Memorandum

MIAMI-DADE COUNTY

Date: April 3, 2012

Agenda Item No. 8(H)(3)

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Resolution approving the execution of a new Local Agency Program (LAP) Agreement between Miami-Dade Parks, Recreation and Open Spaces (PROS) Department and the State of Florida, Department of Transportation (FDOT) in the amount of $757,530 for the construction of Two Greenway Bridges.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the execution of a new Local Agency Program (LAP) agreement between the Miami-Dade Parks, Recreation and Open Spaces (PROS) Department and the State of Florida, Department of Transportation (FDOT) in the amount of $757,530 for the construction of two greenway bridges; and further authorize the County Mayor or County Mayor's designee to accept and expend funds, and execute contracts and amendments as required.

Scope

The Two Greenway Bridges project is located in Commission District 9, Commissioner Dennis C. Moss.

Fiscal Impact/Funding Source

The LAP agreement grant will contribute $757,530 toward construction of two pre-fabricated bicycle, pedestrian and equestrian bridges.

Track Record/Monitor

The grant will be administered by Joanne Menoher Case, Grants Administrator for PROS.

Background

The original Greenway Bridges project was authorized by Board resolution R-133-05 (Attachment A), approving the execution of a LAP agreement for $950,000 for design and construction of three greenway bridges. PROS has expended $192,470 of the $950,000 LAP agreement funds for design of the bridges. The $757,530 in construction funding was de-obligated by FDOT in July 2011 because the project was not ready for construction due to soft-cost issues pertaining to bridge landings and permitting. Soft costs are project expenditures for planning, design, permitting and non-construction project management. A new LAP agreement is required by FDOT (Attachment B) for funding of $757,530 to be restored so that two Greenway Bridges project can be completed.

The Bridge A project is for a pre-fabricated 100 foot span bicycle, pedestrian and equestrian bridge over the Black Creek Canal, near the junction of Black Creek Canal and U.S. 1 at SW 211 Street, on the east side of the existing road bridge. The Bridge B project is for a pre-fabricated 90 foot span bicycle, pedestrian and equestrian bridge over the L-31E Canal along Biscayne Trail, adjacent to Homestead Bayfront Park. The bridge will improve non-motorized access to Biscayne National Park and Homestead Bayfront Park.

The third bridge, Bridge C, will not be constructed due to funding constraints. Funding for Bridge C was requested in the Miami-Dade County Proposed 2012 Federal Legislative Package that appeared as item 1I1 at the February 7, 2012 Board meeting, and listed as: Cultural Arts Center Bridge and Lighted Promenade - support funding to help complete the construction of a 180 linear foot three span Cultural Arts Center Bridge and a 570 linear foot Lighted Promenade to SW 211 Street and the surrounding cultural and civic facilities.

If awarded, the new grant term will be May 2012 through June 2014.

Lisa M. Martinez, Senior Advisor

Attachments

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: April 3, 2012

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 8(H)(3)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous_____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(H)(3)
4-3-12

RESOLUTION NO. _____

RESOLUTION APPROVING THE EXECUTION OF A NEW LOCAL AGENCY PROGRAM (LAP) AGREEMENT BETWEEN MIAMI-DADE PARKS, RECREATION AND OPEN SPACES DEPARTMENT AND STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION (FDOT) IN THE AMOUNT OF $757,530 FOR THE CONSTRUCTION OF TWO GREENWAY BRIDGES

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the Local Agency Program Agreement (LAP) between Miami-Dade Parks, Recreation and Open Spaces Department and the State of Florida, Department of Transportation in the amount of $757,530 for the construction of two greenway bridges; authorizing the County Mayor or County Mayor's designee to accept, expend funds, and execute contract and amendments as required.

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

Joe A. Martinez, Chairman
Audrey M. Edmonson, Vice Chairwoman

Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of April, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Monica Rizo

ATTACHMENT A

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 3(J)(1)(C)
02-01-05

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

RESOLUTION NO. R-133-05

RESOLUTION AUTHORIZING THE COUNTY MANAGER TO EXECUTE A CONTRACT FOR UP TO $950,000 IN GRANT FUNDS WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE DESIGN AND CONSTRUCTION OF THREE PEDESTRIAN BRIDGES ALONG THE SOUTH DADE GREENWAY NETWORK AND FURTHER AUTHORIZING THE COUNTY MANAGER OR HIS DESIGNEE TO RECEIVE AND EXPEND FUNDS; AND EXECUTE AMENDMENTS AS REQUIRED

WHEREAS, this Board desires to accomplish the purpose outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board authorizes the County Manager to execute a contract for up to $950,000 in grant funds with the Florida Department of Transportation for the design and construction of three pedestrian bridges along the South Dade Greenway Network; and authorizes the County Manager or his designee to execute such agreements as are required by this governmental body following approval by the County Attorney's Office; to receive and expend all monies for the purposes described in the funding request; and to file and execute any necessary amendments to the agreement for and on behalf of Miami-Dade County, Florida.

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

Joe A. Martinez, Chairman
Dennis C. Moss, Vice-Chairman

Bruno A. Barreiro	Dr. Barbara Carey-Shuler
Jose "Pepe" Diaz	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of February, 2005. This Resolution and contract, if not vetoed, shall become effective in accordance with Resolution No. R-377-04.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as
to form and legal sufficiency. MMC

Mariela Martinez-Cid

By:_____
Deputy Clerk

Memorandum

MIAMI-DADE COUNTY

Date: February 1, 2005

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

Agenda Item No. 3(J)(1)(C)

From: George M. Burgess
County Manager

Subject: Contract with the Florida Department of Transportation for Three Greenway Bridges

RECOMMENDATION

It is recommended that the Board approve the attached resolution authorizing the County Manager or his designee to execute a contract and amendments as required, and receive and expend up to $950,000 in funds from the Florida Department of Transportation for the design and construction of three pedestrian bridges along the South Dade Greenway Network.

BACKGROUND

The Florida Department of Transportation, through its Local Agency Program, awards funds for transportation enhancement projects. The Miami-Dade County Park and Recreation Department has recently received Local Agency Program Certification to carry out planning, design, consultant selection, bid and award projects, construction administration, and right of way projects.

The Department seeks authorization to enter into a contract to receive and expend funds for up to $950,000 with the Florida Department of Transportation to design and construct three pedestrian bridges along the South Dade Greenway Network. A match of $104,170 will be provided by future Capital Outlay Reserve Funds to be requested by the Department in FY2005-06. The bridges will be located at:

1. Black Creek and Biscayne Trail Junction Bridge: the bridge will go over Black Creek Canal (C-1), where the Biscayne Trail meets Black Creek Trail at the entrance to Black Point Park, near 247th Street and 87th Avenue. The proposed bridge will be constructed for bicycle, pedestrian, and equestrian use.

2. Biscayne Trail at Homestead Bayfront Park Bridge: the bridge will span the L-31-E canal, where the east-west segment of the Biscayne Trail joins the north-south segment of the trail, adjacent to Homestead Bayfront Park. It is intended for those who are walking, biking, and riding horses. The site is at 97th Avenue and 328th Street (North Canal Drive). The bridge will improve non-motorized access to Biscayne National Park and the County's Homestead Bayfront Park.

3. South Miami-Dade Government and Cultural Centers Bridge: the bridge will cross Black Creek Canal (C-1) in front of the soon-to-be constructed South Miami-Dade Cultural Center, adjacent to the South Miami-Dade Government Center. The approximate address is 211th Street and 109th Avenue (west of the Turnpike).

Attachment

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: February 1, 2005

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 3(J)(1)(C

Please note any items checked.

_____	**"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**
_____	**6 weeks required between first reading and public hearing**
_____	**4 weeks notification to municipal officials required prior to public hearing**
_____	**Decreases revenues or increases expenditures without balancing budget**
_____	**Budget required**
_____	**Statement of fiscal impact required**
_____	**Bid waiver requiring County Manager's written recommendation**
_____	**Ordinance creating a new board requires detailed County Manager's report for public hearing**
___✓___	**Housekeeping item (no policy decision required)**
___✓___	**No committee review**

Florida Department of Transportation

JEB BUSH
GOVERNOR

JOSÉ ABREU
SECRETARY

September 8, 2004

RECEIVED
SEP 13 2004
Alina T. Hudak
County Manager's Office

Alina Tejeda Hudak
Assistant County Manager
111 N.W. First Street, Suite 2910
Miami, Florida 33128-1994

Reference: Local Agency Certification Agreement

Dear Ms. Hudak:

I am pleased to transmit to you the referenced agreement, which was executed by District Secretary, John Martinez on September 7, 2004. This agreement provides Local Agency Program Certification to Miami-Dade Parks and Recreation in the following areas: Planning, Design, Consultant Selection, Bid and Award Project, Construction Administration, and Right of Way and commits the compliance with the Local Agency Program and the Federal regulations contained therein.

To initiate a construction project identified in the Department's Work Program, it will be necessary to prepare a specific Project Application in order for us to secure a Federal Authorization and encumber the funds according to the Work Phases involved.

I will be available to assist your project manager with this effort and look forward to its successfully completion.

Sincerely,

Danny Iglesias P.E

Danny Iglesias, P.E.
LAP Administrator

Cc: John Martinez, Javier Rodriguez, Gary Donn, Teresa Alvarez, Luis Tellechea

www.dot.state.fl.us

RECYCLED PAPER

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

LOCAL AGENCY CERTIFICATION QUALIFICATION AGREEMENT

525-010-33
CONSTRUCTION
05/01

AGENCY Miami-Dade County Park and Recreation Department

The noted agency hereby agrees to comply with the following requirements when developing all projects on the Federal Aid Highway Systems:

1. The *Local Agency Program Manual* and all policies and guidelines promulgated by the State of Florida Department of Transportation (FDOT) which accomplish the policies and objectives set forth in Title 23, U.S. Code, Highways and the Regulations issued pursuant thereto.

2. The overall approval authorities and conditions will be as follows:

   a. The designs will be reviewed and approved by the following State of Florida registered Professional Engineer:

      Chief, Project Management Division
      Position Title Only

   b. The hearing's findings (if required) will be reviewed and approved by the following official or officials:

      Director, Park and Recreation Department
      Position Title or Titles Only

   c. The contract plans, specifications and estimate of cost will be reviewed and approved by the following State of Florida registered Professional Engineer:

      Chief, Project Management Division
      Position Title or Titles Only

   d. Agreements will be signed by the following responsible local official:

      (1) Railroad — County Manager OR Director, Park and Recreation Dept
      Position Title Only

      (2) Utility — County Manager OR Director, Park and Recreation Dept
      Position Title Only

      (3) Consultant — County Manager OR Director, Park and Recreation Dept
      Position Title Only

      (4) Technical Services — County Manager OR Director, Park and Recreation Dept
      Position Title Only

   e. The award of contract will be signed by the following responsible official:

      County Manager
      Position Title or Titles Only

   f. If there are DBE requirements on a project, the following will be the DBE liaison officer:

      Chief, Procurement and Warehouse Management Division OR Construction Contract Administrator
      Position Title

g. All projects will be designed and constructed in conformance with the requirements of the *Local Agency Program Manual*.

h. The Contract Administration will be supervised by the following State of Florida registered Professional Engineer:

Chief, Project Management Division
Position Title Only

i. Construction Administration and Material Sampling and Testing will be accomplished in accordance with the requirements of the *Local Agency Program Manual*.

3. The agency agrees that they have the means to provide adequate expertise and will have support staff available to perform the functions being subdelegated. The support staff may include consultant or state services.

4. The agency agrees to submit the names of the approving authorities noted in Section 2 above with each project prospectus.

5. All projects under Local Agency Certification shall be available for review by the FHWA and the State at any time, and all project documents shall be retained and available for inspection during the plan development and construction stages and for a three-year period following acceptance of the project by FHWA.

6. The FDOT District Local Agency Program Administrator's approval of the Local Agency Certification may be rescinded at any time upon request by the local agency or if in the FDOT District Local Agency Program Administrator's opinion it is necessary to do so. The rescission may be applied to all or part of the programs or projects approved in the Local Agency Certification.

Mayor or Chairman ~~County Manager~~ — Date 2/13/04

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

The Local Agency is certified in the following functional areas:

- [x] Design
- [x] Consultant Selection
- [x] Bid and Award Project
- [x] Construction Administration
- [x] Right of Way
- [x] Planning
- [ ] Environmental Documentation

Approved By: _____ District Secretary or Designee — Date 9-27-04

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

LOCAL AGENCY PROGRAM AGREEMENT

FPN: 418333-1	Fund:	FLAIR Approp:
Federal No:	Org Code:	FLAIR Obj:
FPN:	Fund:	FLAIR Approp:
Federal No:	Org Code:	FLAIR Obj:
FPN:	Fund:	FLAIR Approp:
Federal No:	Org Code:	FLAIR Obj:
FPN:	Fund:	FLAIR Approp:
Federal No:	Org Code:	FLAIR Obj:
County No:Miami-Dade	Contract No:	Vendor No: 596000573666

Data Universal Number System (DUNS) No: 80-939-7102

Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction

THIS AGREEMENT, made and entered into this _____ day of _____, 2012 by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the Department, and Miami-Dade County Parks, Recreation and Open Spaces Department hereinafter called the Agency.

W I T N E S S E T H:

WHEREAS, the Agency has the authority to enter into this 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 339.12, 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 to provide for the Department's participation in Two Greenway Bridges (Bridge A - Black Creek Trail and Bridge B - Biscayne Trail) and as further described in Exhibit "A" attached hereto and by this reference made a part hereof, hereinafter called the "project," and to provide Department 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 Attachments: Exhibit(s) A & B are attached and made a part hereof.

2.01 General Requirements: The Agency shall 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. Time is of the essence as to each and every obligation under this Agreement.

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.

Inactivity and Removal of Any Unbilled Funds

Once the Department issues a Notice to Proceed (NTP) for the Project, the Agency shall be obligated to submit an invoice or other request for reimbursement to the Department for all work completed for the Project no less frequently that on a quarterly basis, beginning from the day the NTP is issued. If the Agency fails to submit quarterly (or more frequently than quarterly) invoices to the Department as required herein and in the event said failure to timely submit invoices to the Department results in FHWA removing any unbilled funding or in the loss of State appropriation authority (which may include the loss of state and Federal funds, if there are state funds programmed to the Project), then the Agency will be solely responsible to provide all funds necessary to complete the Project and the Department will not be obligated to provide any additional funding for the Project. The Agency waives the right to contest such removal of funds by the Department, if the removal is related to FHWA's withdrawal of funds or if the removal is related to the loss of State appropriation authority. In addition to the loss of funding for the Project, the Department will also consider the de-certification of the Agency for future LAP projects.

Removal of All Funds

If all funds are removed from the project, including amounts previously billed to the Department and reimbursed to the Agency, and the project is off the state highway system, then the department will have to request repayment for the previously billed amounts from the Local Agency. No state funds can be used on off-system projects.

2.02 Expiration of Agreement: The Agency agrees to complete the project on or before _____. If the Agency does not complete the project within this time period, this Agreement will expire on the last day of the 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 this Agreement. Expiration of this Agreement will be considered termination of the project. The cost of any work performed after the expiration date of this Agreement will not be reimbursed by the Department.

2.03 Pursuant to Federal, State, and Local Laws: 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 Agency Funds: 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.

2.05 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 (FHWA) may require. The Agency shall use the Department's Local Agency Program Information Tool and applicable information systems as required.

3.00 Project Cost:

3.01 Total Cost: The total cost of the project is $ 757,530. This amount is based upon the schedule of funding in Exhibit "B." 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.

3.02 Department Participation: The Department agrees to participate 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:

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 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; and

d) Department approval of the project scope and budget at the time appropriation authority becomes available.

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.

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:

"(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 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 Agreement until the Agency has received a written Notice-to-Proceed (NTP) from the Department. The Agency agrees to advertise or put the project out to bid thirty (30) days from the date the Department issues the NTP to advertise the project. If the Agency is not able to meet the scheduled advertisement, the District LAP Administrator should be notified as soon as possible.

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 laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of 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 C.F.R. 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 and 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 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 the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for 5 years after the final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include 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 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 Project: The Agency shall charge to the project account all eligible costs of the project except costs agreed to be borne by the Agency or its contractors and subcontractors. Costs in excess of the programmed 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:

The administration of resources awarded by the Department to the Agency may be subject to audits and/or monitoring by the Department, as described in this section.

Monitoring: In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, Florida Statutes, as revised (see "Audits" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department staff to the Agency regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Department's Office of Inspector General (OIG), and the Chief Financial Officer (CFO) or Auditor General.

Audits

Part I - Federally Funded: Recipients of federal funds (i.e., state, local government or non-profit organizations as defined in OMB Circular A-133, as revised) are to have audits done annually using the following criteria:

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

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

3. If the recipient expends less than $500,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than federal entities).

4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

Part II - State Funded: Recipients of state funds (i.e., a non-state entity as defined by Section 215.97(2) (l), Florida Statutes) are to have audits done annually using the following criteria:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of $500,000 in any fiscal year of such recipient, the recipient must have a state single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes, applicable rules of the Executive Office of the Governor and the CFO, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "1" 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 non-state entities. State financial assistance does not include federal direct or pass-through awards and resources received by a non-state entity for federal program matching requirements.

2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2) (d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the recipient expends less than $500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. However, if the recipient elects to have audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

Part III - Other Audit Requirements: The recipient shall follow up and take corrective action on audit findings. Preparation of a Summary Schedule of Prior Year Audit Findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

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

Part IV - Report Submission:

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

   a) The Department at each of the following address(es):

      Florida Department of Transportation, 1000 NW 111 Avenue, Room 6202-B, Miami, FL 33172
      Attn: Vicki Gatanis, Local Program Administrator

   b) The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised), at the following address:

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

   c) Other federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. In the event that a copy of the financial reporting package required by Part I of this Agreement and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the Department for reasons pursuant to Section .320 (e)(2), OMB Circular A-133, as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited Schedule of Expenditures of Federal Awards directly to each of the following:

   Florida Department of Transportation, District 6, 1000 NW 111 Avenue, Room 6202-B, Miami, FL 33172
   Attn: Vicki Gatanis, Local Program Administrator

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

   Florida Department of Transportation, District 6, 1000 NW 111 Avenue, Room 6202-B, Miami, FL 33172
   Attn: Vicki Gatanis, Local Program Administrator

3. Copies of the financial reporting package required by Part II of this Agreement shall be submitted by or on behalf of the recipient directly to each of the following:

   a) The Department at each of the following address(es):

      Florida Department of Transportation, District 6, 1000 NW 111 Avenue, Room 6202-B, Miami, FL 33172
      Attn: Vicki Gatanis, Local Program Administrator

   b) The Auditor General's Office at the following address:

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

4. Copies of reports or the Management Letter required by Part III of this Agreement shall be submitted by or on behalf of the recipient directly to:

   a) The Department at each of the following address(es):

      Florida Department of Transportation, District 6, 1000 NW 111 Avenue, Room 6202-B, Miami, FL 33172
      Attn: Vicki Gatanis, Local Program Administrator

5. Any reports, Management Letters, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted in a timely manner in accordance with OMB Circular A-133, as revised, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

6. Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133, as revised, 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 financial reporting package was delivered to the recipient in correspondence accompanying the financial reporting package.

Part V - Record Retention: The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of at least 5 years from the date the audit report is issued and shall allow the Department or its designee, the state CFO or Auditor General access to such records upon request. The recipient shall ensure that the independent audit documentation is made available to the Department, or its designee, the state CFO or Auditor General upon request for a period of at least 5 years from the date the audit report is issued, unless extended in writing by the Department.

5.05 Inspection: The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives and authorized agents of FHWA to inspect all work, workmanship, materials, payrolls, and 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, sub-contractor 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 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of 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, after project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant 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 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

7.00 Department 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 of 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, the 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 here in paragraph 12.07.

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 FHWA, may designate as ineligible for federal-aid.

7.07 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 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 in Exhibit "B" for the project, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the project commencement and final invoice time lines, 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 120 days after the completion of the project. Invoices submitted after the 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.

(a) If the Department determines that the performance of the Agency is not satisfactory, the Department shall notify the Agency of the deficiency in writing with a requirement that the deficiency be corrected within thirty (30) days of such notice. Such notice shall provide reasonable specificity to the Agency of the deficiency that requires correction. If the deficiency is not corrected within such time period, the Department may either (1) immediately terminate the Agreement as set forth in paragraph 8.(b) below, or (2) take whatever action is deemed appropriate by the Department to correct the deficiency. In the event the Department chooses to take action and not terminate the Agreement, the Agency shall, upon

demand, promptly reimburse the Department for any and all costs and expenses incurred by the Department in correcting the deficiency.

(b) If the Department terminates the Agreement, the Department shall notify the Agency of such termination in writing, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

(c) If the Agreement is terminated before the project is completed, the Agency shall be paid only for the percentage of the project satisfactorily performed for which costs can be substantiated. Such payment, however, shall not exceed the equivalent percentage of the contract price. All work in progress will become the property of the Department and will be turned over promptly by the Agency.

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 a 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 cost 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 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 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 the Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency's 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: It is the policy of the Department that DBE's, 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 laws and regulations apply to this Agreement.

The Agency and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement. Furthermore, the Agency agrees that:

(a) Each financial assistance agreement signed with a US-DOT operating administration (or a primary recipient) must include the following assurance:

> "The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. Part 26. The recipient shall take all necessary and reasonable steps under 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 C.F.R. Part 26 and as approved by Department, is incorporated by reference in

this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.)."

(b) Each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

"The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate."

11.00 Compliance with Conditions and Laws: The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this project. Execution of this Agreement constitutes a certification that the Agency is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," in 49 C.F.R. Part 29, when applicable.

12.00 Restrictions, Prohibitions, Controls, and Labor Provisions:

12.01 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, 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 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, the regulations of the U.S. 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, kept 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 Suspension, Revocation, Denial of Qualification or Determination of Contractor Non-Responsibility: An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

12.07 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 tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, 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 paragraph 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 their subcontracts, the following provision:

> "No member, officer or employee of the Agency or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph 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.

12.08 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 this Agreement or any benefit arising therefrom.

13.00 Miscellaneous Provisions:

13.01 Environmental Regulations: The Agency will be solely responsible for compliance with all the applicable environmental regulations, 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 individual or entity not a party to this Agreement.

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.

13.06 State Law: Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. 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 Plans and Specifications: In the event that this Agreement involves 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 a 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 a written approval with said remainder of the project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department. The Agency will physically include Form FHWA-1273 in all its contracts and subcontracts.

13.08 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.

13.09 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's facility, adequate title is in the Agency's name, and the project is accepted by the Agency as suitable for the intended purpose.

13.10 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.

13.11 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.

13.12 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 paragraph 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, the judicial branch or a state agency.

13.13 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 ☐ will not maintain the improvements made for their useful life.

13.14 Vendors Rights: Vendors (in this document identified as the Agency) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has 30 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 the 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 $1 will not be enforced unless the Agency requests payment. Invoices which have to be returned to the 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 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 850-413-5516.

13.15 Reimbursement of Federal Funds:

The Agency shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by Department and or FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Agency and FHWA requires reimbursement of the funds, the Agency will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement.

13.16 E- VERIFY

The Agency:

1. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Agency during the term of the contract; and

2. shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

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

AGENCY

By: _____
Name: Lisa M. Martinez
Title: Senior Advisor to the Mayor

Attest: _____
Title: Jack Kardys, Director

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: _____
Name:
Title:

Attest: _____
Title:

Legal Review:

_____ _____

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

EXHIBIT "A"

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 418333-1

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and

Miami-Dade County Parks, Recreation and Open Spaces Department (MDPROS)

Dated _____

PROJECT LOCATION:

The project ___ is **X** ___ is not on the National Highway System.

The project ___ is **X** ___ is not on the State Highway System.

PROJECT DESCRIPTION:
This project will construct two bicycle/pedestrian greenway bridges. These bridges will be located at the following locations:

1. Bridge A will be located along Black Creek Trail Segment A near the junction of Black Creek (C-1) Canal and U.S. 1 (South Dixie Highway) on the east side of the existing road bridge. This bridge will be constructed for bicycle, pedestrian and equestrian use.

2. Bridge B will be located along Biscayne Trail Segment C near the junction of Biscayne Trail Segment D near the junction of the L-31E Canal and North Canal (SW 328 St.) north of the existing road bridge. This area is in close proximity to the entrance of Biscayne National Park and Homestead Bayfront Park. This bridge will be constructed for bicycle, pedestrian and equestrian use.

SPECIAL CONSIDERATIONS BY AGENCY:

None

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

The Agency is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

The Agency shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

a) Planning Study completed November 2003.
b) Design to be completed by December 2011.
c) Right-of-Way requirements identified and provided to the Department by February 2012.
d) Right-of-Way to be certified by February 2012.
e) Construction contract to be let by November 2012.
f) Construction to be completed by November 2013.

EXHIBIT "A"

PROJECT DESCRIPTION AND RESPONSIBILITIES

If this schedule cannot be met, the Agency will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of federal funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:

EXHIBIT "B"

SCHEDULE OF FUNDING

AGENCY NAME & BILLING ADDRESS	FPN: 418333-1
Miami-Dade County Parks, Recreation & Open Spaces Dept. 275 NW 2nd Street Miami, FL 33128	

PROJECT DESCRIPTION

Name: Two Greenway Bridges (Bridge A - Black Creek Trail and Bridge B – Biscayne Trail) Length: N/A

Termini:

1. Bridge A will be located along Black Creek Trail Segment A near the junction of Black Creek (C-1) Canal and U.S. 1 (South Dixie Highway) on the east side of the existing road bridge. This bridge will be constructed for bicycle, pedestrian and equestrian use.

2. Bridge B will be located along Biscayne Trail Segment C near the junction of Biscayne Trail Segment D near the junction of the L-31E Canal and North Canal (SW 328 St.) north of the existing road bridge. This area is near the entrance of Biscayne National Park and Homestead Bayfront Park. This bridge will be constructed for bicycle, pedestrian and equestrian use.

TYPE OF WORK By Fiscal Year		FUNDING (1) TOTAL PROJECT FUNDS	(2) AGENCY FUNDS	(3) STATE & FEDERAL FUNDS
Planning	2007-2008			
	2008-2009			
	2009-2010			
	Total Planning Cost			
Project Development & Environment (PD&E)				
	2007-2008	$		
	2008-2009			
	2009-2010			
	Total PD&E Cost			
Design	2007-2008	$		
	2008-2009			
	2009-2010			
	2010-2011			
	Total Design Cost			
Right-of-Way	2007-2008			
	2008-2009			
	2009-2010			
	Total Right-of-Way Cost			
Construction	2011-2012	$757,530		$757,530
	2012-2013			
	2013-2014			
	Total Construction Cost	$757,530		$757,530
Construction Engineering and Inspection (CEI)				
	2011-2012			
	2012-2013			
	2013-2014			
	Total CEI Cost			
	Total Construction and CEI Costs			
	TOTAL COST OF THE PROJECT	$757,530		$757,530

The Department's fiscal year begins on July 1. For this project, funds are not projected to be available until after the 1st of July of each fiscal year. The Department will notify the Agency, in writing, when funds are available.

EXHIBIT "B"

SCHEDULE OF FUNDING