

FINANCIAL PROJECT NO.: 425467-1-58-01

425467-1-68-01

NASSAU COUNTY

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TRANSPORTATION REGIONAL INCENTIVE PROGRAM AGREEMENT

This is an Agreement by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT," and NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS, hereinafter referred to as the "COUNTY."

WITNESSETH

- 1. WHEREAS, the DEPARTMENT has the authority, under Fla. Stat. §334.044, to enter into this Agreement; and
- 2. WHEREAS, the Transportation Regional Incentive Program was created by Fla. Stat. §339.2819 to provide funds to improve regionally significant transportation facilities in "regional transportation areas" pursuant to Fla. Stat. §339.155 (5); and
- 3. WHEREAS, the COUNTY has certified to the DEPARTMENT that it has met the eligibility requirements of Fla. Stat. §339.2819; and
- 4. WHEREAS, the North Florida Transportation Planning Organization, acting as a designated regional partnership under Fla. Stat §339.155 (5)(c) and formed by an interlocal agreement, designated William Burgess Road Extension as a regional facility by approval and prioritization of the List of Priority Projects adopted August 14, 2008, a copy of which is incorporated into this agreement and attached.
- 5. WHEREAS, the DEPARTMENT is willing to provide NASSAU COUNTY with financial assistance under Financial Project No. 425467-1-58-01 & 425467-1-68-01 hereinafter referred to as the "PROJECT," in accordance with Fla. Stat. §339.2819; and
- 6. WHEREAS, the COUNTY by Resolution No. 2009-16 dated the 14th day of January, 2009, a copy of which is attached hereto and made a part hereof, has authorized the Chairman of its Board of Commissioners or designee to enter into this Agreement.

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

1. SERVICES AND PERFORMANCE

- A) The PROJECT consists of the construction of the William Burgess Road Extension from William Burgess Road to US 17 in Nassau County, Florida.
- B) The COUNTY agrees to undertake the construction of the PROJECT in accordance with all applicable, federal, state and local statutes, rules and regulations, and standards. The COUNTY shall be responsible for obtaining clearances/permits required for the

construction of the PROJECT from the appropriate permitting authorities. Upon completion of the PROJECT, the COUNTY shall certify to the DEPARTMENT that the PROJECT has been completed in accordance with the applicable standards, statutes, rules and regulations in writing.

- C) The DEPARTMENT will be entitled at all times to be advised, at its request, as to the status of work being done by the COUNTY and of the details thereof. Coordination shall be maintained by the COUNTY with representatives of the DEPARTMENT. The COUNTY shall provide the DEPARTMENT with quarterly progress reports.
- D) The COUNTY shall not sublet, assign or transfer any work under this Agreement without prior written consent of the DEPARTMENT.
- E) All notices under this Agreement shall be directed to the following addresses:

TO DEPARTMENT:

Florida Department of Transportation
District Two Planning Office
Mr. James Bennett, P.E., Urban Area Transportation Development Engineer
2198 Edison Avenue
Jacksonville, Florida 32204-2730
Telephone: (904) 360-5646

TO COUNTY:

The Honorable Barry Holloway, Chairman
Nassau County Board of County Commissioners
96160 Nassau Place
Yulee, FL 32097
Telephone: (904) 491-7380
Fax: (904) 321-5784

2. TERM

- A) The COUNTY shall perform the PROJECT activities in accordance with the following schedule:

Construction to be completed on or before December 31, 2010

- B) This Agreement shall not be renewed. Any extension shall be in writing and executed by both parties, and shall be subject to the same terms and conditions set forth in this Agreement and contingent upon the DEPARTMENT'S District Secretary's or Designee's Approval.

3. COMPENSATION AND PAYMENT

- A) The COUNTY and the DEPARTMENT agree to share the cost of this project **Financial Project No. 425467-1-58-01 & 425467-1-68-01**. The COUNTY agrees to provide one-half (1/2) of the match for PROJECT expenditures and the DEPARTMENT agrees to provide the other one-half (1/2) pursuant to Fla. Stat. §339.2819.

- B) The estimated total cost as set forth in the DEPARTMENT'S adopted work program for this PROJECT is **(\$2,600,000.00)** Two million, six hundred thousand and no/100.

The estimated COUNTY share for one-half (1/2) the match of the TRIP funded portion of the PROJECT is **(\$1,300,000.00)** One million, three hundred thousand and no/100. The estimated DEPARTMENT share for one-half (1/2) the match of the TRIP funded portion of the PROJECT is **(\$1,300,000.00)** One million, three hundred thousand and no/100, **\$1,250,000.00** for Construction & **\$50,000.00** for Construction Engineering Inspection) which is the maximum participation by the DEPARTMENT. The parties further agree all remaining costs of the PROJECT will be borne by the COUNTY.

- i) In the event the COUNTY proceeds with the construction of the PROJECT with its own forces, the COUNTY will only be reimbursed for direct costs (this excludes general and administrative overhead).
- ii) All costs charged to the PROJECT shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges.
- C) Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the DEPARTMENT under Section 334.044 (29), Florida Statutes.
- D) If this Agreement involves units of deliverables, then such units must be received and accepted in writing by the Contract Manager prior to payments.
- E) The DEPARTMENT'S obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.
- F) Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit.
- G) Travel costs will not be reimbursed.
- H) The COUNTY shall submit one invoice (3 copies), plus supporting documentation required by the DEPARTMENT. Payment shall be made to the COUNTY upon completion of all services, as approved by the DEPARTMENT.
- I) Participants providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has (5) five working days to inspect and approve the goods and services. 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, a separate interest penalty at a rate as established pursuant to Section 55.03(1), F.S., will be due and payable, in addition to the invoice amount, to the Participant. Interest penalties of less than one (1) dollar will not

be enforced unless the Participant requests payment. Invoices that have to be returned to a Participant because of Participant 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.

- J) A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payments(s) from the state. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the Department of Financial Services Hotline, 1-800-848-3792.
- K) Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred includes the COUNTY's general accounting records and the project records, together with supporting documents and records of the COUNTY and all subcontractors performing work on the project, and all other records of the COUNTY and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs.
- L) The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 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. Accordingly, the State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

4. ROADWAY LEVEL OF SERVICE

- A) Fla. Stat. §163.3180(10) requires that facilities funded through the Transportation Regional Incentive Program adopt the level of service standards established by the DEPARTMENT for the PROJECT limits.
- B) The logical termini for the PROJECT are **William Burgess Road Extension from William Burgess Road to US 17 in Nassau County, Florida.**
- C) The COUNTY agrees that once the additional capacity from the PROJECT is available for purposes of concurrency under Fla. Stat. §163.3180, it will officially adopt the DEPARTMENT'S level of service for the segment of **William Burgess Road Extension** between the logical termini specified in (B), above. If the COUNTY is unable to meet the Department's level of service, the COUNTY in consultation with the Department shall either adopt a long-term concurrency management system for such segment pursuant to Fla. Stat. §163.3180(9) and 163.3177(3)(d), which may include interim level of service

standards, or seek other options as provided by state law.

- D) The COUNTY agrees that upon execution of this agreement the level of service for the segment of William Burgess Road Extension between the logical termini specified in (B), above, shall be as designated by the DEPARTMENT. Upon execution of this agreement the level of service will be LOS D, subject to change by the DEPARTMENT without need to modify this agreement.
- E) The COUNTY has updated its comprehensive plan on November 24, 2008 and reflected the level of service change for the segment of **William Burgess Road Extension** between the logical termini specified in (B) above.

5. IN-KIND SERVICES AND RIGHT OF WAY DONATIONS (if applicable)

- A) In-kind services are goods, commodities, or services received in lieu of cash payments. Goods and commodities should be valued based on their current market value.
- B) Property donated by local governments for right of way as the local share for a qualified project, must comply with the requirements of the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601, et sec., and implementing federal regulations, 49 CFR Part 24 and 23 CFR Part 710, if federal funds will be used in any phase of the project. Other requirements for the acquisition of rights of way should be determined in accordance with guidelines established by the Office of Right of Way.
- C) The DEPARTMENT has established specific right of way acquisition guidelines for the Transportation Regional Incentive Program. These guidelines can be found at <http://www.dot.state.fl.us/planning/TRIP/RW-contributions.pdf> and are incorporated into this Agreement as Attachment 1.
- D) The excess of an in-kind match valued in excess of the required match will not generally be applied towards another project. On a case by case basis, an exception may be made for project segments in a regional corridor that are part of an implementation plan for that corridor.

6. INDEMNITY AND INSURANCE

A) INDEMNITY

- i) To the extent allowed by law, the COUNTY shall indemnify, defend, and hold harmless the DEPARTMENT and all of its officers, agents, and employees from any claim, loss, damages, cost, charge, or expense arising out of any act, error, omission, or negligent act by the COUNTY, its agents, or employees, during the performance of the Agreement, except that neither the COUNTY, its agents, or its employees will be liable under this paragraph for any claim, loss, damages, cost, charge, or expense arising out of any act, error, omission, or negligent act by the DEPARTMENT, or any of its officers, agents, or employees, during the performance of the Agreement.
- ii) When either party receives notice of claim for damages that may have been caused by the other party in the performance of services required under this Agreement, that party will immediately forward the claim to the other party. Each party will evaluate the claim, and report its findings to each other within fourteen (14) working days and

jointly discuss options in defending the claim. A party's failure to promptly notify the other of a claim will not act as a waiver or any right herein.

- iii) The COUNTY agrees to include the following indemnification in all contracts with contractors/subcontractors, consultants/subconsultants, who perform work in connection with this Agreement:

"The contractor/consultant shall indemnify, defend, save, and hold harmless the DEPARTMENT and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the contractor, its officers, agents, or employees. Neither the contractor/consultant, nor any of its officers, agents, or employees will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the DEPARTMENT or any of its officers, agents, or employees."

B) LIABILITY INSURANCE.

- i) The COUNTY shall carry and keep in force during the period of this Agreement a general liability policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$100,000 per person and \$200,000 each occurrence, and property damage insurance of at least \$50,000 each occurrence, for the services to be rendered in accordance with this Agreement. However, in the event the COUNTY maintains a self-insurance fund to cover such liability, the COUNTY agrees to maintain sufficient reserves in the fund to pay the above-described liability limits. In addition to any other forms of insurance or bonds required under the terms of this Agreement, the COUNTY must comply or cause its contractor to comply with §7-13 of the DEPARTMENT'S Standard Specifications for Road and Bridge Construction (2000), as amended.

C) WORKERS' COMPENSATION.

- i) The COUNTY shall also carry and keep in force Workers' Compensation insurance as required for the State of Florida under the Workers' Compensation Law.

7. COMPLIANCE WITH LAWS

- A) The COUNTY shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by the COUNTY in conjunction with this Agreement. Failure by the COUNTY to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the DEPARTMENT.
- B) The COUNTY shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.
- C) No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch, or a state agency.
- D) The COUNTY and the DEPARTMENT agree that the COUNTY, its employees, and subcontractors are not agents of the DEPARTMENT as a result of this Agreement for

purposes other than those set out in §337.274, Florida Statutes.

8. AUDITS

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

B) MONITORING

i) In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., 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 LOCAL GOVERNMENT regarding such audit. The LOCAL GOVERNMENT further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the DEPARTMENT's Office of the Inspector General, the Chief Financial Officer (CFO) or Auditor General.

C) AUDITS

i) PART I: FEDERALLY FUNDED

(1) 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:

(2) In the event that the recipient expends \$500,000 for fiscal years ending after December 31, 2003 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 to this agreement indicates Federal resources awarded through the Department by this agreement, if applicable. 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.

(3) 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.

(4) If the recipient expends less than \$500,000 for fiscal years ending after December 31, 2003 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. In the event that the recipient expends less than \$500,000 for fiscal years ending after December 31, 2003 in Federal awards in its fiscal year and 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).

(5) 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.

ii) PART II: STATE FUNDED

(1) Recipients of state funds (i.e. a nonstate entity as defined by Section 215.97(2) (1), Florida Statutes) are to have audits done annually using the following criteria:

(2) In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 for fiscal years ending on September 30, 2004, and thereafter 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 Department of Financial Services and the CFO; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this agreement indicates state financial assistance awarded through the Department by this agreement, if applicable. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

(3) 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.

(4) If the recipient expends less than \$500,000 in state financial assistance in its fiscal year ending on September 30, 2004, and thereafter, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the nonstate 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).

- (5) 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.

iii) PART III: OTHER AUDIT REQUIREMENTS

- (1) 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.
- (2) Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the FDOT, the Comptroller, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

iv) PART IV: REPORT SUBMISSION

- (1) Copies of 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:

**Florida Department of Transportation
Planning Department, MS 2014
Attn: Kim Evans
1109 South Marion Avenue
Lake City, Florida 32025**

- (2) 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, should be submitted to the Federal Audit Clearinghouse), at the following address:

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

- (3) Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.
- (4) In the event that a copy of the reporting package for an audit 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 the following:

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

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

**Florida Department of Transportation
Planning Department, MS 2014
Attn: Kim Evans
1109 South Marion Avenue
Lake City, Florida 32025**

- (6) Copies of financial reporting packages required by PART II of this agreement shall be submitted by or on behalf of the recipient directly to the following:

**Florida Department of Transportation
Planning Department, MS 2014
Attn: Kim Evans
1109 South Marion Avenue
Lake City, Florida 32025**

- (7) 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**

- (8) 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 the Department at the following address:

**Florida Department of Transportation
Planning Department, MS 2014
Attn: Kim Evans
1109 South Marion Avenue
Lake City, Florida 32025**

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

- (10) Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

V) PART V: RECORD RETENTION

- (1) The recipient shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of at least five years from the date the audit report is issued, and shall allow the Department, or its designee, the state CFO or Auditor General access to such records upon request. The recipient shall ensure that the independent audit working papers are made available to the Department, or its designee, the state CFO, or Auditor General upon request for a period of at least five years from the date the audit report is issued, unless extended in writing by the Department.

9. TERMINATION AND DEFAULT

- A) This Agreement may be canceled by either the COUNTY or the DEPARTMENT upon sixty (60) days written notice.
- B) If the DEPARTMENT determines that the performance of the COUNTY is not satisfactory, the DEPARTMENT shall have the option of (a) immediately terminating the Agreement, or (b) notifying the COUNTY of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or (c) taking whatever action is deemed appropriate by the DEPARTMENT.
- C) If the DEPARTMENT requires termination of the Agreement for reasons other than unsatisfactory performance of the COUNTY, the DEPARTMENT shall notify the COUNTY of such termination, with instructions as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- D) If the Agreement is terminated before performance is completed, the COUNTY shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress will become the property of the DEPARTMENT and will be turned over promptly by the COUNTY.

10. MISCELLANEOUS

- A) 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.
- B) The DEPARTMENT shall not be obligated or liable hereunder to any party other than the COUNTY.
- C) In no event shall the making by the DEPARTMENT of any payment to the COUNTY

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 COUNTY, and the making of such payment by the DEPARTMENT while any such breach or default exists shall in no way impair or prejudice any right or remedy available to the DEPARTMENT with respect to such breach or default.

- D) This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein. The parties agree that all commitments, agreements, or understandings concerning the subject matter of this Agreement are contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by the COUNTY and the DEPARTMENT.
- E) If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.
- F) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue of any judicial proceedings arising out of this Agreement shall be in Leon County, Florida.
- G) This Agreement shall be effective upon execution by both parties and shall continue in effect and be binding on the parties until the PROJECT is completed and accepted and payment made by the DEPARTMENT or terminated in accordance with Section 9.
TERMINATION AND DEFAULT.
- H) An entity or affiliate which has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.
- I) 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.

IN WITNESS WHEREOF, the COUNTY has caused this Agreement to be executed in its behalf, by the Chairman/Councilman of the (enter the name of the participating agency) or its designee, as authorized by Resolution Number 2009-16, and the FLORIDA DEPARTMENT OF TRANSPORTATION has caused this Agreement to be executed in its behalf through its District Secretary or authorized designee:

NASSAU COUNTY, FLORIDA

ATTEST

John A. Crawford
By: *John A. Crawford*
Ex-Officio Clerk (Seal)

Barry V. Holloway
Chairman, Nassau County Board of County Commissioners

John A. Crawford

Barry V. Holloway

2-18-09

Approved as to form by the Nassau County Attorney: *DAK 2/23/09*

Date

Date

David A. Hallman
David A. Hallman

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

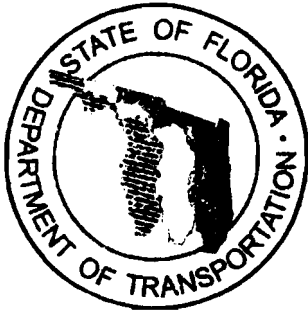
ATTEST

Lisa Lambert
EXECUTIVE SECRETARY (Seal)

By: *Charles W. Baldwin*
DISTRICT SECRETARY OR DESIGNEE
DISTRICT 2

Lisa Lambert 3-2-09
Print Name Date

Charles W. Baldwin 2/27/09
Print Name Date



Fla. Dept. of Trans. Legal Review:

By: *[Signature]*
Date

Availability of Funds Approval:

2/23/09
Date

EXHIBIT 1

STATE AGENCY: FDOT

CSFA #: 55.026

TITLE: Transportation Regional Incentive Program (TRIP)

AMOUNT: \$1,300,000.00

COMPLIANCE REQUIREMENTS:

Allowed Activities:

The TRIP Program is intended to provide state matching funds for capital projects, not operating expenses, on regionally significant facilities.

Allowable Cost:

See above.

Eligibility:

339.2819, F.S. establishes several minimum eligibility criteria in order to qualify for the TRIP funds. They include:

1. Support those transportation facilities that serve national, statewide or regional functions projects and function as an integrated regional transportation system.
2. Be identified in the capital improvements element of a comprehensive plan that has been determined to be in compliance with part II of chapter 163, after July 1, 2005, or to implement a long term concurrency management system adopted by a local government in accordance with 1s. 163.3177(9). Further, the project shall be in compliance with local government comprehensive plan policies relative to corridor management.
3. Be consistent with the Strategic Intermodal System Plan developed under s. 339.64.
4. Have a commitment for local, regional or private financial matching funds as a percentage of the overall project cost.

Matching:

The percentage of matching funds provided from the Transportation Regional Incentive Program shall be 50 percent of project costs.

NOTE: Section .400(d) of OMB Circular A-133, as revised, and Section 215.97(5)(a), Florida Statutes, require that the information about Federal Programs and State Projects included in Exhibit 1 be provided to the recipient.

Attachment "1"

GUIDANCE FOR LOCAL GOVERNMENT MATCH RIGHT OF WAY CONTRIBUTIONS FOR GROWTH MANAGEMENT (TRIP) PROJECTS

Senate Bill 360 as passed by the 2005 Legislature provides for state funding of growth management related transportation projects based upon a 50% match with local funds. It is anticipated that local governments will want to contribute rights of way for the project as all or part of their matching share. This document provides the guidance to be applied to such contributions.

I. Rights of Way Eligible for Contribution

Rights of way eligible for local government matching contribution credit are only those properties necessary for the qualified project itself. Rights of way for prior projects are not eligible. **Example:** An existing 2 lane facility is to be expanded to 4 lanes by the qualified project. The right of way for the existing 2 lane facility is not eligible for contribution credit. However, rights of way needed for the additional 2 lanes or rights of way held by the local government which are in excess of that necessary for the existing 2 lane facility but legitimately needed for the new 4 lane facility are eligible for credit.

II. Acquisition Procedures

Projects on the State Highway System or which use federal funding in any phase of the project or state funding in right of way must comply with either federal law or procedure or state law or rule relating to right of way acquisition procedures. These laws are intended to protect or provide benefits to property owners and relocatees on federal or state funded projects on the National and State Highway Systems. The laws and rules are intended to ensure consistency of fair treatment under the law to these citizens on these projects. The Department must ensure that local governments or private parties involved in acquisition processes, acting on the Department's or local government's behalf, comply with these requirements.

A. Projects not part of the State Highway System

These are projects which are not now on the State Highway System and have no reasonable expectation of being added to the system in the future. 1. Projects with no federal funding in any phase Rights of way acquired by the local government may be accepted for contribution credit regardless of the acquisition method or procedures used. Acquisition methods which do not conform to the requirements of the federal Uniform Relocation Assistance and Real Property

Acquisition Policy Act (Uniform Act) will preclude the use of federal funding in any phase of the project.

2. Projects with federal funding in any phase Rights of way must have been acquired in accordance with the federal Uniform Relocation Assistance and Real Property Acquisition Policy Act (Uniform Act). This also applies to developer donations where the developer specifically acquires property for his benefit on the project through a formal or tacit agreement with the local government. See paragraph II.B.1. below. Any rights of way purchased for the project through acquisition methods which do not conform to the Uniform Act may be able to be brought into compliance through remediation actions with approval of the Federal Highway

Administration (FHWA). The type and extent of the remediation actions are at the discretion of FHWA.

B. Projects which are part of the State Highway System

This includes projects which are currently on the State Highway System and those where there is a reasonable expectation they may become part of the system in the future. 1. Projects with no federal funding in any phase Rights of way acquired by the local government or private sector

persons or groups acting as their agents or on their behalf may be accepted if the acquisition methods were in compliance with laws and rules applicable to FDOT. This includes providing Relocation Assistance to displaced persons in accordance with Rule Chapter 14-66, Florida Administrative Code. Acquisition which does not conform to the federal Uniform Act will preclude the later use of federal funding in any phase. See paragraph II.2.A. above.

Donations: It is recognized that developers may wish to donate rights of way in order to expedite the completion of a project. Acceptance of these donations is acceptable under certain conditions. If the property being donated was acquired by the donor for his/her own purposes and

at his own risk, and is now being made available for the project, the donation may be accepted with no necessity to inquire into the acquisition methods used. If, however, the property was acquired specifically for the project under an agreement with the local government, whether written or not, the acquisition methods must comply with laws and rules applicable to FDOT. In that event the developer is acting as an agent for or on behalf of the local government, and the law and rules apply in the acquisition.

Exactions: In some instances, local governments may require the donation of rights of way as a condition of the development approval process. This is often referred to as an "exaction." Rights of way acquired through a lawfully adopted exaction ordinance or process can be accepted unless the process results in the developer acquiring the acquisition of rights of way as an agent of, or on behalf of, the local government.

2. Projects with federal funding in any phase Rights of way must have been acquired in conformance to the federal Uniform Act. Lands donated by developers may be accepted as indicated in II.B.1. above, provided that the donor has been fully advised of the right to compensation and has specifically waived that right. Exactions obtained through a lawful ordinance or process may also be accepted as explained in II.B.1. Rights of way purchased for the project through acquisition methods which do not conform to the Uniform Act may be able to be brought into compliance through remediation actions with approval of FHWA. The type and extent of the remediation actions are at the discretion of FHWA.

III. Valuation of Contributed Rights of Way

Once it is determined that rights of way proposed for local matching contribution are eligible for all or part of the local government share of the project costs, the issue becomes the amount to be credited, i.e., the value of the property or property rights to the eligible project.

A. R/W Acquisition as a Phase of the Project

Where rights of way are acquired as a phase of the project, the value of the contribution for purchased parcels is the actual acquisition cost of the property including land, improvements,

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severance damages and business damages. Documentation of the acquisition costs may be through closing statements, final judgments or similar documents.

B. Contributions of Previously Acquired Rights of Way

Where properties previously purchased are to be contributed to the project, the contribution value may be either current market value or actual acquisition costs for land, improvements, severance damages and business damages at the time the property was acquired. The current market value may be established by new appraisal reports, updated appraisal reports, or other data provided by the local government that is confirmed by the District Appraisal Office as reflecting a reasonably accurate estimate of current fair market value. Documentation of actual acquisition costs at the time the property was acquired may be through closing statements, final judgments or similar documents.

C. Donated or Exacted Properties

Where the properties to be contributed were acquired by donation or exaction, the contribution value is the market value as of the date of the donation or exaction. The market value may be established by a new appraisal report, an updated appraisal report, or other data provided by the local government that is confirmed by the District Appraisal Office as reflecting a reasonably accurate estimate of current fair market value. However, if there are federal funds in the project, the market value must be established by an appraisal report prepared by an appraiser acceptable to the District Appraisal Office with a date of value as of the date title vested in the local government.

RESOLUTION NO. 2009- 16

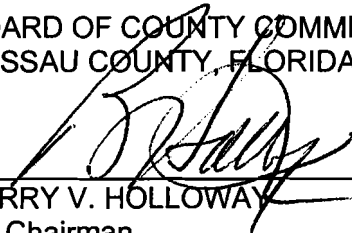
A RESOLUTION AUTHORIZING THE EXECUTION OF THE AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA

WHEREAS, the Engineering Services Director has recommended that the Board of County Commissioners of Nassau County, Florida, execute a Transportation Regional Incentive Program Agreement between the State of Florida Department of Transportation and Nassau County regarding the Design and Construction of William Burgess Road Extension from William Burgess Road to US 17, in Nassau County, Florida (Financial Project No. 425467-1-58-01 and 425467-1-68-01).

NOW, THEREFORE, BE IT RESOLVED this 14th day of January, 2009, by the Board of County Commissioners of Nassau County, Florida as follows:

1. The State of Florida Department of Transportation Transportation Regional Incentive Program Agreement is hereby approved and the Chairman is authorized to execute said agreement.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA




BARRY V. HOLLOWAY
Its: Chairman

Attest as to Chairman's Signature:



JOHN A. CRAWFORD
Its: Ex-Officio Clerk



Approved as to form by the
Nassau County Attorney:



DAVID A. HALLMAN

*John A. Crawford, Rep. of Nassau County &
Jerry G. Quinn, C.S.O., & Connie Cochran, DC*



Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

1109 South Marion Avenue • MS 2014
Lake City, FL 32025-5874

STEPHANIE C. KOPELOUSOS
SECRETARY

March 2, 2009

The Honorable Barry Holloway, Chairman
Nassau County Board of County Commissioners
98160 Nassau Place
Yulee, Florida 32097

**Subject: Transportation Regional Incentive Program
William Burgess Road Extension
from William Burgess Road to US 17
Financial Project ID: 425467-1-58-01 & 425467-1-68-01**

Dear Chairman Holloway:

Enclosed for your files is a fully executed copy of the Transportation Regional Incentive Program Agreement for the William Burgess Road Extension from William Burgess Road to US 17 in Nassau County, Florida. This Agreement details the terms and conditions for construction of the subject improvements which Nassau County will undertake. This letter serves as your **Notice to Proceed**. The contract beginning date is March 5, 2009 with an ending date of December 31, 2010. Any work performed prior to March 5, 2009 is not eligible for reimbursement.

To expedite reimbursement, invoices should be sent directly to Ms. Kim Evans at 1109 South Marion Avenue, Lake City, Florida, 32025-5874. Invoices should be submitted in detail sufficient for a proper pre-audit and post-audit. Please remember that Nassau County is responsible for bearing all expenses in excess of the amount the Department agrees to participate **(\$1,300,000.00)**.

Should you have questions or need additional information, I can be reached at 1-800-749-2967, Extension 7745.

Sincerely,

Katrina Sadler
Planning Programs Administrator

KS:ke
Enclosures

CC: Ms. Denise Bunnewith, Executive Director - NFTPO
Mr. James Bennett, P.E., Urban Area Transportation Development Engineer
Mr. Thomas Hill, Urban Planning