

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: November 16, 2011 Division: Growth Management

Bulk Item: Yes  No  Department: Planning and Environmental Resources

Staff Contact Person/Phone #: Trish Smith, ph. 304-0412

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**AGENDA ITEM WORDING:** Approval of an Inter-local Agreement (ILA) with the Village of Islamorada (Village) to design Wayfinding signs within the Village boundaries; design services to be paid in advance in the amount of \$39,860.88, and fabrication and installation to be paid pursuant to FDOT Grant Agreement APW 52 .

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**ITEM BACKGROUND:** In 2010, the County was awarded a Florida Department of Transportation (FDOT) grant (Contract APW 52) to develop and install a Wayfinding signage program along US 1 throughout Monroe County. URS was selected according to the Consultants' Competitive Negotiation Act, F.S. Sec. 287.055, to consolidate existing signage, make recommendations for extraneous signage, to direct travelers to recognized business areas and to public amenities along US Highway 1, and to design and provide specifications for construction of the signage. The county conducted a public involvement campaign in Fall 2011 to identify a preferred shape and color for the Wayfinding signs. The Village asked County staff to present the concepts to the Village Council on October 13, 2011. The Village asked to participate in the Wayfinding Project and agreed to pay Monroe County \$39,860.88 to enable URS to design the Wayfinding signage within the Village boundaries. The Village agreed to deliver a check to the County upon execution of the ILA. The sign construction and installation costs will be paid for through FDOT Grant Agreement APW 52 within unincorporated Monroe County and within the boundaries of the Village. FDOT has approved the additions to Contract APW 52.

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**PREVIOUS RELEVANT BOCC ACTION:**

2/17/2010 - Approval to execute the Local Agency Program (LAP) Agreement with the FDOT to provide funding for the All American Road Signage and to investigate a design alternative for the types of signs that can be provided under the program.

10/20/10 - Approval to advertise an RFQ to develop a Wayfinding Signage Program along the Florida Keys All American Road (Florida Keys Scenic Highway).

2./16/11 - Approval to negotiate a contract with URS to develop a Wayfinding Signage Program along the US 1 Florida Keys Scenic Corridor.

3/16/11 - Approval of a professional services contract with URS to develop a wayfinding program along the US 1 Florida Keys Scenic Corridor.

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**CONTRACT/AGREEMENT CHANGES:** None

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**STAFF RECOMMENDATIONS:** Approval

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**TOTAL COST:** 39,860.88      **INDIRECT COST:**           **BUDGETED:** Yes  No

**COST TO COUNTY:** \$0 (Village to pay)      **SOURCE OF FUNDS:** c/c 50517 GW1001

**REVENUE PRODUCING:** Yes  No       **AMOUNT PER MONTH**           **Year**     

**APPROVED BY:** County Atty [Signature]      OMB/Purchasing [Signature]      Risk Management [Signature]

**DOCUMENTATION:** Included       Not Required

**DISPOSITION:**           **AGENDA ITEM #**     

Revised 1/09



**INTERLOCAL AGREEMENT BETWEEN MONROE COUNTY AND  
THE ISLAMORADA, VILLAGE OF ISLANDS, FOR PARTICIPATION IN  
THE MONROE COUNTY WAYFINDING PROGRAM**

**THIS INTERLOCAL AGREEMENT (Agreement)** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the **MONROE COUNTY**, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West, FL 33040 (“**COUNTY**”) and the **ISLAMORADA, VILLAGE OF ISLANDS**, whose address is 86800 Overseas Highway, Islamorada, Florida 33036 (“**VILLAGE**”) in accordance with the provisions of the Florida Interlocal Cooperation Act of 1969, Florida Statute Sec. 163.01.

**WITNESSETH:**

**WHEREAS**, in 2010, the **COUNTY** was awarded a Florida Department of Transportation (FDOT) grant (Contract APW 52) to develop and install a wayfinding signage program (Wayfinding Project) along US 1 throughout Monroe County; and

**WHEREAS**, URS Southern Corporation (URS) was selected by **COUNTY** according to the Consultants’ Competitive Negotiation Act, F.S. Sec. 287.055, to consolidate existing signage, make recommendations for extraneous signage, and direct travelers to recognized business areas and to public amenities along US Highway 1 in Monroe County as well as design and provide specifications for construction of the signage; and

**WHEREAS**, the **COUNTY** conducted a public involvement campaign in Fall 2011 to identify a preferred shape and color for the wayfinding signs; and

**WHEREAS**, Municipalities were invited and encouraged to participate in the wayfinding program; and

**WHEREAS**, the **VILLAGE** asked **COUNTY** and **VILLAGE** staff to present the concepts to the Village Council on October 13, 2011; and

**WHEREAS**, the **VILLAGE** asked to participate in the Wayfinding Project and agreed to pay Monroe County \$39,860.88 to enable URS to design the wayfinding signage program within the Village boundaries; and

**WHEREAS**, construction and installation costs for the wayfinding program will be paid for through FDOT LAP Agreement APW 52 within unincorporated Monroe County and within the boundaries of the Village of Islamorada, as already agreed to with FDOT; and

**WHEREAS**, Florida Statute Sec. 163.01 permits and encourages local governmental units to make the most efficient use of their powers by enabling them to cooperate with other

localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities;

**NOW THEREFORE**, in consideration of the mutual understandings and agreements set forth herein, the COUNTY and VILLAGE agree as follows:

1. **INCORPORATION BY REFERENCE** - The provisions of that certain document entitled "LOCAL AGENCY PROGRAM DOCUMENT" for Grant Agreement APW 52 (Grant Agreement) between the Florida Department of Transportation (FDOT) and COUNTY and its attachments are incorporated by reference as Exhibit A to this Agreement and made a part hereof as if fully set forth in the body of the Agreement and all laws, rules and regulations relating thereto are also incorporated by reference.
2. **PROJECT TASKS** – URS developed a Scope of Services for the VILLAGE which is attached to this agreement as Exhibit B. Provision of services by COUNTY to VILLAGE is contingent upon approval by URS of the additional services to be provided in Exhibit B as an amendment to its contract with COUNTY. No additional services shall be authorized to be provided by URS without prior written approval by the County.
3. **TERM** - The term of this Agreement begins on the date of execution by both parties and ends no later than June 30, 2013, the expiration of the FDOT Grant Agreement, unless earlier terminated or extended under the provisions of the Grant Agreement.
4. **DOCUMENT REVIEW AND COMPLIANCE** – The VILLAGE agrees to comply with the Grant Agreement and its attachments in its entirety. For purposes of the Agreement between the COUNTY and the VILLAGE, any obligations called for under the Grant Agreement to be performed by the grantee related to the VILLAGE project tasks will also apply as if fully set out between the VILLAGE and COUNTY.
5. **RESPONSIBILITY OF VILLAGE – A.** The VILLAGE agrees to have URS perform those project tasks outlined in the scope of services (Exhibit B) under the contract between URS and COUNTY and will pay the COUNTY \$39,860.88 for these services. VILLAGE will pay COUNTY upon execution of this Agreement. COUNTY will not issue a notice to proceed to URS until the funds are received

by COUNTY. Any delay attributable to the receipt of funds shall not be the fault of COUNTY. If any funds are remaining after URS is paid, the funds will be returned to the Village.

**B.** The design concept has been established by COUNTY. VILLAGE will provide input in regard to placement and content. In the event of disagreement between the parties, COUNTY and FDOT will make the final decision. The VILLAGE recognizes that time is of the essence in completing these tasks in order to secure construction funds by July 1, 2012. Therefore, the VILLAGE will commit to working with county staff and URS to provide comments, corrections, and recommendations for the VILLAGE wayfinding database in a timely manner in order to meet COUNTY and FDOT deadlines under the Grant Agreement.

6. **RESPONSIBILITY OF COUNTY -** The County will continue to act in its capacity as project manager for the Wayfinding Project under the Grant Agreement and will incorporate the VILLAGE signs into design documents for approval by FDOT. It is anticipated that the existing green, blue, and brown guide and informational signs on US 1 will be replaced and consolidated onto the approved wayfinding signs. Existing regulatory signs (speed limit, merge, mile markers, etc) will remain as they currently exist. Recommendations will be submitted to FDOT to remove extraneous "No Parking" signs. The initial FDOT submittal (50% plans) is scheduled to occur in late 2011, pending COUNTY approval of the preferred concept. Funding to construct the new signs is programmed in the FDOT workprogram for July 1, 2012. In order to secure the construction funding, final construction documents (100% plans/bid documents) must be submitted to FDOT early in 2012. COUNTY'S project manager for the Grant Agreement shall approve payment to URS monthly as provided in Exhibit B according to the percentage of each Task performed. There shall be no liability to COUNTY if payment is made incorrectly. In that event, COUNTY will make its best efforts to obtain a refund of the funds paid.
  
7. **SIGN CONSTRUCTION –** The COUNTY is authorized under the Grant Agreement with the FDOT to seek reimbursement for \$970,000 in construction costs and \$50,000 in construction oversight costs relating to the fabrication and installation of wayfinding signs. Any costs above this amount will require approval by the Monroe County Board of County Commissioners (BOCC). An estimate of probable cost will be developed by URS and submitted to the COUNTY and the VILLAGE prior to construction. The Wayfinding Project signage, including COUNTY and VILLAGE fabrication and installation, will be bid by Monroe County. If bids for the project exceed the authorized grant amount, COUNTY and VILLAGE staff will meet to devise reasonable alternatives for

staying within the project budget such as reduced numbers of signs, rebidding the project, or requesting additional funds from FDOT. COUNTY will contract for fabrication and installation of the signs including those within the VILLAGE.

8. **SIGN MAINTENANCE:** FDOT LAP Agreement (Contract APW 52) requires the local government to manage and maintain this project. Wayfinding sign replacement within the VILLAGE boundaries will be the responsibility of the VILLAGE. Signs incorporated into the Wayfinding Project are subject to this requirement.
9. **TERMINATION** – If FDOT or COUNTY terminates the Grant Agreement, this Interlocal Agreement will automatically be terminated. COUNTY and VILLAGE may terminate this Agreement upon seven days notice to the other. Any unencumbered funds or funds not necessary to meet payment obligations to URS for services described in Exhibit B will be refunded to VILLAGE.
10. **NOTICES** - Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, and sent to:  

FOR COUNTY :	FOR VILLAGE:
County Administrator	Village Manager
1100 Simonton Street	86800 Overseas Highway
Key West, Florida 33040	Islamorada, FL 33036
11. **UNAVAILABILITY OF FUNDS** - If the COUNTY learns that funding cannot be obtained under the Grant Agreement or cannot be continued at a level sufficient to allow for the services specified herein, this Interlocal Agreement may then be terminated immediately, at the option of the COUNTY, by written notice of termination delivered in person or by mail to the VILLAGE at its address specified above. The parties acknowledge that the COUNTY has no funding without the funding by the BOCC under the Grant Agreement and agree that the COUNTY has no liability for funds expended on behalf of the VILLAGE if construction and installation cannot be provided because of lack of funding of the Grant Agreement.
12. **PERFORMANCE AND OBLIGATION** – The COUNTY’S performance under this Interlocal Agreement is contingent upon an annual appropriation by the

Board of County Commissioners and upon the COUNTY'S performance and obligation to pay under the Grant Agreement which is contingent upon annual appropriation by the Legislature of the State of Florida and the availability of federal funding for the specific purpose of funding the COUNTY'S obligations under the Grant Agreement. In the event of a State revenue shortfall, withdrawal of State budget authorization and/or rescission of federal funding, the total funding will be reduced accordingly. The COUNTY, in accordance with direction from the Governor and/or the Florida Legislature, shall be the final determiner of the availability of any funds.

13. **COMPLIANCE WITH LAWS AND REGULATIONS** - In providing all services pursuant to this Interlocal Agreement, the VILLAGE and COUNTY shall abide by all statutes, ordinances, rules, and regulations pertaining to, or regulating the provision of, such services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this agreement.
14. **MAINTENANCE OF BOOKS AND RECORDS** - VILLAGE and COUNTY agree to maintain books, records, and documents directly pertinent to performance under the Grant Agreement and this Interlocal Agreement. VILLAGE agrees to provide access to the books, records and documents to the COUNTY in order for the COUNTY to comply with the Grant Agreement.
15. **FLORIDA STATUTE SECTION 768.28** – Each party agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.
16. **DISPUTES** - COUNTY and VILLAGE agree that they will seek to resolve any disputes between them regarding their responsibilities as soon as possible and at the lowest level reasonable, in order to conserve the resources of the parties. The parties further agree to use their best efforts to assure speedy and non-confrontational resolution of any and all disputes between them. In the event any cause of action or administrative proceeding is initiated or defended by any party relative to the enforcement or interpretation of this Interlocal Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs, as an award against the non-prevailing party, and shall include attorney's fees and courts costs in appellate proceedings, as an award against the non-prevailing party. Mediation proceedings initiated and conducted pursuant to this Interlocal Agreement shall be in accordance with the Florida Rules of Civil Procedure and

usual and customary procedures required by the circuit court of Monroe County. Venue for any legal proceedings shall be in Monroe County, Florida.

17. **AMENDMENT AND ASSIGNMENT** - No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Interlocal Agreement, unless executed with the same formality as this document with approval of the parties. This Interlocal Agreement or duties under the Grant Agreement shall not be assignable by either party unless such assignment is first approved by COUNTY.
18. **SEVERABILITY** - If any term, covenant, condition or provision of this Interlocal Agreement (or the application thereof to any circumstance or person) shall be declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining terms, covenants, conditions and provisions of this Agreement, shall not be affected thereby; and each remaining term, covenant, condition and provision of this agreement shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this Agreement would prevent the accomplishment of the original intent of this Agreement. COUNTY and VILLAGE agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.
19. **INDEPENDENT CONTRACTORS, WORKERS COMPENSATION** –
  - (a) VILLAGE and its employees, volunteers, agents, vendors and subcontractors shall be and remain independent contractors and not agents or employees of the COUNTY or the BOCC with respect to all of the acts and services performed by and under the terms of this agreement. COUNTY and its employees, volunteers, agents, vendors and subcontractors shall be and remain independent contractors and not agents or employees of the VILLAGE with respect to all of the acts and services performed by and under the terms of this Interlocal Agreement.
  - (b) VILLAGE will be self-insured against or will secure and maintain during the life of this agreement, Workers Compensation for all of its employees connected with the work of this agreement. VILLAGE shall require its subcontractors similarly to provide Workers Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the VILLAGE. Such coverage shall comply fully with Florida's Worker's Compensation Law. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

20. **WAIVER OF PROVISIONS** - The failure of either party to this Interlocal Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.
21. **AUTHORITY** - Each party represents and warrants to the other that the execution, delivery and performance of this Agreement have been duly authorized by all necessary governmental action, as required by law.
22. **ENTIRE AGREEMENT** –
  - (a) It is understood and agreed that the entire agreement of the parties is contained herein and that this Interlocal Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof.
  - (b) Any alterations, amendments, deletions, or waivers of the provisions of this Interlocal Agreement shall be valid only when expressed in writing and duly signed by the parties.

**BALANCE OF PAGE INTENTIONALLY LEFT BLANK  
SIGNATURE PAGE TO FOLLOW**

10.31.2011

**IN WITNESS WHEREOF**, the parties to this Interlocal Agreement have caused their names to be affixed hereto by the proper officers thereof for the purposes herein expressed at Monroe County, Florida.

**BOARD OF COUNTY  
COMMISSIONERS OF MONROE  
COUNTY, FLORIDA**

ATTEST: DANNY L. KOLHAGE, Clerk

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

By: \_\_\_\_\_  
Mayor/Chairman

Date: \_\_\_\_\_

**ISLAMORADA, VILLAGE OF  
ISLANDS**

ATTEST:

\_\_\_\_\_  
Village Clerk

By: \_\_\_\_\_  
Mayor

Approved as to Form and Legal Sufficiency:

Date: \_\_\_\_\_

\_\_\_\_\_  
Village Attorney

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM  
*[Signature]*  
Date: 10-31-11

EXHIBIT A

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
LOCAL AGENCY PROGRAM AGREEMENT

FPN: <u>420298-1</u>	Fund: _____	FLAIR Approp: _____
Federal No: <u>4861-210</u>	Org Code: <u>55063030649</u>	FLAIR Obj: <u>790084</u>
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: <u>Monroe</u>	Contract No: <u>APW52</u>	Vendor No: <u>596000749142</u>
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 22 day of April, 2010 by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the Department, and Monroe County Board of County Commissioners hereinafter called the Agency.

WITNESSETH:

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 All-American Road Snorage 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 and 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.

**Removal of Any Unbilled Funds**

If Agency fails to timely perform its obligations in submitting invoices and documents necessary for the close out of the project, and said failure results in a loss of the remaining unbilled funding either by Federal withdrawal of funds or loss of State appropriation authority (which may include both federal funds and state funds, if any state funds are on the project), Agency will be responsible for the remaining unbilled funds on the project. No other funds will be provided by the Department. Agency waives the right to contest such removal of funds by the Department, if said removal is directly related to Federal (FHWA) withdrawal of funds or loss of State appropriation authority due to Local Agency's failure or nonperformance. In addition to loss of funding, the Department will consider de-certification of said Agency for future LAP projects.

**Removal of All Funds**

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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 June 30, 2013. 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.

### **3.00 Project Cost:**

**3.01 Total Cost:** The total cost of the project is \$ 1,100,000. 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, including contingencies, in the project cost to the extent provided in Exhibit "B." This amount includes federal-aid funds which are limited to the actual amount of federal-aid participation.

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

- 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

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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 from the Department.

**3.07 Limits on Federal Participation:** Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State 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:

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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 FDOT'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.

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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):

Danny Iglesias, PE  
LAP Administrator  
Florida Department of Transportation, District 6  
1000 NW 111<sup>th</sup> Avenue  
Miami, FL 33172
  - 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 10<sup>th</sup> 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:

Danny Iglesias, PE  
LAP Administrator  
Florida Department of Transportation, District 6  
1000 NW 111<sup>th</sup> Avenue  
Miami, FL 33172

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

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Letters issued by the auditor, to the Department at each of the following addresses:

Danny Iglesias, PE  
LAP Administrator  
Florida Department of Transportation, District 6  
1000 NW 111th Avenue  
Miami, FL 33172

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):

Danny Iglesias, PE  
LAP Administrator  
Florida Department of Transportation, District 6  
1000 NW 111th Avenue  
Miami, FL 33172

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):

Danny Iglesias, PE  
LAP Administrator  
Florida Department of Transportation, District 6  
1000 NW 111th Avenue  
Miami, FL 33172

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.

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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 12.06 or 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.

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**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.

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

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

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

**8.02 Action Subsequent to Notice-of-Termination or Suspension:** Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (a) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to 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,

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national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

**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

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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.

**13.08 Plans and Specifications:** In the event that this Agreement involves constructing and equipping of facilities on the State Highway System, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the project. The Department will review all plans and specifications and will issue to the Agency 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.

**13.09 Right-of-Way Certification:** Upon completion of right-of-way activities on the project, the Agency must certify compliance with all applicable federal and state requirements. Certification is required prior to advertisement for or

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solicitation of bids for construction of the project, including those projects for which no right-of-way is required.

**13.10 Agency Certification:** The Agency will certify in writing, prior to project closeout, that the project was completed in accordance with applicable plans and specifications, is in place on the Agency's facility, adequate title is in the Agency's name, and the project is accepted by the Agency as suitable for the intended purpose.

**13.11 Agreement Format:** All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

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

**13.13 Restrictions on Lobbying:**

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

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

The Agency shall require that the language of this 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.

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

**13.15 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 5 working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days after receipt of the invoice and 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 850-410-9724 or by calling the State Comptroller's Hotline, 1-800-848-3792.

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

AGENCY MONROE COUNTY  
BOARD OF COUNTY COMMISSIONERS

By: Sylvia J. Murphy

Name: Sylvia J. Murphy

Title: Mayor

Attest: Danny L. Kolhage

Title: **DANNY L. KOLHAGE, Clerk**

As to form:

Susan M. Grimsley  
Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: Alicia L. ...

Name: Alicia L. ...

Title: Director of Transportation Development

Attest: ...

Title: Executive Assistant to the Director of Transportation Development

As to form:

Alicia L. ...  
District Attorney

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

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:  
Susan M. Grimsley  
SUSAN M. GRIMSLEY  
ASSISTANT COUNTY ATTORNEY  
Date 1-25-16

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**EXHIBIT "A"**

**PROJECT DESCRIPTION AND RESPONSIBILITIES**

FPN: 428298-1

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

Dated \_\_\_\_\_

**PROJECT LOCATION:**

The project \_\_\_ is  is not on the National Highway System.

The project \_\_\_  is \_\_\_ is not on the State Highway System.

**PROJECT DESCRIPTION:**

The Florida Keys Scenic Highway corridor was recently designated as an All-American Road. Monroe County is developing a standardized "wayfinding" signage system that will provide consistency and remove existing sign clutter along the corridor. This project will be designed in concert with the scenic highway program and the Florida Keys Overseas Heritage Trail to promote economic benefits for Monroe County businesses and citizenry.

**SPECIAL CONSIDERATIONS BY AGENCY:**

None

**SPECIAL CONSIDERATIONS BY DEPARTMENT:**

None

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**EXHIBIT "B"**

**SCHEDULE OF FUNDING**

<b>AGENCY NAME &amp; BILLING ADDRESS</b> Monroe County Board of County Commissioners	<b>FPN:</b> 428298-1
---	-------------------------

**PROJECT DESCRIPTION**

Name: All-American Road Signage

Terminals: US 1 Corridor - MM 0 - MM 110

TYPE OF WORK By Fiscal Year	FUNDING		
	(1) TOTAL PROJECT FUNDS	(2) AGENCY FUNDS	(3) STATE & FEDERAL FUNDS
<b>Planning</b> 2007-2008 2008-2009  Total Planning Cost			
<b>Project Development &amp; Environment (PD&amp;E)</b> 2006-2007 2007-2008 2008-2009 Total PD&E Cost			
<b>Design</b> 2006-2007 2007-2008 2008-2009 2009-2010 Total Design Cost	80,000	0	80,000
<b>Right-of-Way</b> 2006-2007 2007-2008 2008-2009 Total Right-of-Way Cost			
<b>Construction</b> 2008-2009 2009-2010 2010-2011  Total Construction Cost	970,000	0	970,000
<b>Construction Engineering and Inspection (CEI)</b>  2008-2009 2009-2010 2010-2011  Total CEI Cost  Total Construction and CEI Costs	50,000	0	50,000
<b>TOTAL COST OF THE PROJECT</b>	1,100,000	0	1,100,000

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.

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**Smith-Patricia**

**From:** Iglesias, Danny [Danny.Iglesias@dot.state.fl.us]  
**Sent:** Wednesday, October 26, 2011 4:08 PM  
**To:** Smith-Patricia; Alvarez, Teresita  
**Cc:** Espino, Barbara  
**Subject:** RE: FM 428298-1 - Signage LAP

Tricia

I do not see a problem if the Village will pay.

Sincerely,

Danny Iglesias  
Sr. Project Manager

Florida Dept. of Transportation  
1000 NW 111 Ave.  
Miami, Florida 33172  
305-470-5289 **Phone**  
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**From:** Smith-Patricia [mailto:Smith-Patricia@MonroeCounty-FL.Gov]  
**Sent:** Wednesday, October 26, 2011 4:04 PM  
**To:** Iglesias, Danny; Alvarez, Teresita  
**Subject:** FM 428298-1 - Signage LAP  
**Importance:** High

Hi all –

The above referenced LAP (attached) allows us to design and construct a wayfinding program on US 1 from MM 0-106. It does not distinguish between municipalities. Monroe County is the LAP agent. The Village of Islamorada would like to participate in the program, for which we estimate that we will have sufficient construction funds through the LAP agreement.

We do not have sufficient design funds allocated through the LAP to create construction documents for signs within the Village. The Village has agreed to pay their own design costs for the signage program. Our plan is to enter into an interlocal agreement with the Village which will allow them to piggy back on our consultant contract. (Our consultant was selected in accordance with the CCNA).

The Village will pay the county for URS's design services, which will allow us to create design documents for FDOT approval. No changes to the project extent are required for the LAP agreement. Monroe County will only seek reimbursement of design fees for up to \$80,000 as approved in the LAP agreement.

In accordance with Section 9.01 of our LAP agreement, we are requesting permission to enter into an inter-local agreement with the Village of Islamorada to allow their participation in our wayfinding program. Your earliest concurrence is appreciated as we are scheduled to provide review documents to FDOT in December and again in February. The final construction checklist is scheduled to be submitted to FDOT in March 2012.

Thanks!

Trish Smith, AICP  
Transportation Planner  
Monroe County Planning Department  
305 304-0412  
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**EXHIBIT B****SCOPE OF SERVICES FOR  
VILLAGE OF ISLAMORADA - MONROE COUNTY WAYFINDING SIGN DESIGN****PURPOSE**

The purpose of this document is to describe the scope of work and the responsibilities of the CONSULTANT and the County (and Village of Islamorada) in connection with the planning, design, and preparation of a complete set of signage plans to install 'Wayfinding' signs along US 1 Florida Keys Scenic Highway Corridor in the Village of Islamorada - Monroe County. The signage plan, which include the concept plan and the design plan will be incorporated to the signage plans that being prepared by the CONSULTANT for the unincorporated portions of the US 1 Florida Keys Scenic Highway Corridor in Monroe County.

The CONSULTANT will perform those planning and engineering services required to identify appropriate locations, develop a concept plan, and prepare a set of contract plans to include Wayfinding signs in the Village of Islamorada - Monroe County. It will be the CONSULTANT'S responsibility to utilize the standard engineering judgment, practices and principles possible during the prosecution of the work commissioned under this contract. The CONSULTANT will demonstrate good project management practices while working on this project. These include communication with the Village of Islamorada - Monroe County and others as necessary; management of time and resources, and documentation. The CONSULTANT should make every effort to make use of all past studies and information gathered, and not repeat tasks that have been completed through the CommunityKeys or other programs.

The Village of Islamorada - Monroe County will provide contract administration, management services, and technical reviews of all work associated with the development of concept plans and preparation of the contract plans. The Village of Islamorada - Monroe County will provide job specific information and/or functions as outlined in this agreement.

**STUDY OBJECTIVE**

The goals of this study/task include reducing signage clutter along US 1 by developing a wayfinding approach that recognizes the uniqueness of the corridor, provides identification for the communities, supports local businesses, and conveys important information to motorists and public at large, visual continuity between all elements: the portal signs for the north and the south ends of the scenic highway, gateway elements announcing arrival at the constituent communities, and directional signage for public amenities (boat launches, parks, shopping areas, etc.) and historical features. These do not all need to be identical but they do all need to be compatible and coordinated, communicating well to the visiting public, as well as reflecting well on the constituent communities.

The general objective is for the CONSULTANT to prepare a set of plans to be used by the contractor to install Wayfinding Signs and for the Village of Islamorada - Monroe County so that the project is built as designed to applicable FDOT standards.

Elements of work will include:

1. Collecting and reviewing past studies applicable to the Village of Islamorada – Monroe County.
2. Identifying appropriate locations for Wayfinding Signs and unwanted signs along the US 1 corridor in the Village of Islamorada – Monroe County.
3. Developing concept plan sketches consistent with the rest of the Monroe County Wayfinding Program.
4. Attending and presenting the plan to stakeholders.
5. Preparing design plans and establishing quantity computation booklets, and reasonably necessary incidental items for a complete project to be bid or let by the County.

### **1. BACKGROUND REVIEW**

The CONSULTANT will review past studies that are relevant to the wayfinding program in the Village of Islamorada – Monroe County. The Village of Islamorada – Monroe County will be responsible for providing the CONSULTANT with all existing relevant documents in a timely manner to execute this task.

### **2. IDENTIFYING APPROPRIATE LOCATIONS**

The CONSULTANT will utilize existing data, including the recently completed US 1 Sign Inventory Data Base, GIS Maps, and perform a field review to identify appropriate locations for Wayfinding Signs.

The locations will be in compliance with the requirements of FS 14-51 – Florida's Highway Guide Signs, Part V- Wayfinding Signs. Coordination with all permitting agencies and the Village of Islamorada – Monroe County will be required from the outset. All meetings and decisions are to be documented for the records.

### **3. DEVELOPING CONCEPT SKETCHES**

The CONSULTANT will utilize the wayfinding sign theme developed for Monroe County. The concept plan should identify engineering standards, such as wind loading requirements, break-away standards, and clearance requirements. The same theme will be applied regardless of the geographical location of the signs. The CONSULTANT will prepare concept plan sheets to locate the proposed signs.

### **4. ATTENDING AND PRESENTING THE PLAN TO STAKEHOLDERS**

The Village of Islamorada – Monroe COUNTY will schedule and conduct one stakeholders meeting. The CONSULTANT will prepare presentation materials and make presentations to solicit input from the stakeholders. This meeting is intended to exchange information, and build consensus to develop the Wayfinding Sign plan for the Village of Islamorada.

### **5. SIGN DESIGN PLANS PACKAGE**

This work effort includes analysis and design and to prepare a complete set of plans, permit sketches, and other necessary documents. All design work will be in compliance with the requirements of the regulatory agencies. Full coordination with all permitting agencies and the County Engineering Department will be required from the outset. All meetings and decisions are to be documented for the records. The CONSULTANT will design the project using the design standards that are most appropriate for the scope of work.

The CONSULTANT will submit to the County design notes and computations to document the design conclusions reached during the development of the plans. The complete package should also include National Environmental Policy Act (NEPA) checklist to satisfy the 'Categorical Exclusion' of this project from requiring environmental permits. The CONSULTANT will provide specifications for the project.

The CONSULTANT will utilize the Concept Plans developed in Task 3 as the foundation for developing the design plans. Survey and geotechnical data are not anticipated (and not budgeted) for this project. Field measurements should be collected to locate all proposed signs to assist with the development of design plans. The CONSULTANT will prepare and submit plan sheets at 1"=100' scale, notes, and details to include the following: Key Sheet, Project Layout Map, Typical Sections sheet with General Notes, Summary of Quantities sheets, miscellaneous construction details, and any other detail sheets necessary to convey the intent and scope of the project for the purposes of construction. Specific cost estimates will supplement the design plans. The scope of this project does not include collecting supplemental survey and/or geotechnical data.

The CONSULTANT will prepare and submit structural calculations and details of Wayfinding Sign poles, if necessary.

**Deliverables:**

Three (3) deliverables are anticipated to accomplish this project. They are:

1. Concept Sketches and Statement of Design Approach.
2. Preliminary Design plans – 50%.
3. Final Design plans – 100%, including the removal of unwanted signs supplemented with cost estimates, permits, and other application materials.

Each submittal will include ten (10) sets of 11"x17" plans and/or 8½"x11" written documents for review and circulation. The final submittal will include six signed and sealed sets of plans, along with six copies of calculations report, if any, signed and sealed.

**Utilities:**

Utility information gathered from the FDOT as built plans will be used in deciding appropriate locations for the wayfinding signs. The utility information will not be presented in the plans; instead, specific notes will be added to the design plans directing the contractor to confirm utility locations near all proposed wayfinding signs.

**Permits:**

The CONSULTANT will perform a preliminary field review and will be responsible for early identification of permits required and coordination with the County to see that design efforts are properly directed toward permit requirements. The CONSULTANT will be responsible for securing FDOT and other required permits for construction approval of these plans.

**Project Schedule:**

Within seven (7) days after the Notice-To-Proceed, the CONSULTANT will provide a schedule of calendar deadlines. The schedule will be prepared in a format prescribed by the County. The schedule will be based on the dates of the community meetings, 50% and 100% plans submittals.



**Meetings and Presentations:**

Apart from the community meeting, the CONSULTANT will attend one (1) Kick-Off meeting, and one meeting each (total of 4) in person client meetings to review and discuss and/or coordinate project issues. The Village of Islamorada – Monroe County will make sure that FDOT staff that is ultimately responsible for approving the design plans will be present at these review meetings. Additional meeting time has been scheduled for Permits and Utility Coordination.

**Quality Control:**

The CONSULTANT will be responsible for the professional quality, technical accuracy and coordination of all drawings, specifications and other services furnished by the CONSULTANT under this contract.

**Compensation for Services**

The Consultant shall be paid a lump-sum amount of \$39,860.88 for satisfactory completion of the work and delivery of the end products. The staff-hour estimates and the fee are presented in Attachment A. Invoices will be submitted monthly, reflecting the compensation for proportional completion of the contract.

**Attachment A**  
**Staff Hours and Cost Estimate**  
**US 1 / Overseas Highway – Village of Islamorada**  
**Wayfinding Sign Plan**

TASK	Project Mngr.	Senior Eng.	Eng.	Tech.	Clerical	Total Hours
<b>TASK – 1: BACKGROUND REVIEW</b>						
1. Collect and Review Data	2	4	4			10
SUBTOTAL	2	4	4	0	0	10
<b>TASK – 2: IDENTIFY APPROPRIATE LOCATIONS FOR WAYFINDING SIGNS</b>						
1. Review Sign Inventory and group them into portals		4				4
2. Identify sign requirements		4	16			20
SUBTOTAL	0	8	16	0	0	24
<b>TASK – 3: DEVELOP CONCEPT SKETCHES</b>						
1. Develop concept plans and Design Approach		16		24		40
2. Meeting to review concept drawings	4	4				8
SUBTOTAL	4	20	0	24	0	48
<b>TASK – 4: COMMUNITY MEETINGS</b>						
1. Prepare presentation materials	2	2		4		8
2. Attend Meeting (1) and present	4	4				8
SUBTOTAL	6	6	0	4	0	16
<b>TASK – 5: DEVELOP SIGN DESIGN PACKAGE</b>						
1. Develop 60% Plans	4	32		40		76
2. Submittal and Review Meeting	1	1				2
3. Develop 100% Plans	4	24		40		68
4. Submittal and Review Meeting	1	1				2
6. Permit applications/assistance and Miscellaneous	1	1	4	4		10
SUBTOTAL	11	69	4	84	0	168
<b>MEETINGS</b>						
1. Meetings (4)	4	4				8
SUBTOTAL	4	4	0	0	0	8
<b>TASK ADMINISTRATION</b>						
1. Task Management	8				2	10
2. Billings	1				3	4
3. Job Close-Out / Records Transferring	1				3	4
SUBTOTAL	20	0	0	0	8	28
<b>TOTAL STAFF HOURS</b>	<b>47</b>	<b>101</b>	<b>24</b>	<b>112</b>	<b>8</b>	<b>292</b>
Contract Hourly Rates	\$206.41	\$172.69	\$96.76	\$89.16	\$51.22	
<b>TOTAL BUDGET</b>	<b>\$9,701.27</b>	<b>\$17,441.69</b>	<b>\$2,322.24</b>	<b>\$9,986.92</b>	<b>\$409.76</b>	<b>\$39,860.88</b>