



MEMORANDUM

Agenda Item No. 8(K)(4)

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

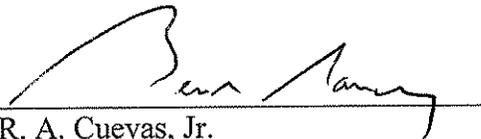
DATE: January 24, 2012

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

SUBJECT: Resolution authorizing locally funded
agreement between Miami-Dade
County and Florida Department of
Transportation

Resolution No. R-39-12

The accompanying resolution was prepared by the Port of Miami Department and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.


for R. A. Cuevas, Jr.
County Attorney

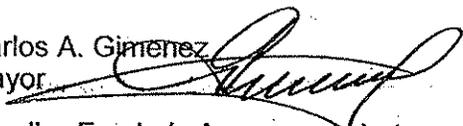
RAC/up

Memorandum



Date: January 24, 2012

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

From: Carlos A. Gimenez
Mayor 

Subject: Locally Funded Agreement between Miami-Dade County and the Florida Department of Transportation

RECOMMENDATION

It is recommended that the Board approve the accompanying resolution authorizing the execution of a Locally Funded Agreement "Agreement" between Miami-Dade County and the Florida Department of Transportation "FDOT" allowing for the utilization and reimbursement of an FDOT professional services agreement. The Port of Miami is in the development phase to implement a TIGER II grant for rail re-instatement to the Port of Miami in conjunction with Florida East Coast Railway "FEC" and the FDOT. The Port must complete the design and construction work under this grant by 2013. This Agreement will allow URS Corporation Southern "URS" to provide feasibility, technical support, and support in the preparation of scope of services and Request for Proposal "RFP" package(s) in order to implement work under the schedule and constraints of the grant program.

SCOPE

The Port of Miami is located within District 5 – Commissioner Bruno A. Barreiro. The impact of this agenda item is countywide as the Seaport is a regional asset and generates employment for residents throughout Miami-Dade County.

FISCAL IMPACT/FUNDING SOURCE

The Local Funding Agreement with FDOT is for \$394,711.71. It will be funded from the Seaport's \$4.8 million share of funding to the full implementation of the Port of Miami Intermodal and Rail Reconnection Project (Project) under the TIGER II Grant Agreement. The Project in its entirety is estimated to cost \$49.4 million and is funded by the U.S. DOT (\$22.767 million), FDOT (\$10.9 million), the Florida East Coast Railway (\$10.9 million), the Port of Miami (\$4.8 million) and the City of Miami (\$50,000). The total authorization for the entire on-Port rail project, which includes the intermodal rail yard development, will not exceed \$25.067 million. This figure equals the \$22.767 million DOT grant, plus \$2.3 million pledged by the Seaport to this project under the TIGER II Grant Agreement for on-Port work. The County's (Seaport's) \$4.8 million contribution will be paid from bond proceeds, and it is included in the 2011-12 Proposed Budget and Multi-Year Capital Plan, Funded Projects – Transportation, page 43, Project # 641780.

TRACK RECORD/MONITOR

The Port of Miami staff responsible for monitoring this Agreement are Dorian Valdes, Assistant Director for Capital Development, and Kevin Lynskey, Assistant Director for Business Initiatives.

BACKGROUND

The Port of Miami is undergoing its most significant cargo facility expansion in 30 years, putting in place three critical pieces of infrastructure that are timed with - and in anticipation of - the 2014 Panama Canal expansion. These assets all revolve around access: deeper waters to accommodate a new Post-Panamax class of mega-container vessel, twin tunnels to provide direct highway access, and an on-dock intermodal rail system to facilitate the movement of goods to distant markets and to better leverage the Hialeah Railyard as our 'inland port'.

The Port of Miami's intermodal and rail reconnection project was developed jointly with the FEC and resulted in a successful 2010 U.S Department of Transportation TIGER II grant. The project entails approximately \$49M in investment in on-Port (\$25M) and off-Port (\$24M million) improvements, and the TIGER II grant was made available to cover the costs of the on-Port Improvements.

The on-Port work entails three principal improvements. First, the existing single-leaf rail bascule bridge, which has been non-operational since Hurricane Wilma, will be rehabilitated and strengthened to accept higher loading consistent with current design standards and a double stacking operation. Second, a railroad intermodal yard consisting of new rail lines (3 or more parallel tracks of between 9,000 and 12,000 feet total in length) will be designed, constructed, and installed. Third, a gantry system (loading and related yard equipment) will be procured and installed, as well.

This proposed Agreement involves the second project element, the implementation of an on-port railroad intermodal yard. The Agreement allows URS to assist the Port in developing a scope of services package for Design/Build services, including the development of a RFP, for moving forward on procurement package(s) in order to implement work under the schedule and constraints of the grant program. The Maritime Administration (MARAD), which is the agency of the U.S. Department of Transportation that supervises the Tiger II Grant, has approved of this collaborative arrangement and its continued approval will be sought throughout the course of this Agreement.

Justification for Local Funding Agreement Approach

URS is the owner's representative for the Port of Miami under a FDOT tunnel contract in the implementation of the Port of Miami Tunnel project. As part of the Master Agreement between the FDOT and Miami-Dade County, FDOT is responsible for the management and implementation of the tunnel project in financial partnership with the County. FDOT has entered into a 35-year public-private partnership with Miami Access Tunnel LLC (Concessionaire) to design, build, finance, operate and maintain the Port of Miami Tunnel. Substantial Completion for the construction phase of this project is scheduled for May 2014. To accommodate the tunnel and its access roadways, the County conveyed certain permanent and temporary construction easements to FDOT within Dodge Island for the construction, operations, and maintenance of the tunnel project. Additionally, the Concessionaire's scope of work includes the design and construction for the removal and relocation of the Port's existing rail within the temporary construction easement. Approximately 2,400 feet of rail will be installed under the concession agreement as a replacement for the existing, impacted rail.

The scope of work under the TIGER II grant includes the design and construction of a rail intermodal yard at the Port. This work is accomplished by extending the existing railroad line entering Dodge Island to serve as a working lead track, adding a second working track parallel to the lead line, and constructing a maximum of two additional tracks to support the intermodal operation. The Port's rail and the proposed rail intermodal facility are located just south and north of Port Boulevard and the Seaboard Marine Cargo Terminal, respectively. About one third of the TIGER II grant work falls within portions of the Concessionaire's temporary construction easement and their zone of influence. Due to the complexity of the tunnel construction operations and the Concessionaire's need for accessing the work site during different stages of construction, certain areas of the Concessionaire easements cannot revert back to the County until 2014. Heavy coordination between stakeholders in these two adjacent projects will be paramount in successfully meeting all County obligations related to the tunnel and to the TIGER II grant programs.

To ensure continuity of operations with the least disruption to its tenants and users, the Seaport requests that URS provide the aforementioned services due to this firm's active technical role representing the County in the tunnel project. URS fully understands the direct and indirect impacts of the rail intermodal implementation during the construction of the Port of Miami Tunnel project. At this time, URS is assisting the County in negotiating rail scope modifications in the tunnel concession agreement to accommodate the rail intermodal concept. The rail intermodal and the tunnel share a construction interface along the south side of Port Boulevard and it is critical that any and all procurement package(s) for the rail intermodal program be developed with a complete understanding of the constraints imposed under the concession agreement for the tunnel. FDOT has been a partner with the Port of Miami in ascertaining how the County can implement the rail intermodal scope of services during the construction of the tunnel. With URS providing feasibility review, technical support and design criteria for the rail intermodal program, while simultaneously incorporating protections to ensure all County tunnel obligations are met, the Seaport is assured of close coordination for both programs, which will be in the best interest of the County.

Delegated Authority

In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of Board authority, there are no authorities beyond that specified in the resolution which include the authority for the Mayor or designee to execute the Agreement.



Deputy Mayor



MEMORANDUM

(Revised)

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

DATE: January 24, 2012

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

SUBJECT: Agenda Item No. 8(K)(4)

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(K) (4)
1-24-12

RESOLUTION NO. R-39-12

RESOLUTION AUTHORIZING LOCALLY FUNDED AGREEMENT "AGREEMENT" BETWEEN MIAMI-DADE COUNTY AND FLORIDA DEPARTMENT OF TRANSPORTATION "FDOT" IN THE AMOUNT OF \$394,711.71; AND AUTHORIZING THE MAYOR OR THE MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ANY CANCELLATION AND RENEWAL PROVISIONS THEREIN

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

Section 1. Approves the Locally Funded Agreement between Miami-Dade County and the Florida Department of Transportation, in substantially the form attached hereto and made a part hereof; and

Section 2. Authorizes the Mayor or the Mayor's Designee to execute this Agreement after review and approval by the County Attorney's Office and to exercise any cancellation and renewal provisions therein.

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

	Joe A. Martinez, Chairman	aye
	Audrey M. Edmonson, Vice Chairwoman	aye
Bruno A. Barreiro	aye	Lynda Bell
Esteban L. Bovo, Jr.	aye	Jose "Pepe" Diaz
Sally A. Heyman	aye	Barbara J. Jordan
Jean Monestime	aye	Dennis C. Moss
Rebeca Sosa	aye	Sen. Javier D. Souto
Xavier L. Suarez	aye	aye

The Chairperson thereupon declared the resolution duly passed and adopted this 24th day of January, 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: **Christopher Agrippa**
Deputy Clerk



Approved by County Attorney as
to form and legal sufficiency.

Richard Seavey

MEMORANDUM OF AGREEMENT

THIS AGREEMENT, made and entered into this _____, day of _____, 20____, by and between the State of Florida, Department of Transportation, hereinafter referred to as "FDOT" and the State of Florida, Department of Financial Services, Division of Treasury, hereinafter referred to as "TREASURY" and Miami-Dade County, acting by and through its Seaport Department, hereinafter referred to as the "PARTICIPANT".

WITNESSETH

WHEREAS, FDOT is currently constructing the following project:

Main Financial Project No.: 420124-1-62-01
County: Miami-Dade

hereinafter referred to as the "PROJECT".

WHEREAS, FDOT and the PARTICIPANT entered into a **Locally Funded Agreement** (LFA) dated _____, 20____, wherein FDOT agreed to perform certain work on behalf of the PARTICIPANT in conjunction with the PROJECT.

WHEREAS, the parties to this AGREEMENT mutually agreed that it would be in the best interest of FDOT and the PARTICIPANT to establish an interest bearing escrow account to provide funds for the work performed on the PROJECT on behalf of the PARTICIPANT by FDOT.

NOW THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree to the following:

1. An initial deposit in the amount of Three Hundred Ninety Four Thousand Seven Hundred Eleven Dollars and Seventy One Cents (\$394,711.71) will be made by the PARTICIPANT into an interest bearing escrow account established by FDOT for the purposes of the PROJECT. Said escrow account will be opened with the TREASURY on behalf of FDOT upon receipt of this Memorandum of Agreement. Such account will be an asset of FDOT.
2. Other deposits will be made only by the PARTICIPANT as necessary to cover the cost increases or the cost of additional work prior to the execution of any Supplemental Agreements or Amendments.
3. Payment will be made as follows (check appropriate payment method):

- Wire transfer
 ACH deposit
 Check

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A wire transfer or ACH deposit is the preferred method of payment and should be used whenever possible. Following is the wiring and ACH deposit instructions:

For wire transfers: Bank of America
Account # 001009068974
ABA # 026009593
Chief Financial Officer of Florida
Re: DOT – K 11-78, Financial Project #

For ACH deposits: Bank of America
Account # 001009068974
ABA # 063100277
Chief Financial Officer of Florida
Re: DOT – K 11-78, Financial Project #

If a check is the method of payment, the check shall be made payable to the Department of Financial Services, Revenue Processing and mailed to FDOT, OOC-GAO for appropriate processing at the following address:

Florida Department of Transportation
OOO-GAO, LFA Section
605 Suwannee Street, MS 42B
Tallahassee, Florida 32399

4. FDOT's Comptroller or designee shall be the sole signatories on the escrow account with the TREASURY and shall have sole authority to authorize withdrawals from said account.
5. Unless instructed otherwise by the FDOT, all interest accumulated in the escrow account shall remain in the account for the purposes of the PROJECT as defined in the LFA.
6. The TREASURY agrees to provide written confirmation of receipt of funds to FDOT.
7. The TREASURY further agrees to provide periodic reports to FDOT.

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
COMPTROLLER

STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES,
DIVISION OF TREASURY

PARTICIPANT SIGNATURE

PARTICIPANT NAME & TITLE

PARTICIPANT ADDRESS

FEDERAL EMPLOYER I.D. NUMBER

LOCALLY FUNDED AGREEMENT

THIS LOCALLY FUNDED AGREEMENT (hereinafter 'Agreement') is made and entered into this ___ day of _____, 20__, between the **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, acting by and through its Seaport Department, hereinafter referred to as the 'COUNTY', and the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION** a component agency of the State of Florida, hereinafter referred to as the 'DEPARTMENT'.

RECITALS:

WHEREAS, the COUNTY has jurisdiction over and maintains west to east from Caribbean Way/rail bascule bridge intersection to Bahama Drive, and from south to north from Seaboard Marine's terminal yard to Port Boulevard, all inclusive to Dodge Island, within the corporate limits of the COUNTY; and

WHEREAS, the COUNTY has requested to utilize the DEPARTMENT's contract, C-9015, with URS Corporation Southern, herein after referred to as the 'CONSULTANT', to assist the COUNTY in developing a scope of services package for services on the implementation of a Rail Intermodal yard as an element and obligation under the Port of Miami's TIGER II grant award for the intermodal and rail reconnection project (Grant Number DTMA1G11006), to include support for the development of a Request for Proposal (RFP); and

WHEREAS, the DEPARTMENT has agreed to allow the COUNTY to utilize the DEPARTMENT's CONSULTANT to assist the COUNTY in developing a scope of services package for services on the implementation of a Rail Intermodal yard and access thereto, to include support for the development of a Request for Proposal (RFP), subject to the terms and conditions detailed in this Agreement; and

WHEREAS, the COUNTY shall fund the increased costs, under financial project number 420124-1-62-01, associated with assisting the COUNTY in the development of a scope of services package for services on the implementation of a Rail Intermodal yard and access thereto, to include support for the development of a Request for Proposal (RFP), hereinafter collectively called the 'PROJECT', and as detailed in the attached Exhibit "A", "Scope of Services", which is herein incorporated by reference; and

WHEREAS, the parties are authorized to enter into this Agreement pursuant to Sections 334.044(7) and 339.12 (2006), *Florida Statutes*, and authorize its officers to do so.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and other valuable considerations contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The Recitals to this Agreement are true and correct and are incorporated herein by reference and made a part hereof.

2. **General Requirements**

(a) A true and correct copy of the Resolution of the COUNTY Commission approving this Agreement is attached hereto as Exhibit "C", 'MIAMI-DADE COUNTY RESOLUTION', and is incorporated herein by reference.

(b) The COUNTY shall:

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

- ii. include an express requirement in any subcontract that 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 Agreement term.
- (c) The COUNTY will provide funding to the DEPARTMENT, in the aggregate amount of THREE HUNDRED NINETY FOUR THOUSAND SEVEN HUNDRED ELEVEN DOLLARS AND SEVENTY ONE CENTS (\$394,711.71), for the PROJECT, subject further to the provisions in Section 3 of this Agreement and as outlined in the attachment Exhibit "B", "Financial Summary", which is herein incorporated by reference.
- (d) The DEPARTMENT's CONSULTANT will not commence work on the PROJECT until the COUNTY's funding for the PROJECT is on deposit with the DEPARTMENT.
- (e) Upon the receipt, authorization and encumbrance of funding received from the COUNTY as a result of this Agreement, the DEPARTMENT's CONSULTANT will commence work on the PROJECT.

3. Financial Provisions.

- (a) The COUNTY agrees that it will, no later than fourteen (14) calendar days after the DEPARTMENT's execution of this Agreement, furnish the DEPARTMENT an advance deposit in the amount of THREE HUNDRED NINETY FOUR THOUSAND SEVEN HUNDRED ELEVEN DOLLARS AND SEVENTY ONE CENTS (\$394,711.71) for full payment of the estimated PROJECT cost for Locally Funded

project number 420124-1-62-01. The advance deposit shall be the total estimated PROJECT cost plus allowances. The DEPARTMENT may utilize this deposit for payment of the costs of the PROJECT.

- (b) If the negotiated amount plus allowances is in excess of the advance deposit amount, the COUNTY will provide an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT, so that the total deposit is equal to the accepted negotiated amount plus allowances. The DEPARTMENT will notify the COUNTY as soon as it becomes apparent the accepted negotiated amount, plus allowances, is in excess of the advance deposit amount. However, failure of the DEPARTMENT to so notify the COUNTY shall not relieve the COUNTY from its obligation to pay for its full participation on final accounting as provided herein below. If the COUNTY cannot provide the additional deposit within fourteen (14) days, a letter must be submitted to and approved by the DEPARTMENT's project manager indicating when the deposit will be made. The COUNTY understands the request and approval of the additional time could delay the PROJECT, and additional costs may be incurred due to a delay of the PROJECT.
- (c) If accepted negotiated amount plus allowances is less than the advance deposit amount, the DEPARTMENT will refund the amount that the advance deposit exceeds the negotiated amount plus allowances if such refund is requested by the COUNTY in writing.
- (d) Should PROJECT modifications or changes to negotiated items occur that increase the COUNTY's total PROJECT costs, the COUNTY will be notified by the

DEPARTMENT accordingly. The COUNTY agrees to provide, without delay, in advance of additional work being performed, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund its share of the PROJECT. The DEPARTMENT shall notify the COUNTY as soon as it becomes apparent the actual costs will overrun the negotiated amount. However, failure of the DEPARTMENT to so notify the COUNTY shall not relieve the COUNTY from its obligation to pay for its full participation during the PROJECT and on final accounting as provided herein below. Funds due from the COUNTY during the PROJECT not paid within forty (40) calendar days from the date of the invoice are subject to an interest charge at a rate established pursuant to **Section 55.03, Florida Statutes (F.S.)**.

- (e) The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred and sixty (360) days of final payment to the CONSULTANT. The DEPARTMENT considers the PROJECT complete when final payment has been made to the CONSULTANT, not when the work is complete. All PROJECT cost records and accounts shall be subject to audit by a representative of the COUNTY for a period of three (3) years after final close out of the PROJECT. The COUNTY will be notified of the final cost. Both parties agree that in the event final accounting of total PROJECT costs pursuant to the terms of this agreement is less than the total deposit to date, a refund of the excess will be made by the DEPARTMENT to the COUNTY. If the final accounting is not performed within three hundred and sixty (360) days, the COUNTY is not relieved from its obligation to pay.

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(f) In the event the final accounting of total PROJECT costs is greater than the total deposits to date, the COUNTY will pay the additional amount within forty (40) calendar days from the date of the invoice from the DEPARTMENT. The COUNTY agrees to pay interest at a rate as established pursuant to **Section 55.03, F.S.**, on any invoice not paid within forty (40) calendar days until the invoice is paid.

(g) The payment of funds under this Locally Funded Agreement will be made directly to the DEPARTMENT for deposit and as provided in the attached Memorandum of Agreement (**MOA**) between the COUNTY, Department and the State of Florida, Department of Financial Services, Division of Treasury.

(h) Nothing in this Agreement shall be construed to violate the provisions of Section 339.135(6)(a), Florida Statutes, which provides as follows:

“The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in

excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year.”

4. **Effective Date of this Agreement.** This Agreement shall become effective upon execution by the COUNTY and the DEPARTMENT and as of the date set forth on page one (1) hereof.
5. **Termination for Convenience.** It is expressly understood and agreed that the COUNTY may terminate this Agreement, in total or part, without cause or penalty, by providing thirty (30) days prior written notification from the COUNTY; in which event the COUNTY's sole obligation to the DEPARTMENT shall be for the fees of the CONSULTANT for those units or section of work previously authorized for the PROJECT, in accordance with the Department's Contract, C-9015. Such payment shall be fully reimbursing the DEPARTMENT for all amounts owed to its CONSULTANT for the PROJECT, in accordance with the terms of the DEPARTMENT's Contract, C-9015. In the event this amount is less than the amount deposited by the COUNTY pursuant to Section 3 of this Agreement, the DEPARTMENT shall return such sums to the COUNTY as soon as practicable thereafter. Upon such termination, the COUNTY may, without penalty or other obligation to the DEPARTMENT or its CONSULTANT, elect to employ other persons to perform the same or similar services.
6. **Provisions Separable.** The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.
7. **Amendment of Agreement.** This Agreement may only be amended by mutual agreement of the DEPARTMENT and the COUNTY, expressed in writing and executed and delivered by

each. An amendment to the AGREEMENT shall be requested when adding funds and/or revising the scope of services.

8. **Notices.** All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when delivered (personally, by courier service such as Federal Express, or by other messenger) against receipt or upon actual receipt of registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

(a) If to the COUNTY: Port of Miami
1015 N. America Way
Miami, Florida 33132
Attention: Patrick Shortal, P.E.
Chief, Engineering Services

(b) If to the DEPARTMENT: Florida Department of Transportation
1000 NW 111 Avenue, Room 6202B
Miami, Florida 33172
Attention: Michelle L. Meaux, JPA Coordinator

Any party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this paragraph for the giving of notice.

9. **Entire Agreement.** This Agreement, including its attached Exhibits, contain the sole and entire Agreement between the parties with respect to such subject matter and supersede any and all other prior written or oral agreements between them with respect to such subject matter.

10. **Binding Effect.** This Agreement shall be binding upon the parties and their respective representatives, successors and assigns.

11. **Waiver.** Waiver by either party of any breach of any provision of this Agreement shall not be considered as or constitute a continuing waiver or a waiver of any other breach of the same or any other provision of this Agreement.
12. **Captions.** The captions contained in this Agreement are inserted only as a matter of convenience or reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any of its provisions.
13. **Absence of Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to (a) confer upon any entity or person other than the parties and their permitted successors and assigns any rights or remedies under or by reason of this Agreement as a third party beneficiary or otherwise except as specifically provided in this Agreement; or (b) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement.
14. **Other Documents.** The parties shall take all such actions and execute all such documents which may be reasonably necessary to carry out the purposes of this Agreement, whether or not specifically provided for in this Agreement; provided that the parties further acknowledge that certain additional actions by the COUNTY may require approval by the COUNTY Commission, and, to the extent such approval is required by applicable law, obtaining such approval shall be a condition to the obligations of the COUNTY under this Section.
15. **Governing Law.** This Agreement and the interpretation of its terms shall be governed by the laws of the State of Florida, without application of conflicts of law principles. Venue for any judicial, administrative or other action to enforce or construe any term of this Agreement or arising from or relating to this Agreement shall lie exclusively in Miami-Dade County, Florida.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the day and year first above written, the MIAMI-DADE COUNTY, signing by and through its County Manager, and the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, signing by and through its District Secretary, each duly authorized to execute same.

MIAMI-DADE COUNTY:

**STATE OF FLORIDA,
DEPARTMENT OF TRANSPORTATION:**

BY: _____
COUNTY MANAGER

BY: _____
DISTRICT SECRETARY

ATTEST: _____
(SEAL) COUNTY CLERK

ATTEST: _____
(SEAL) EXECUTIVE SECRETARY

LEGAL REVIEW:

COUNTY ATTORNEY

DISTRICT CHIEF COUNSEL

EXHIBIT 'A'

SCOPE OF SERVICES

The PROJECT work consists of the CONSULTANT assisting the COUNTY with the rail intermodal program support services and scope package development to include the preparation of a detailed scope of work, development of specifications in coordination with FEC, preparation of schedule and update of the preliminary engineer's cost estimate to align the program with grant schedule and funding requirements, and development of a phased concept in the preparation of a procurement package(s) to meet the objectives of the rail intermodal program, while meeting the Port of Miami (POM) Tunnel obligations. The scope package will include as reference information all data collected, such as electronic and/or hard copy information related to as-built drawings from utility agency owners (UAO), existing and new survey and geotechnical data provided by the Seaport, design plans/as-built drawings for adjacent Seaport development projects, and available Project Development and Environmental (PD&E) documents. The CONSULTANT will coordinate with the FEC and its consultant(s), the DEPARTMENT, the COUNTY, Port tenants and users, UAO, and with federal, state and local agencies. The rail program support services effort will also include the preparation of a rail yard operations study to determine the most efficient rail intermodal yard layout and equipment required during construction of the Port of Miami Tunnel and in the final configuration. The scope also includes providing permitting coordination assistance and support as required during the procurement of the rail program package(s).

The CONSULTANT will provide program coordination and scheduling review, utility coordination, technical support, and guidance for adherence to the strategic project goals and objectives, adherence to the TIGER II Rail Intermodal Grant, the Port of Miami Tunnel Project, the Port's 2035 Master Plan, and the Port's obligations with its tenants through existing agreements and to all Port users. Responsibilities will include assisting the COUNTY with the phasing and operating plan of the rail facility, the rail bascule bridge and railroad crossings, access management, and the circulation within the COUNTY to meet the grant schedule requirements. The CONSULTANT will also provide assistance with utility coordination for all the COUNTY owned utilities, including water, sewer, electrical, and fiber optic, and assist in coordination between the POM, the DEPARTMENT, the Concessionaire, FP&L and AT&T for all utilities on Dodge Island. Coordinate the PROJECT with ongoing and planned roadway, infrastructure, terminal improvement, and Security Gate improvement projects at the POM, and provide technical services as necessary to facilitate interface with other projects.

Phase I Services

Phase IA

Phase IA of the railroad intermodal yard program will include the analysis and development of the rail yard layout concept. The concept for the rail intermodal yard must be phased to meet all federal, FEC, and tunnel requirements. The CONSULTANT will provide assistance in finalizing a phased rail intermodal yard concept that is integrated with the construction sequencing of the tunnel project, and maximizes the use of working track during construction as well as in the final condition. The CONSULTANT will evaluate the phases of track and gantry foundations installation, access management, security requirements, drainage and lighting requirements, and will coordinate with all

necessary Agencies in order to assist the COUNTY in meeting the grant scope, schedule and funding requirements, as well as all federal regulations. Utility coordination will also be performed to reflect and accommodate all utility modifications being installed as part of the tunnel project. The CONSULTANT will also assist the COUNTY in the review and implementation of the geotechnical and surveying investigations by others, as well as coordinate with the COUNTY's gate study consultant to optimize access to and from the railroad intermodal yard.

Phase IB

The CONSULTANT will develop an overall operations plan for the COUNTY's on-dock intermodal yard (IY) during the interim phase of operation (POM tunnel construction) and in the final condition. The purpose of this rail operations study is to provide time and motion analysis (to include gang sizes and equipment), prospective costs, as well as detailing options for the relationship between union and non-union labor and terminal facilities. The rail yard operations study will encompass several operating modes as the system migrates from the interim phase during construction of the tunnel to full capacity. Phase IB services include:

- Meeting with the COUNTY to understand the proposed terminal configuration.
- Meeting with the Port of Miami Marine Terminal operators to determine their intermodal cargo throughput requirements and transfer mode of cargo from their terminals to the IY.
- Meeting with stevedore organizations to receive their input to complete the study.
- Identifying and quantifying anticipated throughput that will be imported and exported (via rail)
- Utilizing an existing accepted design for both the IY and off-site trackage; and identifying improvements required to make the operation a viable, seamless, transfer of goods between the port and the railroad.
- Reviewing both FEC and Seaboard Marine's IY operations plan, and incorporating and/or suggesting modifications as necessary.
- Providing a detailed daily and weekly IY operations scenario. A narrative with graphics is to be incorporated into the rail operations report.
- Coordinating findings and proposals from both FEC and Seaboard Marine's operations report into a single document. Determining compatibility with COUNTY's IY operations.
- Providing an operating model to include gang sizes, time and motion analysis, equipment requirements, etc.
- Providing a comprehensive operating cost model for each developed operating scenario. The model will allow for a total cost calculation, as well as a break-out of costs incurred by stevedores, within terminal yards, within intermodal yard, including equipment acquisition and maintenance, etc. These costs will be compared to costs associated with existing dray operation to the FEC's Hialeah yard.
- Providing future costs for the year 2020.
- Describing operating scenarios due to both union and non-union trades. Providing graphics if necessary as presentation material.

Phase II Services

The CONSULTANT will assist the COUNTY in developing a scope of services package that meets all funding and scheduling requirements for the implementation of the rail intermodal yard, which

includes support for the development of a Request for Proposal (RFP) scope of services package for Design/Build (D/B) Services. The construction of the Intermodal Yard at the Port of Miami includes the phased design and construction of two "working tracks", "run-around/storage tracks", concrete runways/foundations for gantry system, paved truck lanes and container storage area, drainage system and utility adjustments. The CONSULTANT will closely work with and provide support to the Port of Miami Chief of Engineering Services in the coordination of on-going and planned future developments adjacent to the project site, including the POM Tunnel project. Phase II rail program support services include:

- Assisting in the development of a scope of services/RFP package, including a detailed scope of work, concept sheets, and existing data relevant to the site (as-built drawings, geotechnical reports, etc.)
- Providing permitting coordination assistance as required
- Coordinating with FEC on track and pavement specifications
- Updating the preliminary cost estimate to be consistent with grant funding
- Preparing a schedule to meet grant and FEC requirements
- Performing and coordinating site reviews with the FEC and the D/B firms as required
- Preparing responses to questions during proposal preparation phase
- Attending presentations as required
- Coordinating with POM Divisions including Security, Operations, Finance, etc.

Meetings

It is anticipated that meetings will take place for the following activities:

- Site reconnaissance meeting to review the site and plan the work
- Weekly coordination meetings/teleconferences with the FEC and the COUNTY
- Preliminary findings meeting following the update of the rail concept
- Meeting following submittal of the draft scope package
- Final meeting for coordination of procurement package(s)

Optional Services may be provided at the request of the COUNTY:

- a) Review of Design/Build Firm's contract documents for compliance with the Port's requirements and specifications, as well as all applicable federal, state and local standards and regulations.
- b) Assistance with the preparation of specifications for procurement of gantry system.
- c) Preparation of plans and assistance with the specifications for the electrical substation to provide power to the gantry system.

Information to be provided by the COUNTY for use in development of the scope of services:

- a) Geotechnical Engineering reports
- b) Survey data including available topographic information and elevations.

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DEPARTMENT Financial Project Number: 420124-1-62-01

COUNTY: **Miami-Dade**

DEPARTMENT Project Manager: **Teresa Alvarez, P.E. 305-640-7557**

COUNTY Project Manager: **Patrick Shortal, P.E. 305-329-4034**

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EXHIBIT 'B'

FINANCIAL SUMMARY

The DEPARTMENT's Work Program allocates the following funding, programmed under Financial Project Number 420124-1-62-01, for PROJECT completion:

<u>Fiscal Year:</u>	<u>Amount:</u>	<u>Fund Type:</u>
2011/2012	\$394,711.71	Local Funds (LF)

MIAMI-DADE COUNTY FINANCIAL RESPONSIBILITY: \$394,711.71

Incorporated herein by reference is Exhibit "B1", fee estimate.

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EXHIBIT 'C'

MIAMI-DADE COUNTY RESOLUTION

To be attached hereto and incorporated herein once ratified by the Board of COUNTY Commissioners.

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