RESOLUTION NO. 13-293

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE ATTACHED "LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT (#2)" BETWEEN THE CITY OF KEY WEST AND THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR ADDITIONAL FUNDING OF $223,154.00 FOR THE DESIGN OF THE SOUTH ROOSEVELT BOULEVARD RECONSTRUCTION PROJECT; APPROVING ANY NECESSARY BUDGET AMENDMENTS; PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the attached Supplemental Local Area Program (LAP) grant agreement (#2) with the State of Florida Department of Transportation (FDOT) in order to provide additional funding in the amount of $223,154.00 for the design of the South Roosevelt Boulevard Reconstruction Project is hereby approved, and the City Manager is authorized to execute the Agreement.

Section 2: That amendments to the budget reflecting any related adjustments in FDOT LAP grant revenue, 102-0000-334-39-00/GR0603, and to project expense account 102-4102-541-31-00/GR0603 are hereby authorized.

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 19 day of November, 2013.

Authenticated by the presiding officer and Clerk of the Commission on November 20, 2013.

Filed with the Clerk November 20, 2013.

Mayor Craig Cates	Yes
Vice Mayor Mark Rossi	Yes
Commissioner Teri Johnston	Yes
Commissioner Clayton Lopez	Yes
Commissioner Billy Wardlow	Yes
Commissioner Jimmy Weekley	Yes
Commissioner Tony Yaniz	Yes

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

THE CITY OF KEY WEST
Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

MEMORANDUM

EXECUTIVE SUMMARY

TO: Bob Vitas, City Manager

CC: E. David Fernandez, Asst. City Manager – Operations
Mark Finigan, Assistant City Manager - Administration

FROM: Carolyn Sheldon, Grants Administrator

DATE: October 25, 2013

SUBJECT: **Approving and authorizing the City Manager to execute Local Agency Program (LAP) Supplemental Agreement #2 between the City of Key West and the Florida Department of Transportation (FDOT) for additional funding of $223,154.00 for the design of the South Roosevelt Boulevard Reconstruction Project; approving any budget amendments or transfers necessary to accept the funding**

ACTION STATEMENT:
This resolution will approve and authorize the City Manager to execute Local Agency Program (LAP) Supplemental Agreement #2 between the City of Key West and the Florida Department of Transportation (FDOT) for additional funding of $223,154.00 for the design of the South Roosevelt Boulevard Reconstruction Project (GR0603) and approve any budget amendments or transfers necessary to accept the funding. The $223,154.00 will be added to the $596,940.33 currently funded for a total of $820,094.33 in design funding. No matching funds are required.

BACKGROUND:
The LAP Agreement for the design of the South Roosevelt Boulevard Reconstruction Project (FM 250548-4) was ratified with Resolution 08-122 on May 6, 2008. The original LAP Agreement was in the amount of $500,000.00 and was signed on December 12, 2004. Resolution 08-122 also approved LAP Supplemental Agreement #1 for additional funding of $96,940.33 for the design of 400 L.F. of roadway and seawall that was not included in FDOT's South Roosevelt Boulevard project (east end of Smathers Beach to US1).

The missing roadway and seawall section was added to the City's project which begins at Bertha Street and continues to the east end of Smathers Beach to provide a complete project from Bertha Street to US1. This project addresses Infrastructure Goal #1 of the 2011 Strategic Plan, a transportation system which is aesthetically attractive, functional, and safe.

Metric Engineering Inc., formerly Sanchez-Zeinali and Associates, is under contract with the City to perform engineering services related to the South Roosevelt Boulevard Reconstruction Project.

PURPOSE & JUSTIFICATION:

The additional funding is needed to complete the design of the South Roosevelt Reconstruction Project. Key factors affecting the completion of the design are: the North Roosevelt Reconstruction Project anticipated to be complete July 2014 and availability of construction funds not anticipated prior to 2016. A time extension to December 30, 2016 for the design phase was approved by FDOT. It is certain FDOT Standards and Criteria will change by the time funds are programmed for the construction of this project (anticipated in 2016). The cost of having a design and bid documents updated to current standards (when funds are programmed) is included in the additional funding.

The City is required to submit a LAP Supplemental Agreement to accept the additional $223,154.00. The funding is 100% FDOT. There is no local match required.

OPTIONS:

1. Approve the LAP Supplemental Agreement and authorize the City Manager to execute the LAP Supplemental Agreement #2. This allows for an additional $223,154.00 in FDOT funding to complete the design of the South Roosevelt Boulevard Reconstruction Project. Design funding will be increased to $820,094.33 and the design would be 100% funded by FDOT.

2. Do not approve LAP Supplemental Agreement #2. With this option, the City would need to fund the additional $223,154.00 needed to complete the design or repay the funding already reimbursed by FDOT ($484,934.87) if the project will not be completed.

FINANCIAL IMPACT:

LAP Supplemental Agreement #2, if approved, will increase grant revenue by $223,154.00 (FDOT LAP Grant revenue account 102-0000-334-39-00) / Project GR0603.

The project costs associated with the South Roosevelt Boulevard Reconstruction Project are budgeted in expense account 102-4102-541-31-00 / GR0603 and would need to be increased by $223,154.00.

RECOMMENDATION:

Staff recommends the City Commission select option 1, approve the LAP Supplemental Agreement and authorize the City Manager to execute LAP Supplemental Agreement #2 allowing for an additional $223,154.00 in FDOT funding to complete the design of the South Roosevelt Boulevard Reconstruction Project.

SUPPLEMENTAL NO. 2 DUNS NO. 07-986-4898	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION **LOCAL AGENCY PROGRAM** **SUPPLEMENTAL** **AGREEMENT**	FPN 250548-4 CONTRACT NO. ANT08

The City of Key West desires to supplement the original Agreement entered into and executed on December 12, 2004 as identified above. All provisions in the original Agreement and supplements, if any, remain in effect except as expressly modified by this supplement.

The changes to the Agreement and supplements, if any, are described as follows:

PROJECT DESCRIPTION

Name Reconstruction of SR A1A (South Roosevelt Boulevard) in the City of Key West Length 0.777 mile

Termini From Bertha Street to East End of Smathers Beach

Description of Work:
This project consists of the complete reconstruction of SR A1A (South Roosevelt Boulevard) from Bertha Street to the east end of Smathers Beach in the City of Key West. As part of this project, new drainage will be provided as well as signing and pavement markings.

Reason for Supplement and supporting engineering and/or cost analysis:
The Local Agency is requesting additional funding of $223,154.00 for Phase 38 with Supplemental Agreement #2. This will increase funding from $596,940.33 to $820,094.33. The design of this project is ongoing. Key factors affecting the completion of the design are: the North Roosevelt Reconstruction Project anticipated to be complete July 2014 and availability of construction funds not anticipated prior to 2016. A time extension to December 30, 2016 for Phase 38 was approved by FDOT on October 15, 2012.

The additional $223,154.00 is needed as a result of the time delay mentioned in the previous paragraph. Some of the items that are included in the funding are revising of the typical section to meet current FDOT Design Standards and PPM requirements, a new pavement design, a pedestrian crosswalk study, updating drainage design to the latest standards and obtaining South Florida Water Management District (SFWMD) permits.

The $223,154.00 is an amount negotiated between FDOT and Metric Engineering, Inc.

ADJUSTED EXHIBIT B SCHEDULE OF FUNDING

SUPPLEMENTAL NO. 2	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION **LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT**	FPN 250548-4
DUNS NO. 07-986-4898		CONTRACT NO. ANT08

TYPE OF WORK By Fiscal Year	FUNDING				
	(1) PREVIOUS TOTAL PROJECT FUNDS	(2) ADDITIONAL PROJECT FUNDS	(3) CURRENT TOTAL PROJECT FUNDS	(4) TOTAL AGENCY FUNDS	(5) TOTAL STATE & FEDERAL FUNDS
Planning					
FY:					
FY:					
FY:					
FY:					
FY:					
FY:					
Total Planning Cost	$0.00	$0.00	$0.00	$0.00	$0.00
Project Development & Environment (PD&E)					
FY:					
FY:					
FY:					
FY:					
FY:					
FY:					
Total PD&E Cost	$0.00	$0.00	$0.00	$0.00	$0.00
Design					
FY: 2004-2005	$500,000.00		$500,000.00		$500,000.00
FY: 2008-2009	$96,940.33		$96,940.33		$96,940.33
FY: 2013-2014		$223,154.00	$223,154.00		$223,154.00
FY:					
FY:					
FY:					
Total Design Cost	$596,940.33	$223,154.00	$820,094.33	$0.00	$820,094.33
Right-of-Way					
FY:					
FY:					
FY:					
FY:					
FY:					
FY:					
Total Right-of-Way Cost	$0.00	$0.00	$0.00	$0.00	$0.00
Construction					
FY:					
FY:					
FY:					
FY:					
FY:					
FY:					
Total Construction Cost	$0.00	$0.00	$0.00	$0.00	$0.00
Construction Engineering and Inspection (CEI)					
FY:					
FY:					
FY:					
FY:					
FY:					
FY:					
Total CEI Cost	$0.00	$0.00	$0.00	$0.00	$0.00
Total Construction & CEI Costs	$0.00	$0.00	$0.00	$0.00	$0.00
TOTAL COST OF THE PROJECT	**$596,940.33**	**$223,154.00**	**$820,094.33**	**$0.00**	**$820,094.33**

SUPPLEMENTAL NO. 2	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION **LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT**	FPN 250548-4
DUNS NO. 07-986-4898		CONTRACT NO. ANT08

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

AGENCY : City of Key West

By: _____
Name: Bob Vitas
Title: City Manager

Attest: _____
Name: Cheri Smith
Title: City Clerk

Date: 21 NOVEMBER 2013

Legal Review: City Attorney Shawn Smith

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: _____
Name: Harold A. Desdunes, P.E.
Title: District Director of Transportation Development

Attest: _____
Name: Margaret A. Higgins
Title: Executive Secretary

Date: 12/13/2013

See attached Encumbrance Form for date of funding approval by Comptroller.

Florida Department of Transportation

RICK SCOTT
GOVERNOR

District Six
1000 NW 111th Avenue
Miami, FL 33172

ANANTH PRASAD
SECRETARY

December 17, 2013

Carolyn D. Sheldon
Grants Administrator
City of Key West
3140 Flagler Avenue
Key West, Florida 33040

Project Description: SR A1A/S. ROOSEVELT FROM BERTHA ST (STA 0+00) TO RIGGS WILDLIFE PRESERV.

FM No. 250548-4
Contract No. ANT08
Federal ID: 6239-028-U
County: Monroe

RE: **LAP Agreement Notice to Proceed**

Dear Ms. Carolyn,

Enclose you will find a copy of the executed Supplemental Agreement # 2. The City of Key West is now authorized to proceed with Design services (Phase 38) with the terms of the Supplemental Agreement No. 2.

For further reference, please contact District 6 LAP coordinator, Alfredo Reyna, at (305) 470-5288

Sincerely,

Vicki Gatanis,
District LAP Administrator

Cc: Alfredo Reyna, File

RESOLUTION NO. 08-122

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED SUPPLEMENTAL AGREEMENT TO LOCAL AGENCY PROGRAM -- FPN #250548-4-3801, BETWEEN THE CITY AND THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR RECONSTRUCTION OF SR A1A (SOUTH ROOSEVELT BOULEVARD) BETWEEN BERTHA STREET AND SMATHERS BEACH IN THE AMOUNT OF $96,940.33, BRINGING THE TOTAL PROJECT AMOUNT TO $596,640.33; RATIFYING THE ORIGINAL AGREEMENT EXECUTED BY THE CITY MANAGER ON DECEMBER 12, 2004; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the prior City Manager executed a Local Agency Program with FDOT for reconstruction along A1A - South Roosevelt Boulevard on December 12, 2004; and

WHEREAS, no resolution authorizing the execution of the agreement can be located despite the fact significant work has been completed under the agreement; and

WHEREAS, it is necessary to amend the agreement to add an area not included in the original agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the attached Supplemental Agreement to the FDOT LAP is hereby approved and the original agreement executed on December 12, 2004 by the City Manager is hereby ratified.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 6th day of May, 2008.

Authenticated by the presiding officer and Clerk of the Commission on May 7, 2008.

Filed with the Clerk May 7, 2008.

MORGAN McPHERSON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

MEMORANDUM

To: Jim Scholl, City Manager

From: Roland Flowers P.E., City Engineer

Date: April 16, 2008

Subject: Ratify Local Agency Program Agreement (LAP) FPN 250548-4, Reconstruction of SR A1A (South Roosevelt Boulevard) in the City of Key West with the Florida Department of Transportation (FDOT) and Supplement No. 1 to Local Agency Program Agreement FPN 250548-4 Reconstruction of SR A1A (South Roosevelt Boulevard) in the City of Key West

BACKGROUND:

On April 6, 2004 the City of Key West passed Resolution 04-146 selecting Sanchez Zeinali Associates Inc. to provide engineering design services for the reconstruction of South Roosevelt Boulevard from Bertha Street to the east end of Smathers Beach. On December 12, 2004 the City Manager executed Local Agency Program Agreement (LAP) FPN 250548-4, Reconstruction of SR A1A (South Roosevelt Boulevard) in the City of Key West with the Florida Department of Transportation (FDOT) for the design. The FDOT was proceeding with the design from the East end of Smathers Beach to the intersection of US 1 (the triangle) while the City's consultant was designing the section identified above. A section of roadway from the East end of Smathers Beach approximately 500 feet to the east was left out of the FDOTs design and subsequent construction. This Supplement to the LAP agreement, 100% funded by the FDOT, will provide for the design services to design the area left out of both projects and provide a complete project from Bertha Street east to the location the FDOTs project ended. The City's consultant has completed 90% of the design and billings have been submitted to and reimbursed by the FDOT. This Resolution will also formally ratify the LAP signed by the City Manager on December 12, 2204.

OPTIONS:

1. Authorize Supplement No.1 to Local Agency Program Agreement FPN 250548-4 Reconstruction of SR A1A (South Roosevelt Boulevard) in the City of Key West
   Advantage: The City's Consultant Engineer can proceed with the design for the area left out of the original project
   Disadvantage: None
   Funding: Funded by the FDOT $96,940.33
2. Do not Authorize Supplement No. 1 to Local Agency Program Agreement FPN 250548-4 Reconstruction of SR A1A (South Roosevelt Boulevard) in the City of Key West
   Advantage: None

Disadvantage: When the portion of South Roosevelt between Bertha Street and the East end of Smathers Beach is reconstructed approximately 500 feet of roadway east of the end of Smathers Beach will remain in its current condition.
Funding: N/A

Recommendation: Authorize Supplement No. 1 to Local Agency Program Agreement FPN 250548-4 Reconstruction of SR A1A (South Roosevelt Boulevard) in the City of Key West and ratify Local Agency Program Agreement (LAP) FPN 250548-4, Reconstruction of SR A1A (South Roosevelt Boulevard) in the City of Key West with the Florida Department of Transportation (FDOT) signed by the City Manger on December 12, 2004.

08-122

Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

1000 N.W. 111th Avenue
Miami, Florida 33172

STEPHANIE C. KOPELOUSOS
SECRETARY

RECEIVED
2008 DEC 18 AM 11:57
CITY OF KEY WEST
KEY WEST, FLORIDA

December 11, 2008

Ms. Cheryl Smith
City of Key West
Post Office Box 1409
Key West, Florida 33041

Reference: LAP Agreement Notice to Proceed
Financial No.: 250548-4
Contract No: ANT08
SR A1A South Roosevelt Boulevard

Dear Ms. Smith:

Enclosed you will find a copy of the aforementioned LAP Agreement. The City can proceed with the project and will be eligible for reimbursement of funds under the condition of the agreement.

If you have any questions, please do not hesitate to contact me at (305) 470-5289.

Sincerely,

Danny Iglesias, P.E.
District LAP Administrator

Cc: Teresa Alvarez, Anamari Martinez, File

SUPPLEMENTAL NO. 1 DUNS NO. 80-939-7102	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION **LOCAL AGENCY PROGRAM SUPPLEMENTAL AGREEMENT**	FPN 250548-4 CONTRACT NO. ANT08

The City of Key West desires to supplement the original Agreement entered into and executed on December 12, 2004 as identified above. All provisions in the original Agreement and supplements, if any, remain in effect except as expressly modified by this supplement.

The changes to the Agreement and supplements, if any, are described as follows:

PROJECT DESCRIPTION

Name Reconstruction of SR A1A (South Roosevelt Boulevard) in the City of Key West Length 0.777 mile

Termini From Bertha Street to East End of Smathers Beach

Description of Work:

This project consists of the complete reconstruction of SR A1A (South Roosevelt Boulevard) from Bertha Street to the east end of Smathers Beach at the City of Key West. As part of this project, new drainage will be provided as well as new lighting and signing and pavement markings.

Reason for Supplement:

A supplement is being requested for this project to add a section of sheet pile wall at the east end of the project. The sheet pile wall is needed to protect the roadway from the ocean located immediately south of the back of sidewalk within our project limits. Currently, there is a sloped concrete wall which connects the back of sidewalk to the bottom of the beach at this location. The project that FDOT completed immediately east of our project limits, provided a sheet pile wall to protect the road from the ocean. The small section of our project left without a wall will act as flume during storms and fill the road with seagrass and other debris when tides are higher than the elevation of the back of sidewalk. In addition, the erosion of the tides can also compromise the integrity of the roadway section within our project limits. As a result, we are requesting to extend a similar design of the sheet pile wall installed by FDOT on the adjacent project within the east east end of our project to close the existing gap.

The addition of the sheet pile wall will require that survey of the ocean is performed along the proposed alignment of the wall to identify existing bottom elevations as well as to determine the existence of possible impacts to sea grass. The proposed work will need to be permitted with South Florida Water Management and the US Army Corp of Engineers.

In addition, SR A1A (South Roosevelt Boulevard) has a significant amount of pedestrian traffic across it. The pedestrian traffic is generated by several conditions which include a parking area immediately north of the project, condominium towers along the north side of the road, and the presence of the beach adjacent to the south side of the road. There are no protected pedestrian crossings within the entire limits of the project. As a result, a supplement is also requested to complete the required study, analysis, and design of an actuated protected pedestrian crossing within the project limits.

FPN 250548-4
CONTRACT NO. ANT08

TYPE OF WORK By Fiscal Year	FUNDING				
	(1) PREVIOUS TOTAL PROJECT FUNDS	(2) ADDITIONAL PROJECT FUNDS	(3) CURRENT TOTAL PROJECT FUNDS	(4) TOTAL AGENCY FUNDS	(5) TOTAL STATE & FEDERAL FUNDS
Planning					
2007-2008					
2008-2009					
2009-2010					
Total Planning Cost	$0.00	$0.00	$0.00	$0.00	$0.00
Project Development & Environment (PD&E)					
2007-2008					
2008-2009					
2009-2010					
Total PD&E Cost	$0.00	$0.00	$0.00	$0.00	$0.00
Design					
2007-2008					
2008-2009					
2009-2010					
Total Design Cost	$500,000	$96,940.33	$596,940.33	$0.00	$596,940.33
Right-of-Way					
2007-2008					
2008-2009					
2009-2010					
Total Right-of-Way Cost	$0.00	$0.00	$0.00	$0.00	$0.00
Construction					
2007-2008					
2008-2009					
2009-2010					
2010-2011					
Total Construction Cost	$0.00	$0.00	$0.00	$0.00	$0.00
Construction Engineering and Inspection (CEI)					
2007-2008					
2008-2009					
2009-2010					
2010-2011					
Total CEI Cost	$0.00	$0.00	$0.00	$0.00	$0.00
Total Construction & CEI Costs	$0.00	$0.00	$0.00	$0.00	$0.00
TOTAL COST OF THE PROJECT	$500,000	$96,940.33	$596,940.33	**$0.00**	$596,940.33

FPN 250548-4
CONTRACT NO. ANT08

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

AGENCY

By: J. K. Scholl
Name: J. K. SCHOLL
Title: CITY MANAGER

Attest: Cheryl Smith
Name: Cheryl Smith
Title: City Clerk

Date: 5-15-08

As to form:

Attorney SHANN D. SMITH CITY ATTORNEY

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By:
Name:
Title:

Attest:
Name:
Title:

Date:

As to form:

District Attorney

See attached Encumbrance Form for date of funding approval by Comptroller.

State of Florida Department of Transportation

LOCAL AGENCY PROGRAM AGREEMENT

FPN No.: 250548-4	Fund: SE	FLAIR Approp.: 088849
Federal No.:	Org. Code: 55064010612 HC	FLAIR Obj.:
FPN No.: 250548-4-3808	Fund: SE	FLAIR Approp.: 088849
Federal No.:	Org. Code: 55064010612 HC	FLAIR Obj.:
County No.: Monroe	Contract No: ANTOB	Vendor No.: VF 596000346036
Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction		

THIS AGREEMENT, made and entered into this 12 day of December, 2004 by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the Department, and The City of Key West located at 604 Simonton Street, Key West, Florida 33041 hereinafter called the Agency.

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 Section 334.044, Florida Statutes to enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:
The purpose of this Agreement is to provide for the Department's participation in
and as further described in Exhibit "A" attached hereto and by this reference made a part

1.00 Purpose of Agreement:
hereof, hereinafter called 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.

1.01 Modifications and Additions: Exhibit(s) C are attached hereto and by this reference made a part hereof.

2.00 Accomplishment of the Project:

2.01 General Requirements: The Agency shall commence, and complete the project as described in EXHIBIT "A" with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Agency Program Manual, which by this reference is made a part hereof as if fully set forth herein.

2.02 Expiration of Agreement: The Agency agrees to complete the project on or before December 31, 2008
If the Agency does not complete the project within this time period, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. Expiration of this Agreement will be considered termination of the project. The cost of any work performed after the expiration date of the Agreement will not be reimbursed by the Department. A full time employee of the Agency, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in charge of each project.

2.03 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.

2.04 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. 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 and the Federal Highway Administration may require.

3.00 Project Cost:

3.01 Total Cost: The estimated total cost of the project is $ 500,000. This amount is based upon the schedule of funding in Exhibit "B" attached hereto and by this reference made a part hereof. The Agency agrees to bear all expenses in excess of the total cost of the project and any deficits involved. The schedule of funding may be modified by mutual agreement as provided for in paragraph 4.00 of this agreement.

3.02 Department Participation: The Department agrees to participate, including contingencies, in the project cost to the extent provided in Exhibit "B". This amount includes Federal-aid funds which are limited to the actual amount of Federal-aid participation.

3.03 Limits on Department Funds: Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible project costs is subject to:

3.04 Appropriation of Funds: The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this project is in multiple fiscal years, funds approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See Exhibit B for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.

a) Legislative approval of the Department's appropriation request in the work program year that the project is scheduled
b) Availability of funds as stated in paragraphs 3.04 and 3.05 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 at the time appropriation authority becomes available.

3.05 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 Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The department shall require a statement from the comptroller of the Department that 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 and which have a term for a period of more than 1 year."

3.06 Notice to Proceed: No cost may be incurred under this contract until the Agency has received a Notice to Proceed from the Department.

3.07 Limits on Federal Participation: Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported, the Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for Federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or project costs in part or in total.

For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Agency shall promptly reimburse the Department for all such amounts within 90 days of written notice.

4.00 Project Estimate and Disbursement Schedule: Prior to the execution of this Agreement, a project schedule of funding, shall be prepared by the Agency and approved by the Department. The Agency shall maintain said schedule of funding, carry out the project and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved schedule of funding for the project. The schedule of funding may be revised by mutual written agreement between the Department and the Agency. If revised, a copy of the revision should be forwarded to the Department's Comptroller and to the Department's Federal-Aid Program Office. No increase or decrease shall be effective unless it complies with fund participation requirements established in Exhibit "B" of this Agreement and is approved by the Department's Comptroller.

5.00 Records:

5.01 Establishment and Maintenance of Accounting Records: Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five(5) years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred includes the Agency's general accounting records and the project records, together with supporting documents and records, of the Agency and all subcontractors performing work on the project and all other records of the Agency and subcontractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the five(5) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

5.02 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 schedule of funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

5.03 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.

5.04 Audit Reports: Recipients of Federal and State funds are to have audits done annually using the following criteria:

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

If a recipient expends less than $300,000 in federal awards during its fiscal year, an audit conducted in accordance with the **OMB Circular A-133** is not required. If a recipient expends less than $300,000 in federal awards during its fiscal year and elects to have an audit conducted in accordance with **OMB Circular A-133**, the cost of the audit must be paid from non-federal funds.

In the event that a recipient expends $300,000 or more in federal awards in its fiscal year, the recipient must have a single or program specific audit conducted in accordance with the **United States Office of Management and Budget (OMB) Circular A-133.**

Reporting Packages and management letters generated from audits conducted in accordance with **OMB Circular A-133** shall be submitted to the awarding FDOT office, by the recipient, within 30 days of receiving it. The aforementioned items are to be received by the appropriate FDOT office no later than 9 months after the end of the recipient's fiscal year.

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

Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the FDOT, the Comptroller, and the Office of the Auditor General.

The recipient shall submit required audit documentation as follows:

A Reporting Package and Data Collection Form for each audit conducted in accordance with **OMB Circular A-133** shall be sent to:

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

5.[illegible] Inspection: The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the project.

The Department reserves the right to unilaterally cancel this Agreement for refusal by the Agency or any contractor, subcontractor or materials vendor to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement.
(Section 287.058(1)(c), Florida Statutes)

5.06 Uniform Relocation Assistance and Real Property Statistical Report: For any project requiring additional right of way, the Agency must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 CFR 24, Appendix B and be submitted to the Department no later than October 15 each year.

6.00 Requisitions and Payments: Requests for reimbursement for fees or other compensation for services or expenses incurred shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. (Section 287.058(1)(a), Florida Statutes)

All recipients of funds from this agreement, including those contracted by the Agency, must submit bills for any travel expenses, when authorized by the terms of this agreement, in accordance with Section 112.061 Florida Statutes and Chapter 3-Travel of the Department's Disbursement Operations Manual, Topic 350-030-400.
(Section 287.058(1)(b), Florida Statutes)

If [illegible]er project completion, any claim is made by the Department resulting from an audit or for work or services performed pu[illegible]uant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting any amount pursuant to this section shall not be considered a breach of contract by the Department.

The Department's Obligations: Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency 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 if:

7.01 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;

7.02 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, this Agreement or payments to the project;

7.03 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 expenditure or incurred related obligations without having been advised by the Department that same are approved;

7.04 Conflict of Interests: There has been any violation of the conflict of interest provisions contained herein in 12.06; or

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

7.06 Federal Participation: The Department may suspend or terminate payment for that portion of the project which the FHWA, or the Department acting in lieu of the FHWA, may designate as ineligible for federal-aid.

7.07 Disallowed Costs: In determining the amount of the payment, the Department will exclude all project costs incurred by the Agency prior to the effective date of this Agreement or the date of authorization, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding 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.

7.08 Final Invoices: The Agency must submit the final invoice on the project to the Department within one hundred twenty (120) days after the completion of the project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

8.00 Termination or Suspension of Project:
8.01 Termination or Suspension Generally: The Department may, 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 this Agreement in whole or in part at any time the interest of the Department requires such termination.

If the Department determines that the performance of the Agency is not satisfactory, the Department shall have the option of (a) immediately terminating this Agreement or (b) suspending this Agreement and notifying the Agency of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time. Suspension of the contract will not affect the time period for completion of this Agreement.

If the Department requires termination of this Agreement for reasons other than unsatisfactory performance of the gency, the Department shall notify the Agency of such termination, with instructions as to the effective date of termination or specify the stage of work at which this Agreement is terminated.

If this Agreement is terminated before performance is completed, the Agency shall be paid for the work satisfactorily performed. Payment is to be on the basis of substantiated costs.

8.02 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: (a) 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; (b) furnish a statement of the project activities and contracts, and other undertakings the cost of which are otherwise includable as project costs. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and costs 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 estimate within a reasonable time. 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.

9.00 Contracts of the Agency:

9.01 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 funds, including consultant or construction 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. 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.

9.02 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 Section 287.055, Florida Statutes, Consultants Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the Consultant Selection Process for all projects. 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.

10.00 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

10.01 DBE Policy: It is the policy of the Department that disadvantaged business enterprises, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement.

10.02 DBE Obligation: The Agency and its contractors agree to ensure that Disadvantaged Business Enterprises as defined in applicable federal and state regulations, have the 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 applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department assisted contracts.

10.03 Disadvantaged Business Enterprise (DBE) Obligations: If Federal Transit Administration or FHWA Funding is a part of this project, the Agency must comply with applicable federal and state regulations.

11.00 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (Applicable to all federal-aid contracts – 49 CFR 29)
By signing and submitting this Agreement, the Agency is providing the certification set out below:
The inability of the Agency to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify the Agency from participation in this transaction.

The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available, the Department may terminate this transaction for cause of default.

The Agency shall provide immediate written notice to the Department if any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. The terms "covered "debarred," "suspended," ineligible," "lower tier covered transaction," "participant," "person," primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. Contact the Department for assistance in obtaining a copy of those regulations.

Agency further agrees by executing this Agreement that it shall not knowingly enter into any contracts with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.

The Agency further agrees by submitting this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all contracts and in all solicitations for contracts.

The Agency may rely upon a certification of a prospective sub-contractor that the person or entity is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. The Agency may decide the method and frequency by which it determines the eligibility of its sub-contractors. The Agency may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the Agency is not required to exceed that which is normally processed by a prudent person in the ordinary course of business dealings.

Unless authorized by the Department, if the Agency knowingly enters into a contract with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available, the Department may terminate this agreement for cause or default.
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:

The Agency certifies, by execution of this Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Where the Agency is unable to certify to any of the statements above, an explanation shall be attached to this proposal.

12.00 Restrictions, Prohibitions, Controls, and Labor Provisions:

12.01 Equal Employment Opportunity: In connection with the performance of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. 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, religion, color, gender, national origin, disability or marital status. 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 in all contracts modified only to show the particular contractual relationship in all its contracts in connection with the development of operation of the project, except contracts for the 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.

12.02 Title VI - Civil Rights Act of 1964: The Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Regulations of the Federal Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

The Agency shall include provisions in all contracts with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

12.03 Americans with Disabilities Act of 1990 (ADA): The Agency will comply with all the requirements as imposed by the ADA, the regulations of the federal government issued thereunder, and assurance by the Agency pursuant thereto.

12.04 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 Section 287.017, Florida Statutes for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

12.05 Discrimination: In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, maintained by the Florida Department of Management Services, may not submit a bid on a contract to provide 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.

12.06 Prohibited Interests: Neither the Agency nor any of its contractors or their subcontractors, shall enter into any contract, subcontract, or arrangement in connection with the project or any property included or planned to be included in the project in which any member, officer, or employee of the Agency or the locality during his tenure, or for two years thereafter, has any interest, direct or indirect. If any such present or former member, officer, or employee involuntarily acquires or had acquired any such interest prior to the beginning of his tenure, and if such interest is immediately disclosed to the Agency, the Agency with prior approval of the Department may waive the prohibition contained in this subsection, provided, that any such present member, officer or employee shall not participate in any action by the Agency or the locality relating to such contract, subcontract, or arrangement.

The Agency shall insert in all contracts entered into in connection with the project or any property included or planned to be included in any project, and shall require its contractors to insert in each of it's subcontracts, the following provision:
"No member, officer or employee of the Agency or of the locality during his tenure, or for two years thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof."
The provisions of this subsection shall not be applicable to any agreement between the Agency and its fiscal depositories, or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

12.07 Interest of Members of or Delegate to, Congress: No member of 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.

13.00 Miscellaneous Provisions:

13.01 Environmental Regulations: The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department for any loss incurred in connection therewith. The Agency will be responsible for securing any applicable permits.

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

13.03 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.

13.04 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.

13.05 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.

13 State 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.

13.07 Contractual Indemnity: To the extent permitted by law, the Agency shall indemnify, defend, save, and hold harmless the Department and all 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 officers, agents or employees during the performance of the Agreement except that neither the Agency, its officers, 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 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 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 the 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.

The parties agree that this clause shall not waive the benefits or provisions of Section 768.28, Florida Statutes, or any similar provision of law.

13 Plans and Specifications: In the event that this Agreement involves constructing and equipping of facilities on the State Highway System, 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 covering 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 regarding the remainder of the project. Failure to obtain this written approval shall be sufficient cause for nonpayment by the Department.

13.09 Right of Way Certification: Upon completion of right of way activities on the project, the Agency must certify compliance with all applicable federal and state requirements. Certification is required prior to advertisement for or solicitation of bids for construction of the project, including those projects for which no right of way is required.

13.10 Agency Certification: The Agency will certify in writing, prior to project closeout, 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.

13.11 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.

13.12 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.

13.13 Restrictions on Lobbying:
Federal: The Agency agrees that no federally 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 federally 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 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.

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

13.14 Maintenance: The Agency agrees to maintain any project not on the State Highway System, constructed under this Agreement. If the Agency constructs any improvement on Department right-of-way, the Agency ○ will ● not will maintain the improvements made for their useful life.

13.15 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 twenty (20) days to deliver a request for payment (voucher) to the Florida Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within forty (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), Florida Statutes, will be due and payable, in addition to the invoice amount to the Agency. Interest penalties of less than one dollar ($1) will not be enforced unless the Agency requests payment. Invoices which have to be returned to an Agency because of Agency 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 Florida 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 State Comptroller's Hotline at 1-800-848-3792.

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

CITY OF KEY WEST, FLORIDA

By: [signature]
Title: CITY MGR.

Attest: _____
Title:

As to form:

[signature]
Attorney
City Attorney
City of Key West

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: [signature]
Title:

Attest: _____
Title:

As to form:

[signature]
District Attorney

See attached Encumbrance Form for date of funding approval by Comptroller.

FPN NO.: 250548-4

EXHIBIT A
Project Description and Responsibilities

This exhibit forms an integral Part of that certain Reimbursement Agreement between the State of Florida, Department of Transportation and

The City of Key West

604 Simonton Street, Key West, Florida 33401-1409

Dated: July 30, 2004

Project Location: Key West Florida

The project ○ is ● is not on the National Highway System.

The project ● is ○ is not on the State Highway System.

PROJECT DESCRIPTION:

The Project consists of the reconstruction of SR A1A (South Roosevelt Boulevard) in the City of Key West. The project limits are from Bertha Street to approximately survey station 44+00 connecting to another project on the same road being designed by the Department of Transportation. The intent of the project is to bring the roadway to current standards by improving its pavement, drainage and operational characteristics.

SPECIAL CONSIDERATION BY AGENCY:

SPECIAL CONSIDERATION BY THE DEPARTMENT:

AGENCY NAME & BILLING ADDRESS	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION	FPN NO.
City of Key West 904 Simonton Street Key West, Florida 33041-1409	LOCAL AGENCY PROGRAM AGREEMENT EXHIBIT "B" SCHEDULE OF FUNDS	250548-4

PROJECT DESCRIPTION

Name South Roosevelt Boulevard Reconstruction **Length** 4,500 feet

Terminus From Bertha Street to approximately station 44+00

TYPE OF WORK BY FISCAL YEAR		FUNDING (1) TOTAL PROJECT FUNDS	(2) AGENCY FUNDS	(3) STATE & FEDERAL FUNDS
P.E.	2004-2005	$500,000	$0	$500,000
	2005-2006	$0	$0	$0
	2006-2007	$0	$0	$0
	TOTAL PE	$500,000	$0	$500,000
Right-of- Way	2004-2005			
	2005-2006	$0	$0	$0
	2006-2007			
	Total Right Of Way Cost	$0	$0	$0
Construction	2004-2005			
	2005-2006	$0	$0	$0
	2006-2007	$0	$0	$0
	Total construction Cost			
Construction Engineering & Inspection				
	2004-2005			
	2005-2006	$0	$0	$0
	2006-2007	$0	$0	$0
	Total Construction Engineering			
	Total Construction Cost	$0	$0	$0
ESTIMATED TOTAL COST OF THE PROJECT		$500,000	$0	$500,000

The Department's fiscal year begins on July 1. For this project, funds are not projected to be available until after 1st of each fiscal year

The Department will notify the agency, in writing, when funds are available.

NOTE:

Currently $500,000 is programmed for FY 2004/2005 under FM No. 250548-4, Type SL funds

PRELIMINARY SCOPE OF SERVICES
SOUTH ROOSEVELT BOULEVARD
CITY OF KEY WEST
PROJECT NUMBER NO. PW-0402

EXHIBIT C

The City of Key West is proposing to reconstruct South Roosevelt Boulevard (State Road A1A) from Bertha to approximately 4,400 ft. east of Bertha where it transitions to an existing reconstruction project that is being designed by the Florida Department of Transportation.

Project Limits – The Project limits will be from Bertha to Station 44+00 or any point that provides for a logical transition. This Project as it is funded by FDOT will not include work on Bertha beyond the logical termini of the project on Bertha. The project will improve the existing roadbed, drainage, lighting and markings. Every effort will be made to not impact the promenade, otherwise the promenade will be replaced in kind.

The project will be implemented as follows:

- Phase I – The Consultant will prepare preliminary plans and submit for City/FDOT approval.
- Phase II, Plans Production – Once the preliminary plans have been approved, SZA will proceed to the production of final construction documents. Phase Reviews at 60%, 90% and 100% completed plans will occur. The review entities will be the City and FDOT per the Local Agency program requirements.
- Phase III, Post Design – Post Design services includes assisting the City in the preparation of the bid documents, bidding, bid reviews, pre-bid meeting and construction contract administration. This effort will include shop drawing reviews and responding to contractor's request for information. Work effort will be negotiated after the submittal of the 100% contract documents.
- Phase IV, Construction – The Consultant will provide construction inspection services or construction monitoring for the City. This effort will be separately negotiated with the City at the end Phase II.

LAP coordination & Funding – The Consultant will provide Local Agency Program coordination between the City and FDOT throughout the design and the construction of this project. The consultant will prepare the necessary forms fro FDOT for FDOT approval and programming of the funds in the FDOT system as the project evolves.

Contract Documents

Roadway Plans – Roadway Plans will be prepared in FDOT format at 1"=40'. The project limits will be from the intersection of Bertha/Atlantic Avenue to approximately station 44+00 where it ties to another FDOT Project.

Drainage & Permitting – All drainage analysis and plans will be performed per FDOT standards. The Consultant will prepare all permit applications, coordinate with the permitting agencies and if needed submit directly to the agencies. Permitting agencies include:

- South Florida Water Management District
- Department of Environmental & Resource Management
- Army Corps of Engineers
- United States Coast Guard.

All of the agency permitting and plan review fees will be included in the consultant's fee proposal.

Landscaping - Landscaping will be provided only as mitigation for construction impacts to existing landscaping.

Seawall Plans – Roadway plans will not include seawall construction plans. This issue will need to be separately pursued with FDOT. A study may be undertaken by FDOT or the City (via LAP) to evaluate the existing conditions and recommend corrective action.

Lighting – The Consultant will prepare lighting plans per FDOT standards. There are no specific requirements for lighting as long as they are turtle friendly.

Signalization – This work under the LAP agreement does not include any signalization work.

Utility Services – The Consultant will provide total utility coordination services for the City. The Consultant expects to coordinate the effort with eight (8) separate utility companies.

Public Involvement – The Consultant will prepare and execute a Community Awareness Plan (CAP) for this project in accordance with FDOT criteria. It is anticipated that a Level III cap will be required for this project.

Survey Services –The original Survey will be updated (IF REQUIRED) as well. An estimated fee is included in the proposal for this effort.

Geotechnical Services – This effort includes obtaining soil tests, percolation tests for drainage and borings for the sea walls.

Subsurface Utility Services – Since previous data is available, we estimated that an additional 20 vacuum excavation locations may be required.

Sarah Perez/D6/FDOT
11/23/2004 03:26 PM

To Danny Iglesias/D6/FDOT@FDOT
cc
bcc
Subject Fw: FUNDS APPROVAL/REVIEWED FOR CONTRACT ANT08

As requested....

Sarah Perez
District Six Budget Coordinator
Florida Department of Transportation, Rm 6201
1000 NW 111th Avenue, Work Program/Budget Office,
Miami, Florida 33172
emailto: Sarah.Perez@dot.state.fl.us
Office: 305-470-5118 / SC 429-5118
Fax: 305-470-5175 / SC 429-5175
Schedule: Mon-Thurs 8AM-5:30PM, Fri 8AM-12Noon
---- Forwarded by Sarah Perez/D6/FDOT on 11/23/2004 03:26 PM ----

The job FI989HLR; user I.D.
FI989HL <MVS@DOT>
11/23/2004 03:20 PM

To FI622SP@dot.state.fl.us
cc
Subject FUNDS APPROVAL/REVIEWED FOR CONTRACT ANT08

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL

Contract #ANT08 Contract Type: AK Method of Procurement: G
Vendor Name: CITY OF KEY WEST
Vendor ID: VF596000346036
Beginning date of this Agmt: 11/23/04
Ending date of this Agmt: 12/31/08

****
Description:
The project consists of the reconstruction of SR A1A (South Roosevelt Blvd) in the City of Key West

****

ORG-CODE	*EO	*OBJECT	*AMOUNT	*FIN PROJECT	*FCT	*CFDA
(FISCAL YEAR)		*BUDGET ENTITY		*CATEGORY/CAT YEAR		
AMENDMENT ID		*SEQ.	*USER ASSIGNED ID	*ENC LINE(6S)/STATUS		

****

Action: ORIGINAL Funds have been: APPROVED

55 064010612 *HC *139950 * 500000.00 *25054843801 *215 *

2005	*55100100	*088849/05
0001	*00 *	*0001/04

TOTAL AMOUNT: *$ 500,000.00 *

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER
DATE: 11/23/2004