The Grantee will certify that the Project was completed in accordance with applicable plans and specifications, is in place at the Grantee's Facility, that adequate title is in the Grantee and suitable for its intended purpose and that all costs eligible for reimbursement have been presented and invoiced to the Grantor. Since this account will thereupon be closed, any and other future charges, if not properly included on this final invoice, are waived by the Grantee.

E. Disallowed Costs: Project costs incurred by the Grantee prior to the effective date of this Agreement, costs which are not provided for in the latest approved budget for the Project, and costs attributable to goods or services received under a contract or an arrangement which has not been approved for reimbursable expenses under this Grant Agreement shall not be eligible for reimbursement by the Grantor.

F. Application of the JPA: The Grantee acknowledges that Grantor is making available to the Grantee certain funds it is to receive from FDOT under the JPA. Therefore the Grantee agrees that it will fulfill the duties and obligations of the Grantor (as the Agency under the JPA), unless otherwise directed or relieved of such duty or obligation, in writing, by the Grantor's Contract Representative.

Section 9. **Grantee's Contribution:** There is no local match required for this Project. Grantee acknowledges and agrees, however, that it is responsible for and will fund all costs to complete the Project in excess of the \$407,000.00 granted hereunder. In addition, Grantee is responsible for all the ongoing costs and expenses of maintaining and operating the Facility

Section 10. **Procurement:**

A. The Grantee shall be responsible for the design, permitting, bidding, evaluation, contract preparation, administration and construction of the Project, in accordance with this Grant Agreement, the JPA and all applicable Federal, State and local laws, rules and regulations. The Grantee shall utilize a competitive solicitation process in the selection of all contractors and shall ensure that all FDOT or Grantor required contract clauses, including but not limited to those identified in the JPA as provisions that the Agency must include in its third party contracts, are included in its procurement documents and all third party contracts and subcontracts.

B. The Grantee shall comply with all provisions of Florida law, including but not limited to the applicable provisions of Chapters 255 and 287, F.S., and the applicable provisions of the Consultants' Competitive Negotiation Act (CCNA) as it relates to procurements or projects involving engineering, architecture or surveying services. Grantee acknowledges that the Grantor's and FDOT's participation (*i.e.*, reimbursement of Project costs) is contingent on compliance with Florida law. If requested by FDOT or the Grantor, the Grantee will involve FDOT and the Grantor in the Consultant's Selection Process for all contracts. Grantee's attorney shall certify to FDOT and

the Grantor that selection has been accomplished in compliance with the CCNA and/or applicable law.

C. **Disadvantaged Business Enterprises:** It is policy of FDOT and the Grantor that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26, as amended, shall have the maximum opportunity to participate in the performance of contracts financed, in whole or in part, with federal funds. Grantee agrees that the DBE requirements of 49 CFR Part 26, as amended, apply to this Agreement. Grantee and its contractors agree to ensure that said DBEs have the maximum opportunity to participate in the performance of contracts and this Agreement. In this regard, the Grantee and its contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that the DBEs have the maximum opportunity to compete for and perform contracts. Grantee and its contractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Grantee's failure to comply with this provision shall be deemed a material breach of this Agreement which may result in the termination of this Agreement or such other remedy as the Grantor deems appropriate. Grantee agrees to report any reasonable cause notice of noncompliance based on 49 CFR Part 26 filed under 49 CFR Part 26 to the Grantor within thirty (30) days of its receipt of information regarding the noncompliance.

D. **Public Entity Crimes:** The Grantee shall comply with the provisions of Section 287.133(2)(a), F.S. The relevant provisions of Section 287.133(2)(a), F.S. are as follows:

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, F.S. for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list."

E. **Discriminatory Vendor List:** Grantee agrees that no entity or affiliate who has been placed on the discriminatory vendor list may submit a bid on a contract to provide any goods or services, may submit a bid on a contract for the construction or repair of a public building or public work, may submit bids on leases of real property, may be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with the Grantee, or transact business with the Grantee.

F. The Grantee shall require all of its permittees, contractors and subcontractors to save, defend, indemnify and hold harmless the Grantee and the Grantor, and FDOT if required by the Grantor, including their respective officers, agents, servants and employees from and against any and all claims, liability, losses and/or causes of action which may arise out of or from any permittee's

contractor's or subcontractor's performance of the Project, including but not limited to all negligent acts or omissions.

G. Grantee shall further require all of its permittees, contractors and subcontractors to save, defend, indemnify and hold harmless the Grantee and the Grantor, and FDOT if required by the Grantor, from and against any and all claims, demands, suits or causes of action arising out of any conduct or misconduct of a permittee, contractor or subcontractor not included in paragraph F, above and for which the Grantee, Grantor or FDOT are alleged to be liable.

H. Grantee shall permit and shall require its contractors to permit FDOT's or the Grantor's authorized representatives to inspect all work, materials, payrolls and records, and to audit the books, records and accounts pertaining to the financing and development of the Project.

I. Grantee will maintain property records, conduct physical inventories and develop control system as may be required by Grantor or FDOT, or assist Grantor or FDOT in their actions related thereto.

**Section 11. Use and Operation of the Park and Ride Facility:**

A. The Facility shall be used and operated for the benefit of the general public using the Park and Ride Facility for express public transit bus service, in accordance with all applicable federal, state and local laws, rules and regulations. The Facility may be used for other incidental public transit services or other public use if such use is authorized in advance by the Grantor's Contract Representative and Monitor in writing and such other incidental uses are permissible under the JPA and applicable Federal and State laws, regulations, guidances, requirements, and grant agreements between the Grantor and any agency of the U.S. Department of Transportation, and do not interfere with the purpose and use of the Facility as contemplated under this Agreement, as may be determined by the Grantor in its sole discretion.

B. Grantee hereby grants to the Grantor an irrevocable license and permit to access and use the Facility, and the surrounding roadways, walkways, and other means of egress and ingress to the Facility, for a Park and Ride facility and other related public transit uses or activities for the term of this Agreement. Such license and permit shall be non-exclusive but no other use or activity shall be allowed to interfere with or preclude the use of the Facility for public transit express bus service or other related public transit uses or activities.

**Section 12. Title, Risk of Loss:**

A. Title to and ownership of the Facility shall be vested in the Grantee. The Grantee shall not sublet, assign, or transfer its ownership of or any rights it has in the Facility or the site upon which it is situated, in whole or in part, during the term of this Agreement unless Grantee has first repaid all grant funds received under this Agreement to the Grantor or such lesser amount of grant funds approved by the Grantor and FDOT as described in paragraph 6.D. of this Agreement. Grantee shall not permit any lien or encumbrance to be recorded against the Phase I temporary Facility or permanent Phase II Facility of the Project during the term of this Agreement. Grantee shall not

extinguish or impair, nor shall it permit any third party to extinguish or impair the Grantor's or the public's right of access to and use of the Facility. In the event any liens or encumbrances are filed or recorded against the Facility and the Site upon which it is situated, Grantee shall immediately take all necessary acts, at its sole cost and expense, to clear and remove all such liens, interest or encumbrances.

B. Grantee shall bear all risk of loss or damage to the Facility during the term of this Agreement. Grantee further certifies that it has the ability and will retain the ability during the term of this Agreement to repair or replace all Project equipment and facilities in the event of loss or damage. All funds derived from the proceeds of any insurance policy or self-insurance shall be used by Grantee to repair or replace the Facility. However, if the Facility has not reached the end of its useful life, as determined by the Grantor, and the Grantor and Grantee agree that Grantee cannot satisfactorily repair or replace the Facility, then the insurance proceeds or a sum of money equal to the grant funds provided to the Grantee shall be paid to the Grantor, who shall distribute to FDOT any sums due it, retain any portion for redistribution under the JPA, or use the funds for any other purpose permitted by FDOT. Any insurance proceeds paid to the Grantor in excess of the grant funds provided to the Grantee shall be returned to the Grantee.

C. Grantee shall continuously and actively use the Facility for the purposes contemplated herein. In the event the Grantor shall determine, that Grantee is permitting the Facility to waste, that Grantee is not actively and continuously using the Facility for the purposes described herein, or not permitting the Facility to be used as provided herein, then the Grantor may immediately terminate this Agreement and Grantee shall refund or repay to the Grantor the grant funds received by Grantee in accordance with paragraph 6.D. of this Agreement.

**Section 13. Encumbrances:**

A. Grantee shall provide and promptly pay for all labor, materials and equipment necessary for the construction of the Facility. Grantee shall not grant any interest in the Facility, to any person, transfer its interest in the Facility, in whole or in part, to any other entity nor shall it permit any lien, claim, or other encumbrance to be filed against the Facility or action to be taken against the Grantor or FDOT on account of any labor, service, good, material, or equipment furnished or installed related to the Facility.

B. Grantee shall not transfer, assign or sublease the Facility.

C. Grantee shall require any express route bus operator other than the County, or other party to whom it gives permission to use, occupy, or enjoy the Facility to subrogate any rights or interest that party may have in the Facility to the rights and interests of the Grantor and FDOT. The Grantee shall furnish a copy of the Grant Agreement to any person or entity to whom it gives permission to use, occupy or enjoy the Facility. Grantee shall require such person or entity to use the Facility solely for and in the furtherance of the purposes of this Agreement and to act in conformity with the Grantee's duties and obligations under the Agreement.

D. Grantee shall be responsible for any and all costs and expenses incurred by the Grantor relating, in any fashion, to the enforcement of this Agreement. Grantee shall not take any action which would adversely affect the Grantor's or FDOT's interest in the Facility, make the Grantor or FDOT liable to any other entity or third party, or jeopardize the Grantor's JPA with FDOT or receipt of funds from FDOT.

E. The term "Facility" as used in Section 13 of this Agreement shall include within its meaning the real property upon which the Facility is situated.

Section 14. **Care, Repairs and Maintenance:** Grantee is solely responsible for all repairs and maintenance of the Facility, all equipment located thereon, and all costs associated with the operation of the Facility. Grantee will keep the Facility, including but not limited to all landscaping, in good working order, condition and repair, and free of any trash, garbage, litter and dangerous conditions. Grantee shall maintain the Facility and access thereto and therefrom, in a manner that will prevent loss or damage to either person or property, including death.

Section 15. **ADA Compliance:** Grantee shall ensure that the Facility, access thereto and all service operated therefrom are fully accessible to the disabled, and that the Facility, and ingress thereto and egress therefrom are used, operated and maintained in conformity with the requirements of the Americans with Disability Act (ADA) of 1990, as it may be amended from time to time, and all federal rules and regulations implementing the ADA. Grantee shall save, defend, indemnify and hold the Grantor harmless, to the fullest extent of the law, from any and all liability which may or shall inure to the Grantor, as a result of the Grantee's use, operation or maintenance of the Facility, or as a result of any failure on the part of the Grantee, its officers, employees, servants, agents, contractors, permittees or other party acting on behalf of or under the authority of the Grantee to comply with the ADA and its implementing rules and regulations, or the requirements of this Grant Agreement.

Section 16. **Limit of Obligation:**

A. The Grantor's obligations to the Grantee shall be strictly limited to those expressly set forth in this Agreement. The Grantor shall have no obligation to any other entity, contractor, permittee or person who is in anyway associated with this Agreement or benefits from the Grantee's use of the Grant funds or the ownership or use of the Facility.

B. This Agreement confers no rights on anyone other than the Grantor, FDOT, or the Grantee and is not otherwise intended to be a third party beneficiary contract. FDOT is authorized to enforce any of the Grantee's duties and obligations under this Agreement regardless of whether FDOT or the Grantor benefits from the enforcement. Nothing contained in this Agreement shall constitute the Grantor's or FDOT's acceptance of any obligation or liability not otherwise imposed under this Agreement or by law upon the Grantor.

Section 17. **Information and Data:** Upon the request of the Grantor, the Grantee will furnish directly, or through its Project Manager, monthly performance reports indicating the number

of vehicles using the Facility and such other information requested by the Grantor or FDOT from time to time. The Grantee also agrees to cooperate with the Grantor in any surveys of Park and Ride service users which the Grantor may desire to undertake. The Grantee will also assist the Grantor by distributing information regarding Palm Tran's public transportation services, community transit services and other coordinated transit services in Martin or Palm Beach counties or within the South Florida Regional Transit Authority's service area to users of the Park and Ride Facility.

**Section 18. Preparation of Certifications, Documents and Reports:** Should the Grantor be required by FDOT, the USDOT, or any other agency of the Federal or State government to provide any certifications, documents or reports related to the Facility or its use, the Grantee will cooperate and assist the Grantor with the preparation of such certifications, documents or reports, or prepare and furnish any such certifications, documents or reports requested. Grantee shall provide Grantor with all environmental findings relevant to the location of the Facility.

**Section 19. Prohibition of Discrimination:** Grantee represents and warrants that it will not discriminate in its performance of the Project and use of the Facility, and that its operators, permittees, employees and members of the general public utilizing the Facility will be treated equally and without regard to race, sex, sexual orientation, gender, gender identity or expression, color, religion, disability, handicap, age, marital status, national origin or ancestry.

**Section 20. Insurance:**

A. Grantee agrees to insure the Facility for fire, bodily injury and death, property damage, and liability and to maintain such coverage during the term of this Agreement. Without waiving the right to sovereign immunity as provided by Section 768.28, F.S., Grantee acknowledges that it is self-insured for General Liability and Automobile Liability under Florida's sovereign immunity statutes with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence, or such monetary waiver limits that may change and be set forth by the State Legislature.

B. In the event Grantee maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under Section 768.28, F.S., Grantee agrees to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage.

C. Grantee agrees to maintain or to be self-insured for Workers' Compensation & Employers' Liability insurance in accordance with Chapter 440, Florida Statutes.

D. Grantee agrees to maintain property insurance, which includes builder's risk insurance, while the Project is in the course of construction in an amount at least equal to the estimated completed Project value as well as subsequent modifications of that sum. When construction is completed, Grantee agrees to maintain all-risk property insurance for adequate limits of coverage on the Facility and related equipment and facilities based on the Grantee's replacement cost calculation or the Grantee's probable maximum loss estimate for either the perils of fire, wind, or flood, which shall, in no event, be less than the sum of all grant funds provided to Grantee. Grantee agrees to be

fully responsible for any deductible, uncovered loss, or self-insured retention under the all-risk property insurance. The requirements of this provision may be waived by the Grantor's Contract Representative after consultation with Grantee's Department of Risk Management, if the Grantee establishes, to the satisfaction of the Grantor's Contract Representative, the Grantee's capability to adequately meet, satisfy or cover the Grantee's potential risks or exposure (i.e., liability) related to, arising out of, or resulting from its construction of the Project and use, operations and maintenance of the Facility and related equipment.

E. When requested, Grantee shall agree to provide an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which the Grantor may, if acceptable to FDOT, recognize as acceptable for the above mentioned coverages.

F. Any policy of insurance obtained pursuant to paragraphs A., B. and D. above shall designate the Palm Beach County Board of County Commissioners and Palm Tran, Inc., as an additional insured.

G. Compliance with the foregoing requirements shall not relieve Grantee of its liability and obligations under this Grant Agreement.

H. Grantee further agrees to include the above-stated insurance requirements as to type of coverage and dollar amount, so as to meet the minimum requirements set forth above, in all contracts related to the use of the Facility and the provision of Park and Ride services, and shall establish such as a requirement for the issuance of any permit, license, or right to use or occupy the Facility.

**Section 21. Termination:** In the event the Grantee abandons the Project, discontinues the Project, or after completion of the Project notifies the Grantor that it no longer desires to use the Facility for the purpose for which the Grant funds were provided, ceases to use the Facility for the purpose of a Park and Ride lot, or fails to comply with any provision of this Agreement, then the Grantor may exercise any and all rights available to it, including termination of this Agreement upon ten (10) days notice to Grantee. In the event the Agreement is terminated, the Grantor will be entitled to direct the Grantee to undertake either of the following actions: 1) Pay to or return to the Grantor a sum of money equal to the Grant funds it received from the Grantor; or 2) Pay to the Grantor such lesser sum that the Grantor has been directed to remit or return to FDOT; provided, that, the Grantor has determined that such is an appropriate action. Grantee shall also be responsible for all administrative costs and expenses incurred by the Grantor, whether direct or indirect, related to the Project. The Grantor's remedies are not limited to the foregoing. Grantor shall have the right to exercise any other remedy available to it at law, in equity, or under this Agreement.

**Section 22. Appropriation:** Each party's performance and obligation under this Agreement is contingent upon an annual appropriation by its governing body for the purposes of this Agreement. In addition, the Grantor shall not be obligated to perform and/or reimburse the Grantee for any costs and expenses Grantee has incurred if: 1) FDOT does not approve this Agreement; 2) FDOT determines that any of the costs and expenses for which reimbursement is sought are not

eligible or allowable project costs; 3) FDOT does not approve any requisition for payment or invoice submitted by the Grantor to FDOT for reimbursement under the JPA; or 4) FDOT terminates or cancels the JPA with the Grantor. Grantee expressly waives and releases the Grantor from liability, of any kind or nature, as a result of the occurrence of any of the foregoing events. Grantee also hereby represents and warrants that Grantee's governing body intends to appropriate all grant funds received hereunder for the purposes of this Grant Agreement and, at the time of execution of this Grant Agreement, has appropriated all funds in excess of the grant amount set forth in Sections 4 and 8 needed to complete the Project.

**Section 23. Notice of Accidents, Injuries and Suits:**

A. In the event of an accident or injury related to the ownership or use of the Facility, the Grantee agrees to immediately notify its insurer and the Grantor of such accident or injury. Upon the request of Grantor, the Grantee will provide all information relative to the accident or injury.

B. Grantee agrees to fully cooperate with the Grantor and FDOT, and their respective officers, employees, servants or contractors, in any investigation either may conduct and the defense of any claim or suit in which the Grantor or FDOT may be named. The Grantee shall do nothing to impair or invalidate any applicable insurance coverage.

**Section 24. Hold Harmless and Indemnification:** Grantee agrees to protect, defend, reimburse, save, indemnify and hold harmless the Grantor and FDOT, and their respective officers, employees, servants and agents, from and against any and all suits, actions, damages, liabilities, interest, attorneys' fee, costs and expenses of whatsoever kind or nature arising out of or related to the Grantee's performance of the Project, including but not limited to Grantee's construction, installation, use, operation or maintenance of the Facility to the fullest extent permitted by law. Nothing contained in this Agreement shall act as a waiver of either party's sovereign immunity in excess of that waived by the Legislature in Section 786.28, F.S.

**Section 25. Assignment:** Neither this Agreement nor any interest therein shall be assigned, transferred or otherwise encumbered, in whole or in part, by Grantee without the prior written consent of the Grantor.

**Section 26. No Agency Relationship:** Nothing contained herein is intended to nor shall it create an agency relationship between the Grantee and the Grantor.

**Section 27. Remedies:** This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or inequity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

Section 28. **Enforcement Costs:** Any costs or expenses, including reasonable attorney fees, associated with the enforcement of the terms and conditions of this Agreement shall be borne by the respective parties. This clause pertains only to the parties to this Agreement.

Section 29. **No Waiver:** No waiver of any provisions of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed a continuing or future waiver.

Section 30. **Captions:** The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 31. **Joint Preparation:** The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

Section 32. **Notice:** All written notices required under this Agreement shall be sent by certified mail, return receipt requested, and if sent to the Grantor shall be mailed to:

Chuck Cohen, Executive Director  
Palm Tran  
3201 Electronics Way  
West Palm Beach, Fl. 33407  
(561) 841-4210  
FAX (561) 841-4291

And, if sent to the Grantee shall be mailed to:

Krysti Brotherton  
Associate Project Manager  
Martin County Engineering Department  
Capital Projects Division  
2401 SE Monterey Road  
Stuart Florida 34996  
(772) 288-5777  
FAX (772) 288-5789

Each party may change its address upon notice to the other.

Section 33. **Severability:** Should any section, paragraph, sentence, clause, or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement.

Section 34. **Entirety of Contract and Modifications:** The Grantor and the Grantee agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and equality of dignity herewith.

Section 35. **Survivability:** Any provision of this Agreement which is of a continuing nature or imposes an obligation which by its nature extends beyond the term of this Agreement, shall survive its expiration or earlier termination.

Section 36. **Filing:** A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County and the Clerk of the Circuit Court in and for Martin County .

**(Remainder of Page Intentionally Left Blank)**

IN WITNESS WHEREOF, the Grantee and Grantor have hereunto set their hands the day and year above written.

Attest:  
Sharon R. Bock, Clerk &  
Comptroller

Palm Beach County, Florida, by its  
Board of County Commissioners

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
John F. Koons, Chairman

Attest:

Martin County, Florida, by its  
Board of County Commissioners

By: Marsha Ewing by  
Marsha Ewing, Clerk *H. Stuffs*

By: Susan L. Valliere  
Susan L. Valliere, Chairman

Approved as to Form  
and Correctness

Stephen Fry  
Stephen Fry, Martin County Attorney

Approved as to Form  
and Legal Sufficiency

Approved as to Terms  
and Conditions

\_\_\_\_\_  
Palm Beach County Attorney

Chuck Cohen  
Chuck Cohen, Exec. Director  
Palm Tran

## **ATTACHMENT A**

**State of Florida Department of Transportation  
Public Transportation Joint Participation Agreement  
(FDOT IPA 423865-1 Contract No. APF02).**

All amendments to the JPA, whether existing or not on the effective date of the Agreement between Palm Beach County and Martin County (Park and Ride Facility), shall be incorporated into and made a part of this Attachment A.

**ATTACHMENT B**  
Project Budget  
&  
Project Description

PHASE I

Phase I will include all work needed, but not limited, to install post and rail fencing, remove old gate and install new gate, and install time lock for restrooms.

Phase I Budget: \$30,000

Completion Date: July 1, 2009

PHASE II

Phase II will include all work needed, but not limited, to design, engineer and permit a 30-space parking lot inclusive of drainage, landscaping, irrigation, lighting, concrete walk, wheel stops and bike rack.

Phase II Budget: \$377,000

Completion Date: December 31, 2009

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

715-030-06  
 PUBLIC TRANSPORTATION  
 06/07

Financial Project No.: <u>423865-1</u> <small>(item-segment-phase-sequence)</small>	Fund: <u>DPTO</u>	FLAIR Approp.: <u>088774</u>
Contract No.: <u>APE02</u>	Function: <u>680</u>	FLAIR Obj.: <u>750011</u>
CFDA Number: <u>n/a</u>	Federal No.: <u>n/a</u>	Org. Code: <u>55042010429</u>
	DUNS No.: <u>80-939-7102</u>	Vendor No.: <u><del>580000000000</del> 576000785 153</u>
	CSFA Number: <u>55011</u>	

R2008 2248

THIS AGREEMENT, made and entered into this 23 day of January, 2009 DEC 02 2008

by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida,  
 hereinafter referred to as the Department, and Palm Beach County Board of County Commissioners  
3201 Electronics Way, West Palm Beach, FL 33407

hereinafter referred to as Agency. The Department and Agency agree that all terms of this Agreement will be completed  
 on or before December 31, 2011 and this Agreement will expire unless a time extension is provided  
 in accordance with Section 16.00.

WITNESSETH:

WHEREAS, the Agency has the authority to enter into said Agreement and to undertake the project hereinafter  
 described,  
 and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including  
 the implementation of an integrated and balanced transportation system and is authorized under

Florida Statutes, to enter into this Agreement

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

**1.00 Purpose of Agreement:** The purpose of this Agreement is

The purpose of this agreement is to provide funding for construction of park and ride lots, which will facilitate  
 express bus.

and as further described in Exhibit(s) A,B,C,D,E attached hereto and by this reference made a part  
 hereof, hereinafter referred to as the project, and to provide Departmental financial assistance to the Agency and state the  
 terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the  
 project will be undertaken and completed.

## 2.00 Accomplishment of the Project

**2.10 General Requirements:** The Agency shall commence, and complete the project as described in Exhibit "A" attached hereto and by this reference made a part hereof this Agreement, with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws.

**2.20 Pursuant to Federal, State, and Local Law:** In the event that any election, referendum, approval, permit, notice, or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the project hereunder, or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

**2.30 Funds of the Agency:** The Agency shall initiate and prosecute to completion all proceedings necessary including federal aid requirements to enable the Agency to provide the necessary funds for completion of the project.

**2.40 Submission of Proceedings, Contracts and Other Documents:** The Agency shall submit to the Department such data, reports, records, contracts and other documents relating to the project as the Department may require as listed in Exhibit "C" attached hereto and by this reference made a part hereof.

**3.00 Project Cost:** The total estimated cost of the project is \$ 490,000.00. This amount is based upon the estimate summarized in Exhibit "B" attached hereto and by this reference made a part hereof this Agreement. The Agency agrees to bear all expenses in excess of the total estimated cost of the project and any deficits involved.

**4.00 Department Participation:** The Department agrees to maximum participation, including contingencies, in the project in the amount of \$ 490,000.00 as detailed in Exhibit "B" or in an amount equal to the percentage(s) of total project cost shown in Exhibit "B", whichever is less.

**4.10 Project Cost Eligibility :** Project costs eligible for State participation will be allowed only from the effective date of this agreement. It is understood that State participation in eligible project costs is subject to:

- (a) Legislative approval of the Department's appropriation request in the work program year that the project is scheduled to be committed.
- (b) Availability of funds as stated in Section 17.00 of this Agreement.
- (c) Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement.
- (d) Department approval of the project scope and budget (Exhibits A & B) at the time appropriation authority becomes available.

**4.20 Front End Funding :** Front end funding  is  is not applicable. If applicable, the Department may initially pay 100% of the total allowable incurred project costs up to an amount equal to its total share of participation as shown in paragraph 4.00.

**5.00 Retainage :** Retainage  is  is not applicable. If applicable, \_\_ percent of the Department's total share of participation as shown in paragraph 4.00 is to be held in retainage to be disbursed, at the Department's discretion, on or before the completion of the final project audit.

#### **6.00 Project Budget and Payment Provisions:**

**6.10 The Project Budget:** A project budget shall be prepared by the Agency and approved by the Department. The Agency shall maintain said budget, carry out the project and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved budget for the project. No budget increase or decrease shall be effective unless it complies with fund participation requirements established in Section 4.00 of this Agreement and is approved by the Department Comptroller.

**6.20 Payment Provisions:** Unless otherwise allowed under Section 4.20, payment will begin in the year the project or project phase is scheduled in the work program as of the date of the agreement. Payment will be made for actual costs incurred as of the date the invoice is submitted with the final payment due upon receipt of a final invoice.

#### **7.00 Accounting Records:**

**7.10 Establishment and Maintenance of Accounting Records:** The Agency shall establish for the project, in conformity with requirements established by Department's program guidelines/procedures and "Principles for State and Local Governments", separate accounts to be maintained within its existing accounting system or establish independent accounts. Such accounts are referred to herein collectively as the "project account". Documentation of the project account shall be made available to the Department upon request any time during the period of the Agreement and for three years after final payment is made.

**7.20 Funds Received Or Made Available for The Project:** The Agency shall appropriately record in the project account, and deposit in a bank or trust company which is a member of the Federal Deposit Insurance Corporation, all payments received by it from the Department pursuant to this Agreement and all other funds provided for, accruing to, or otherwise received on account of the project, which Department payments and other funds are herein collectively referred to as "project funds". The Agency shall require depositories of project funds to secure continuously and fully all project funds in excess of the amounts insured under federal plans, or under State plans which have been approved for the deposit of project funds by the Department, by the deposit or setting aside of collateral of the types and in the manner as prescribed by State Law for the security of public funds, or as approved by the Department.

**7.30 Costs Incurred for the Project:** The Agency shall charge to the project account all eligible costs of the project. Costs in excess of the latest approved budget or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

**7.40 Documentation of Project Costs:** All costs charged to the project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges.

**7.50 Checks, Orders, and Vouchers:** Any check or order drawn by the Agency with respect to any item which is or will be chargeable against the project account will be drawn only in accordance with a properly signed voucher then on file in the office of the Agency stating in proper detail the purpose for which such check or order is drawn. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the project shall be clearly identified, readily accessible and, to the extent feasible, kept separate and apart from all other such documents.

**7.60 Audit Reports:** In addition to the requirements below, the Agency agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department, including but not limited to site visits and limited scope audits. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the State Comptroller or Auditor General. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of three years from the date the audit report is issued, and shall allow the Department access to such records and working papers upon request. The following requirements do 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 state agency inspector general, the Auditor General, or any other state official.

The Agency shall comply with all audit and audit reporting requirements as specified in Exhibit "D" attached hereto and by this reference made a part hereof this Agreement.

**7.61 Monitoring:** In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, Florida Statutes, (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, and/or other procedures. The Agency 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 Agency is appropriate, the Agency agrees to comply with any additional instructions provided by the Department staff to the Agency regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by FDOT's Office of Inspector General (OIG) and Florida's Chief Financial Officer (CFO) or Auditor General.

**7.62 Audits:**

**Part I Federally Funded:** If the Agency is a state, local government, or non-profit organizations as defined in OMB Circular A-133 and a recipient of federal funds, the following annual audit criteria will apply:

1. In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Exhibit "D" to this agreement indicates Federal resources awarded through the Department by this agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133 as revised, will meet the requirements of this part.

2. In connection with the audit requirements addressed in Part I, Paragraph 1., the recipient shall fulfill the requirements relative to addressee responsibilities as provided in Subpart C of OMB Circular A-133.

3. If the recipient expends less than the amount in Part I, Paragraph 1., an audit conducted in accordance with the provisions of OMB Circular A-133, is not required. If the recipient elects to conduct such an audit, the cost of the audit must be paid from 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:** If the Agency is a nonstate entity as defined by Section 215.97(2)(m), Florida Statutes, and a recipient of state funds, the following annual audit criteria will apply

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services and the CFO; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "D" to this agreement indicates state financial assistance awarded through the Department by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

2. In connection with the audit requirements addressed in Part II, Paragraph 1., the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapter 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 the amount in Part II, Paragraph 1., such audit is not required. If the recipient elects to conduct such an audit, the cost of the audit must be paid from the recipient's resources obtained from nonstate 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 II Other Audit Requirements

1. The Agency 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 Department, the Department 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.

### Part IV Report Submission

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Section 7.622 Part I of this agreement shall be submitted, when required by Section 320 (d), OMB Circular A-133, by or on behalf of the recipient directly to each of the following
  - A. The Department at each of the following addresses:  
3400 West Commercial Boulevard , Fort Lauderdale
  - B. The number of copies required by Sections 320 (d)(1) and (2), OMB Circular A-133, submitted to the following address:  
  
Federal Audit Clearinghouse  
Bureau of the Census  
1201 East 10th Street  
Jeffersville, IN 47132
  - C. Other Federal agencies and pass-through entities in accordance with Sections 320 (e) and (f), OMB Circular A-133.
2. In the event that a copy of the reporting package for an audit required by Section 7.62 Part I of this Agreement and concluded in accordance with OMB Circular A-133 is not required to be submitted to the Department for reasons pursuant to section 320 (e)(2), OMB Circular A-133, 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:  
3400 West Commercial Boulevard Fort Lauderdale

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, and any management letters issued by the auditor, to the Department at each of the following addresses:

3400 West Commercial Boulevard , Fort Lauderdale

3. Copies of financial reporting packages required by Section 7.62 Part (I) 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

3400 West Commercial Boulevard , Fort Lauderdale

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 Section 7.62 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.

3400 West Commercial Boulevard , Fort Lauderdale

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, Section 215.97, Florida Statutes, and Chapter 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 Agency in correspondence accompanying the reporting package

**7.63 Record Retention:** The Agency 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 CFO or Auditor General access to such records upon request. The Agency shall ensure that the independent audit working papers are made available to the Department, or its designee, the 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.

**7.64 Other Requirements:** If an audit discloses any significant audit findings related to any award, including material noncompliance with individual project compliance requirements or reportable conditions in internal controls of the Agency, the Agency shall submit as part of the audit package to the Department a plan for corrective action to eliminate such audit findings or a statement describing the reasons that corrective action is not necessary. The Agency shall take timely and appropriate corrective action to any audit findings, recommendations, and corrective action plans.

**7.65 Insurance:** Execution of this Joint Participation Agreement constitutes a certification that the Agency has and will maintain the ability to repair or replace any project equipment or facilities in the event of loss or damage due to any accident or casualty for the useful life of such equipment or facilities. In the event of the loss of such equipment or facilities, the Agency shall either replace the equipment or facilities or reimburse the Department to the extent of its interest in the lost equipment or facility. In the event this Agreement is for purchase of land or for the construction of infrastructure such as airport runways the Department may waive or modify this section.

**8.00 Requisitions and Payments:**

**8.10 Action by the Agency:** In order to obtain any Department funds, the Agency shall file with the Department of Transportation, District Four, Public Transportation Office 3400 West Commercial Boulevard, Fort Lauderdale, FL,

33309-3421 its requisition on a form or forms prescribed by the Department, and any other data pertaining to the project account (as defined in Paragraph 7.10 hereof) to justify and support the payment requisitions.

**8.11 Invoices for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof**

**8.12 Invoices for any travel expenses shall be submitted in accordance with Chapter 112.061, F.S. The Department may establish rates lower than the maximum provided in Chapter 112.061, F.S.**

**8.13 For real property acquired, submit;**

- (a) the date the Agency acquired the real property,
- (b) a statement by the Agency certifying that the Agency has acquired said real property, and actual consideration paid for real property
- (c) a statement by the Agency certifying that the appraisal and acquisition of the real property together with any attendant relocation of occupants was accomplished in compliance with all federal laws, rules and procedures required by any federal oversight agency and with all state laws, rules and procedures that may apply to the Agency acquiring the real property.

**8.20 The Department's Obligations:** Subject to other provisions hereof, the Department will honor such requisitions in amounts and at times deemed by the Department to be proper to ensure the carrying out of the project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment on the project if

**8.21 Misrepresentation:** The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

**8.22 Litigation:** There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the project, the Agreement, or payments to the project,

**8.23 Approval by Department:** The Agency shall have taken any action pertaining to the project which, under this agreement, requires the approval of the Department or has made related expenditures or incurred related obligations without having been advised by the Department that same are approved.

**8.24 Conflict of Interests:** There has been any violation of the conflict of interest provisions contained herein, or

**8.25 Default:** The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

**8.26 Federal Participation (If Applicable):** Any federal agency providing federal financial assistance to the project suspends or terminates federal financial assistance to the project. In the event of suspension or termination of federal financial assistance, the Agency will reimburse the Department for all disallowed costs, including any and all federal financial assistance as detailed in Exhibit "B."

**8.30 Disallowed Costs:** In determining the amount of the payment, the Department will exclude all projects costs incurred by the Agency prior to the effective date of this Agreement, costs which are not provided for in the latest approved budget for the project, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department

owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting amounts shall not be considered a breach of contract by the Department.

**9.10 Termination or Suspension Generally:** If the Agency abandons or ceases to prosecute, timely reinitiates the project; or if, by reason of any of the events or conditions set forth in Sections 8 21 to 8 26 inclusive, or for any other reason, the commencement, prosecution, or timely completion of the project by the Agency is rendered improbable, infeasible, impossible, or illegal, the Department will, by written notice to the Agency, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected, or the Department may terminate any or all of its obligations under this Agreement.

**9.11 Action Subsequent to Notice of Termination or Suspension.** Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (1) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to the minimum the costs upon the basis of which the financing is to be computed; (2) furnish a statement of the project activities and contracts, and other undertakings the cost of which are otherwise includable as project costs; and (3) remit to the Department such portion of the financing and any advance payment previously received as is determined by the Department to be due under the provisions of the Agreement. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and budget as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and budget within a reasonable time. The approval of a remittance by the Agency or the closing out of federal financial participation in the project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

**9.12** The Department reserves the right to unilaterally cancel this Agreement for refusal by the contractor or Agency to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S. and made or received in conjunction with this Agreement.

**10.00 Remission of Project Account Upon Completion of Project** Upon completion of the project, and after payment, provision for payment, or reimbursement of all project costs payable from the project account is made, the Agency shall remit to the Department its share of any unexpended balance in the project account.

**11.00 Audit and Inspection:** The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives to inspect all work, materials, payrolls, records, and to audit the books, records and accounts pertaining to the financing and development of the project.

**12.00 Contracts of the Agency:**

**12.10 Third Party Agreements:** Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract or obligate itself in any manner requiring the disbursement of Department joint participation funds, including consultant, construction or purchase of commodities contracts or amendments thereto, with any third party with respect to the project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department as provided in Section 8 23. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same.

**12.20 Compliance with Consultants' Competitive Negotiation Act:** It is understood and agreed by the parties hereto that participation by the Department in a project with an Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency complying in full with provisions of Chapter 287, F.S., Consultants' Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the Consultant Selection Process for all contracts. In all cases, the Agency's Attorney shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

**12.30 Disadvantaged Business Enterprise (DBE) Policy and Obligation:**

**12.31 DBE Policy:** It is the policy of the Department that disadvantaged business enterprises as defined in 49 CFR Part 26, as amended, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of 49 CFR Part 26, as amended, apply to this Agreement.

**12.32 DBE Obligation:** The Agency and its contractors agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, as amended, have the maximum opportunity to participate in the performance of contracts and this Agreement. In this regard, all recipients, and contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that the Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Grantees, recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department assisted contracts.

**12.40** The Agency agrees to report any reasonable cause notice of noncompliance based on 49 CFR Part 26 filed under this section to the Department within 30 days of receipt by the Agency.

**13.00 Restrictions, Prohibitions, Controls, and Labor Provisions:**

**13.10 Equal Employment Opportunity:** In connection with the carrying out of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, creed, color, sex or national origin. The Agency will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, creed, color, sex, or national origin. Such action shall include, but not be limited to, the following: Employment; upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Agency shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development or operation of the project, except contracts for standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

**13.20 Title VI - Civil Rights Act of 1964:** Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), the Regulations of the Federal Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

**13.30 Title VIII - Civil Rights Act of 1968:** Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VIII of the Civil Rights Act of 1968, 42 USC 3601, et seq., which among other things, prohibits discrimination in housing on the basis of race, color, national origin, creed, sex, and age.

**13.40 Americans with Disabilities Act of 1990 (ADA):** Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by the ADA (42 U.S.C. 12102, et seq.), the regulations of the federal government issued thereunder, and the assurance by the Agency pursuant thereto.

**13.50 Prohibited Interests:** The Agency shall not enter into a contract or arrangement in connection with the project or any property included or planned to be included in the project, with any officer, director or employee of the Agency, or any business entity of which the officer, director or employee or the officer's, director's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer, director or employee or the officer's, director's or employee's spouse or child, or any combination of them, has a material interest.

"Material Interest" means direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity.

The Agency shall not enter into any contract or arrangement in connection with the project or any property included or planned to be included in the project, with any person or entity who was represented before the Agency by any person who at any time during the immediately preceding two years was an officer, director or employee of the Agency.

The provisions of this subsection shall not be applicable to any agreement between the Agency and its fiscal depositories, any agreement for utility services the rates for which are fixed or controlled by the government, or any agreement between the Agency and an agency of state government.

**13.60 Interest of Members of, or Delegates to, Congress:** No member or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

**14.00 Miscellaneous Provisions:**

**14.10 Environmental Pollution:** Execution of this Joint Participation Agreement constitutes a certification by the Agency that the project will be carried out in conformance with all applicable environmental regulations including the securing of any applicable permits. The Agency will be solely responsible for any liability in the event of non-compliance with applicable environmental regulations, including the securing of any applicable permits, and will reimburse the Department for any loss incurred in connection therewith.

**14.20 Department Not Obligated to Third Parties:** The Department shall not be obligated or liable hereunder to any party other than the Agency.

**14.30 When Rights and Remedies Not Waived:** In no event shall the making by the Department of any payment to the Agency 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 Agency, and the making of such payment by the Department while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

**14.40 How Agreement Is Affected by Provisions Being Held Invalid:** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

**14.50 Bonus or Commission:** By execution of the Agreement the Agency represents that it has not paid and, also, agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

**14.60 State or Territorial Law:** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable State law. Provided, that if any of the provisions of the Agreement violate any applicable State law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the project.

**14.70 Use and Maintenance of Project Facilities and Equipment:** The Agency agrees that the project facilities and equipment will be used by the Agency to provide or support public transportation for the period of the useful life of such facilities and equipment as determined in accordance with general accounting principles and approved by the Department. The Agency further agrees to maintain the project facilities and equipment in good working order for the useful life of said facilities or equipment.

**14.71 Property Records:** The Agency agrees to maintain property records, conduct physical inventories and develop control systems as required by 49 CFR Part 18, when applicable.

**14.80 Disposal of Project Facilities or Equipment:** If the Agency disposes of any project facility or equipment during its useful life for any purpose except its replacement with like facility or equipment for public transportation use, the Agency will comply with the terms of 49 CFR Part 18 relating to property management standards. The Agency agrees to remit to the Department a proportional amount of the proceeds from the disposal of the facility or equipment. Said proportional amount shall be determined on the basis of the ratio of the Department financing of the facility or equipment as provided in this Agreement.

**14.90 Contractual Indemnity:** To the extent provided by law, the Agency shall indemnify, defend, and hold harmless the Department and all of its officers, agents and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Agency, its agents, or employees, during the performance of the Agreement, except that neither the Agency, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees during the performance of the Agreement.

When the Department receives a notice of claim for damages that may have been caused by the Agency in the performance of services required under this Agreement, the Department will immediately forward the claim to the Agency. The Agency and the Department will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of the Agency in the defense of the claim or to require that the Agency defend the Department in such claim as described in this section. The Department's failure to promptly notify the Agency of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by Agency. The Department and the Agency will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all expenses at trial.

**15.00 Plans and Specifications:** In the event that this Agreement involves the purchasing of capital equipment or the constructing and equipping of facilities, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the project and comments or recommendations concerning any remainder of the project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval with said remainder of the project. Failure to obtain this written approval shall be sufficient cause for nonpayment by the Department as provided in 6.23.

**16.00 Project Completion, Agency Certification:** The Agency will certify in writing on or attached to the final invoice, that the project was completed in accordance with applicable plans and specifications, is in place on the Agency facility, that adequate title is in the Agency and that the project is accepted by the Agency as suitable for the intended purpose.

**17.00 Appropriation of Funds:**

**17.10** The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

**17.20 Multi-Year Commitment:** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Chapter 339, 135(6)(a), F.S., are hereby incorporated. "(a) 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 1 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 25,000 dollars and which have a term for a period of more than 1 year."

**18.00 Expiration of Agreement:** The Agency agrees to complete the project on or before December 31, 2011. If the Agency does not complete the project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Transportation Development Director. Expiration of this Agreement will be considered termination of the project and the procedure established in Section 9.00 of this Agreement shall be initiated.

**18.10 Final Invoice:** The Agency must submit the final invoice on this project to the Department within 120 days after the expiration of this Agreement. Invoices submitted after the 120 day time period will not be paid.

**19.00 Agreement Format:** 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.

**20.00 Execution of Agreement:** This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one in the same instrument.

**21.00 Restrictions on Lobbying:**

**21.10 Federal:** The Agency agrees that no federal appropriated funds have been paid or will be paid by or on behalf of the Agency, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federal appropriated funds have been paid by the Agency to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Joint Participation Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Agency shall require that the language of this section be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

**21.20 State:** No funds received pursuant to this contract may be expended for lobbying the Legislature or a state agency.

**22.00 Vendors Rights:** Vendors (in this document identified as Agency) 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 unless the bid specifications, purchase order or contract specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

If a payment is not available within 40 days after receipt of the invoice and receipt, inspection and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3)(b), F.S. will be due and payable, in addition to the invoice amount to the Agency. The interest penalty provision applies after a 35 day time period to health care providers, as defined by rule. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices which have to be returned to an Agency because of vendor preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from the Department. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the Department of Financial Services Hotline, 1-800-848-3792.

**23.00 Public Entity Crime:** 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 s. 287.017, F.S. for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

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

Financial Project No. 423865-1  
Contract No. APF02  
Agreement Date 1/23/09

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

AGENCY R2008 2248  
DEC 02 2008

FDOT

Palm Beach County Board of County Commissioners

AGENCY NAME

See attached Encumbrance Form for date of Funding Approval by Comptroller 1/23/09

John F. Koops  
SIGNATORY (PRINTED OR TYPED)

Annice C. Gray  
LEGAL REVIEW

John F Koops  
SIGNATURE

Annice C. Gray  
DEPARTMENT OF TRANSPORTATION

Chairman

Annice C. Gray  
DEPARTMENT OF TRANSPORTATION  
Director of Transportation Development

TITLE

TITLE

Sharon R. Bock, Clerk & Comptroller  
Palm Beach County

By Sharon R. Bock  
Deputy Clerk



APPROVED AS TO FORM AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

[Signature]

Palm Beach County Attorney

[Signature]

Executive Director  
PALM TRAN

Financial Project No. 423865-1

Contract No.

APF02

Agreement Date

1/23/09

### EXHIBIT "A"

### PROJECTS DESCRIPTION AND RESPONSIBILITIES

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida, Department of Transportation and Palm Beach County Board of County Commissioners,  
3201 Electronics Way, West Palm Beach, FL 33407  
referenced by the above Financial Project Number

#### PROJECT LOCATION:

Palm Beach County

#### PROJECT DESCRIPTION:

The purpose of this agreement is to provide funding for construction of park and ride lots, which will facilitate express bus.

#### SPECIAL CONSIDERATIONS BY AGENCY:

The audit report(s) required in paragraph 7.60 of the Agreement shall include a schedule of project assistance that will reflect the Department's contract number, Financial Project Number and the Federal Identification number, where applicable, and the amount of state funding action (receipt and disbursement of funds) and any federal or local funding action and the funding action from any other source with respect to the project.

#### SPECIAL CONSIDERATIONS BY DEPARTMENT

The Department has 10 working days to review invoices after receipt of invoice package and corresponding progress report.

Financial Project No. 423865-1  
 Contract No. APF 02  
 Agreement Date 1/23/09

**EXHIBIT "B"  
 PROJECT BUDGET**

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida,

Department of Transportation and Palm Beach County Board of County Commissioners,

3201 Electronics Way, West Palm Beach, FL 33407

referenced by the above Financial Project Number.

I.	PROJECT COST.				\$490000
<hr/>					
	TOTAL PROJECT COST:				\$490000
II.	PARTICIPATION:				
	Maximum Federal Participation	(	%)	or	\$
	Agency Participation				
	In-Kind	(	%)	or	\$
	Cash	(	%)	or	\$
	Other	(	%)	or	\$
	Maximum Department Participation,				
	Primary	(	%)	or	\$ 490000
	Federal Reimbursable	(	%)	or	\$
	Local Reimbursable	(	%)	or	\$
<hr/>					
	TOTAL PROJECT COST:				\$490000

FM NO. 403806-1  
CONTRACT NO. APF02

EXHIBIT "C"

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida, Department of Transportation and the Palm Beach County Board of County Commissioners, dated: 1/23/09.

Reference statutes as applicable: Chapter 341

DOCUMENTS REQUIRED TO BE SUBMITTED TO THE DEPARTMENT BY THE AGENCY IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT:

1. All proposals, plans, specifications, and 3<sup>rd</sup> party contracts covering the project for Departmental approval.
2. Copies of all correspondence related to this project.
3. Audit Reports as described in Section 7.60 of this JPA.
4. Quarterly Progress Reports provided within thirty (30) days of the end of the quarter.
5. Three (3) original Invoice Summaries and backup information must be submitted to the District Office when requesting payment.
6. A final report concerning the results of this project must be received within 60 days of the expiration of this project.

## EXHIBIT D

STATE AGENCY: FDOT

FM# 423865-1-94-01

CSFA #: 55.014

TITLE: Intermodal Development Program

AMOUNT: \$ 240,000.00

AUTHORIZATION: Section 341.053, Florida Statutes

### COMPLIANCE REQUIREMENTS:

#### Restrictions:

Projects funded under the program should be consistent to the maximum extent feasible with approved local government comprehensive plans for the unit of government in which the project is located. Projects are also identified through legislative proviso. No single transportation authority or single fixed-guide way transportation system receiving funds under the Intermodal Development Program is to receive more than 33 1/3 percent of the total intermodal development funds appropriated between July 1, 1990, and June 30, 2015.

#### Application Procedures:

District Offices consult with appropriate Metropolitan Planning Organizations in urbanized areas, or Boards of County Commissioners in non-urbanized area, to identify projects that may be eligible for Intermodal Development Program funding. For each candidate project an Intermodal Project Description is prepared. Application procedures are described in the work program instructions and are established by each District.

#### Award Procedures:

District personnel are responsible for the review and approval of the intermodal projects selected for annual formula funding.

#### Information Contact:

Department of Transportation  
Public Transportation Office  
605 Suwannee Street, Mail Station 68  
Tallahassee, FL 32399-0450  
Phone: (850) 414-4551

## EXHIBIT E

STATE AGENCY: FDOT                      FM#423865-1-94-01

CSFA #: 55.011

TITLE: Park and Ride Lot Program

AMOUNT: \$ 250,000.00

AUTHORIZATION: Chapter 341, Florida Statutes

### COMPLIANCE REQUIREMENTS:

#### Restrictions:

Proposed facilities must be part of a District park and ride project list. The Department may provide funds for the planning, design, right-of-way acquisition, engineering, construction, inspection, and marketing of park and ride lots that are part of an approved Park and Ride project list or other locally adopted plan. Additionally, the Department may fund 100 percent of a Park and Ride project when it is carried out totally by the Department, when title to such facility is to be retained by the Department, or when approved for the Local Advance Program.

Park and Ride facilities constructed by the Department or funded in whole or in part by the Department, must be sited, sized, and promoted in such a way that there is a reasonable expectation of at least an average 60 percent occupancy. Park and Ride facilities also serve as intermodal facilities and, as such, should be designed to facilitate transfer between modes.

#### Procedures:

725-030-002 entitled "Park and Ride Lot Program"

#### Other:

If a facility is to be a shared use operation or is to be operated by others, the Department shall negotiate and execute a ten year maintenance agreement with the party that intends to share or operate the facility. The agreement shall delineate the responsibilities of each participant and shall be included as a special consideration of the Department in all contractual arrangements

#### Information Contact:

Department of Transportation  
Public Transportation Office  
605 Suwannee Street, Mail Station 57  
Tallahassee, FL 32399-2435  
Phone: (850) 414-4519 SUNCOM: 994-4519  
<http://www.dot.state.fl.us/transit/default.htm>

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
PUBLIC TRANSPORTATION  
SUPPLEMENTAL JOINT PARTICIPATION AGREEMENT  
Number 1

725-030-07  
PUBLIC TRANSPORTATION  
04/07  
Page 1 of 4

Financial Project No.: 42386519401 <small>(item-segment-phase-sequence)</small>	Fund: DPTO, DS, DDR Function: 680 Federal No.: n/a DUNS No.: 80-939-7102	FLAIR Approp.: 08874 FLAIR Obj.: 750011 Org. Code: 55042010429 Vendor No.: 596000785153
Contract No.: APF02	Catalog of Federal Domestic Assistance Number: n/a	Catalog of State Financial Assistance Number: 55011

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_  
by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida,  
hereinafter referred to as the Department, and Palm Beach County Board of County Commissioners (Palm Tran)  
3201 Electronics Way, West Palm Beach, FL 33407  
hereinafter referred to as Agency.

WITNESSETH:

WHEREAS, the Department and the Agency heretofore on the 23rd day of January, 2009  
entered into a Joint Participation Agreement; and

WHEREAS, the Agency desires to accomplish certain project items as outlined in the Attachment "A" appended  
hereto; and

WHEREAS, the Department desires to participate in all eligible items for this project as outlined in Attachment  
"A" for a total Department Share of \$774,258.00

NOW, THEREFORE THIS INDENTURE WITNESSETH: that for and in consideration of the mutual benefits to flow  
from each to the other, the parties hereto agree that the above described Joint Participation Agreement is to be amended  
and supplemented as follows:

**1.00 Project Description:** The project description is amended  
to provide additional funds for planning, design and construction of Park and Ride lots in Palm Beach and Martin  
Counties, which will facilitate express buses.

**This Supplemental JPA Number 1, is Item 3AA4 on  
the June 2<sup>nd</sup> 2009 BCC Meeting**

**2.00 Project Cost:**

Paragraph 3.00 of said Agreement is increased by \$284,258.00  
bringing the revised total cost of the project to \$ 774,258.00

Paragraph 4.00 of said Agreement is increased by \$284,258.00  
bringing the Department's revised total cost of the project to \$ 774,258.00

**3.00 Amended Exhibits:**

Exhibit(s) \_\_\_\_\_ of said Agreement is amended by Attachment "A".

**4.00 Contract Time:**

Paragraph 18.00 of said Agreement N/A

**This Supplemental JPA Number 1, is Item 3AA4 on  
the June 2<sup>nd</sup> 2009 BCC Meeting**

Financial Project No. \_\_\_\_\_

Contract No. \_\_\_\_\_

Agreement Date \_\_\_\_\_

Except as hereby modified, amended or changed, all other terms of said Agreement dated \_\_\_\_\_ and any subsequent supplements shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

AGENCY

FDOT

See attached Encumbrance Form for date of Funding Approval by Comptroller

\_\_\_\_\_  
AGENCY NAME

\_\_\_\_\_  
SIGNATORY (PRINTED OR TYPED)

\_\_\_\_\_  
LEGAL REVIEW  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
TITLE

**This Supplemental JPA Number 1, is Item 3AA4 on**

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

**the June 2<sup>nd</sup> 2009 BCC Meeting**

\_\_\_\_\_  
Palm Beach County Attorney

\_\_\_\_\_  
Executive Director

Financial Project No. \_\_\_\_\_  
 Contract No. \_\_\_\_\_  
 Agreement Date \_\_\_\_\_

ATTACHMENT "A"  
 SUPPLEMENTAL JOINT PARTICIPATION AGREEMENT

This Attachment forms an integral part of that certain Supplemental Joint Participation Agreement between the State of Florida, Department of Transportation and \_\_\_\_\_  
 dated \_\_\_\_\_

DESCRIPTION OF SUPPLEMENT (Include justification for cost change):

to provide additional funds for planning, design and construction of Park and Ride lots in Palm Beach and Martin County, which will facilitate express buses.

I. Project Cost:	As Approved	As Amended	Net
	\$490,000.00	\$774,258.00	\$0.00
Total Project Cost	\$0.00	\$0.00	\$0.00
I. Fund	As Approved	As Amended	Net
Department:	\$490,000.00	\$774,258.00	\$284,258.00
Agency:	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00
Total Project Cost	\$0.00	\$0.00	\$0.00

Comments:

**This Supplemental JPA Number 1, is Item 3AA4 on  
 the June 2<sup>nd</sup> 2009 BCC Meeting**

III. MULTI-YEAR OR PREQUALIFIED PROJECT FUNDING

If a project is a multi-year or prequalified project subject to paragraphs 4.10 and 17.20 of this agreement, funds are programmed in the Department's Work program in the following fiscal year(s):

FY	\$0.00	FY	\$0.00
FY	\$0.00	FY	\$0.00
FY	\$0.00	FY	\$0.00
FY	\$0.00	FY	\$0.00
FY	\$0.00	FY	\$0.00
FY	\$0.00	FY	\$0.00
FY	\$0.00	FY	\$0.00
FY	\$0.00	FY	\$0.00
FY	\$0.00	FY	\$0.00
FY	\$0.00	FY	\$0.00

Project years may be advanced or deferred subject to Legislative appropriation or availability of funds.

**This Supplemental JPA Number 1, is Item 3AA4 on  
the June 2<sup>nd</sup> 2009 BCC Meeting**