

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Adoption of a Resolution and Authorization for the Chairman to Execute a Joint Participation Agreement Amendment Number 1 to the County Incentive Grant Program Agreement with the Florida Department of Transportation in Conjunction with the Midway Regional Stormwater Facility Project

**DEPARTMENT:** Public Works

**DIVISION:** Engineering

**AUTHORIZED BY:** Gary Johnson

**CONTACT:** Robert Walter

**EXT:** 5753

**MOTION/RECOMMENDATION:**

Adopt a Resolution and authorize the Chairman to execute a Joint Participation Agreement Amendment Number 1 to the County Incentive Grant Program Agreement with the Florida Department of Transportation in conjunction with the Midway Regional Stormwater Facility Project (FDOT - FPN 407355-6-58-01).

District 5 Brenda Carey

Jerry McCollum

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**BACKGROUND:**

The County Incentive Grant Program Agreement provides for reimbursement funding from the Florida Department of Transportation (FDOT) in the amount of \$3,528,742 to complete construction of the Midway Regional Stormwater Facility (Capital Improvement Number 00241701) in conjunction with FDOT's State Road 415 Project from the Seminole County Line to Reed Ellis Road in Volusia County. The Joint Participation Agreement Amendment Number 1 revises Item 7.(C) of the County Incentive Grant Program Agreement in that the embankment material provided by Seminole County shall be deemed the County's 50% match up to the estimated value of \$3,528,742.

**STAFF RECOMMENDATION:**

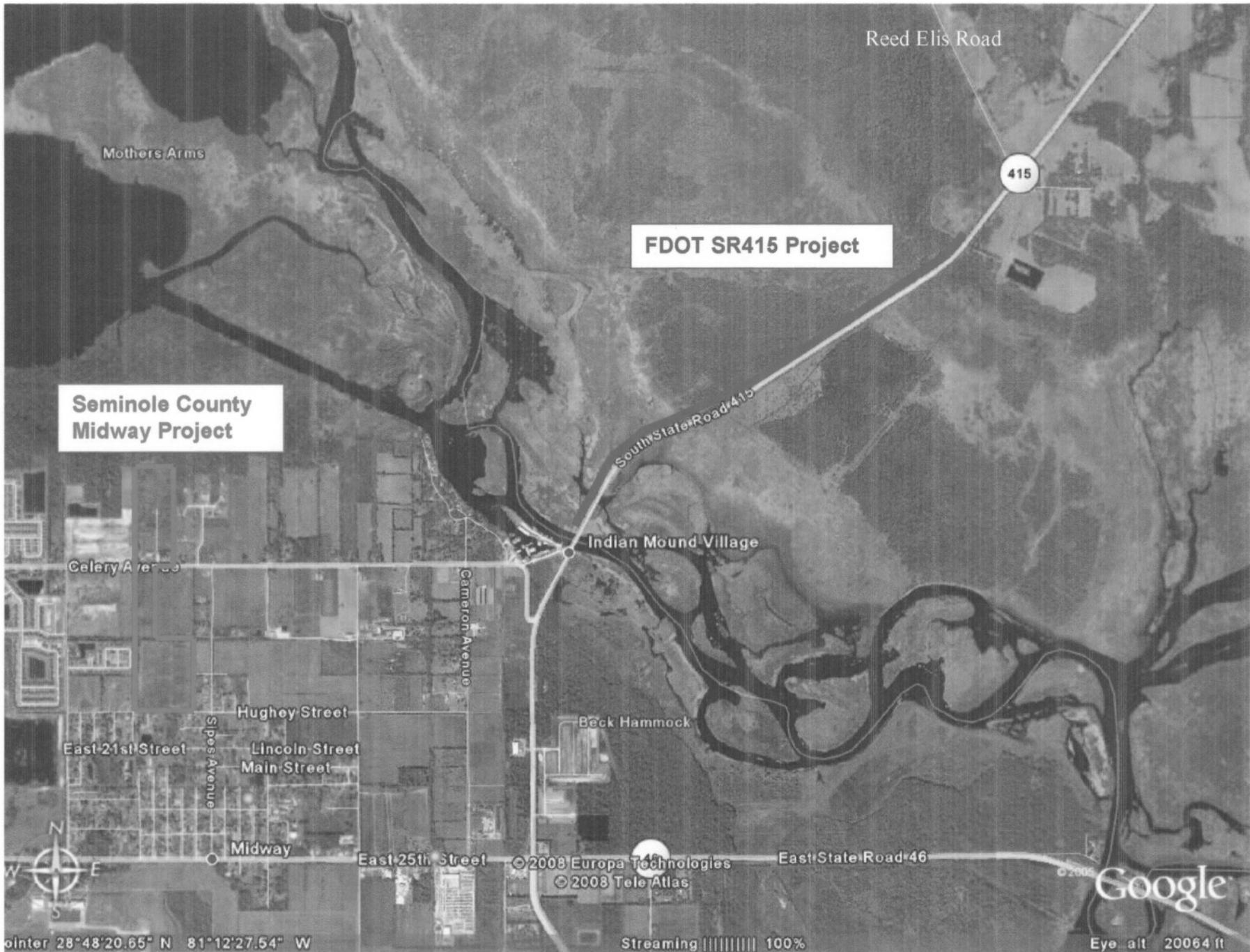
Staff recommends the Board adopt a Resolution and authorize the Chairman to execute a Joint Participation Agreement Amendment Number 1 to the County Incentive Grant Program Agreement with the Florida Department of Transportation in conjunction with the Midway Regional Stormwater Facility Project (FDOT - FPN 407355-6-58-01).

**ATTACHMENTS:**

1. Location Map-Midway Regional Stormwater Facility
2. Resolution - Midway Regional Stormwater Facility
3. JPA Amendment #1 - Midway Regional Stormwater Facility
4. Executed FDOT Agreement - Midway Regional Stormwater Facility

**Additionally Reviewed By:**

- County Attorney Review ( Matthew Minter )
- Grant Review ( Jennifer Bero, Lisa Spriggs )



Location Map

**RESOLUTION**

**THE FOLLOWING RESOLUTION WAS ADOPTED AT THE REGULAR MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA, ON THE 8<sup>th</sup> DAY OF DECEMBER, 2009.**

**WHEREAS**, the State of Florida Department of Transportation and Seminole County desire to facilitate the construction of State Road 415 from Seminole County Line to Reed Ellis Road in conjunction with the Midway Regional Stormwater Facility; and

**WHEREAS**, the State of Florida Department of Transportation has requested Seminole County to execute and deliver to the State of Florida Department of Transportation Amendment Number 1 to the Joint Participation Agreement (FDOT Financial Project # 407355-6-58-01).

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA THAT:**

1. The Board of County Commissioners of Seminole County, Florida, finds that

**BE IT FURTHER RESOLVED** by the Board of County Commissioners of Seminole County, Florida, that the Chairman is hereby authorized to make, execute and deliver to the State of Florida Department of Transportation Amendment Number 1 to the Joint Participation Agreement for the aforementioned project.

**ADOPTED THIS 8<sup>th</sup> DAY OF DECEMBER, 2009.**

**ATTEST:**

**BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA**

\_\_\_\_\_  
**MARYANNE MORSE, Clerk to the  
Board of County Commissioners  
In and for Seminole County, Florida.**

\_\_\_\_\_  
**Bob Dallari, Chairman**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**JOINT PARTICIPATION AGREEMENT**  
**AMENDMENT NUMBER 1**

**EXECUTION DATE:** \_\_\_\_\_

<b>FM # 407355-6-58-01</b> <b>Agency: Seminole County</b> <b>Vendor No.: F596000856-065</b> <b>Contract No: AP459</b>	<b>Catalog of State Financial Assistance</b> <b>(CSFA) No.: 55-008</b> <b>CSFA Title – County Incentive Grant</b> <b>Program</b>  <b>Contract Amount: \$3,528,742.00</b>	<b>Fund: CIGP</b> <b>Activity: 215</b> <b>Category: 088572</b> <b>Obj. Code: 750008</b> <b>Org. Code: 55054010508</b>
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The terms of the original Joint Participation Agreement, executed on May 6, 2008, are hereby amended as follows:

REMOVED FROM THE AGREEMENT:

Item 7. (C) The LOCAL GOVERNMENT may receive progress payments for services that have been completed and accepted to the satisfaction of the DEPARTMENT when properly supported by invoices or other acceptable evidence of payment. The LOCAL GOVERNMENT will be reimbursed for each invoice at a rate of 50% of the total costs incurred as of the date of the invoice. The remaining balance due under this Agreement will be due upon proper submission of invoices upon completion and approval of all PROJECT services.

ADDED TO THE AGREEMENT:

Item 7.(C) The LOCAL GOVERNMENT may receive progress payments for services that have been completed and accepted to the satisfaction of the DEPARTMENT when properly supported by invoices or other acceptable evidence of payment. It is herein agreed that the embankment material used to complete this PROJECT and referenced in Exhibit "A", Scope of Services shall be deemed the LOCAL GOVERNMENT'S required 50% match up to the estimated value of \$3,528,742.00 (Three Million Five Hundred Twenty Eight Thousand Seven Hundred Forty Two And No/100 Dollars) pursuant to the compliance requirements stated in Exhibit "F".

Except as hereby modified, amended or changed, all of the terms and conditions of said original Agreement thereto will remain in full force and effect.

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

**SEMINOLE COUNTY**

**By:** \_\_\_\_\_  
**Name:**  
**Title:**

**Attest:**  
\_\_\_\_\_

**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION**

**By:** \_\_\_\_\_  
**Name:** George S. Lovett  
**Title:** Director of Transportation Development

**Attest:**  
\_\_\_\_\_  
Executive Secretary (Seal)

**Legal Review:**  
\_\_\_\_\_

**ATTEST:**

**BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY**

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**MARYANNE MORSE, Clerk to the  
Board of County Commissioners in  
and for Seminole County, Florida.**

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**Bob Dallari, Chairman**

For the use and reliance of Seminole County only.  
Approved as to form and legal sufficiency.

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**County Attorney**

CERTIFIED COPY  
MARYANNE MORSE  
CLERK OF CIRCUIT COURT  
SEMINOLE COUNTY, FLORIDA

Original Draft: 4/01/2008  
Revised: 4/04/2008

BY S. Wilson

FM # 407355-6-58-01 Agency: Seminole County Vendor No.: F596000856-065 Contract No: <b>AP459</b>	Catalog of State Financial Assistance (CSFA) No.: 55-008 CSFA Title – County Incentive Grant Program Contract Amount: \$3,528,742.00	Fund: CIGP Activity: 215 Category: 088572 Obj. Code: 750008 Org. Code: 55054010508
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COUNTY INCENTIVE GRANT PROGRAM AGREEMENT  
BETWEEN  
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
AND  
SEMINOLE COUNTY

This Agreement, made and entered into this 6<sup>th</sup> day of May, 2008, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION** (hereinafter referred to as the DEPARTMENT) and **SEMINOLE COUNTY**, a Charter County and a political subdivision of the State of Florida (hereinafter referred to as the LOCAL GOVERNMENT), and is based on the following premises:

WITNESSETH:

WHEREAS, the Parties have been granted legislative authority to enter into this Agreement pursuant to, but not limited to, Section 334.044, Florida Statutes; and

WHEREAS, the County Incentive Grant Program has been created by Section 339.2817, Florida Statutes, to provide grants to counties to improve a transportation facility which is located on the State Highway System or which relieves traffic congestion on the State Highway System; and

WHEREAS, the LOCAL GOVERNMENT has certified to the DEPARTMENT that it has met the eligibility requirements of said Section 339.2817, Florida Statutes; and

WHEREAS, the LOCAL GOVERNMENT, by Resolution, a copy of which is attached hereto as Exhibit "B" and made a part hereof, has authorized its officers to execute this Agreement on its behalf; and

WHEREAS, the DEPARTMENT is prepared, in accordance with its Adopted Five Year Work Program, to undertake the PROJECT described as: "To Advance the Placement of the Surcharge Embankment for the State Road 415 Project from the Seminole County Line to Reed Ellis Road", in conjunction with the Midway Regional Storm Water Facility", in Fiscal Year 2007/2008, said PROJECT being known as FM#407355-6-58-01, and more fully reflected in the

Scope of Services attached hereto as Exhibit "A" and hereinafter referred to as the "PROJECT";  
and

WHEREAS, the implementation of the PROJECT is in the interests of both the DEPARTMENT and the LOCAL GOVERNMENT and it would be most practical, expeditious, and economical for the LOCAL GOVERNMENT to perform the services to complete the PROJECT. The funds for this PROJECT cannot be used before this County Incentive Grant Program Agreement is executed by both the LOCAL GOVERNMENT and the DEPARTMENT and before any conditions precedent identified herein are met. Any work performed before the execution of this Agreement or prior to the meeting of the conditions precedent will not be reimbursed by the DEPARTMENT; and

WHEREAS, it is a condition precedent of this Agreement that if the LOCAL GOVERNMENT has entered into a written and legally binding agreement with any third party provider of services or funding that is necessary for the LOCAL GOVERNMENT to undertake the PROJECT and to enter into this Agreement; and

WHEREAS, the intent of this Agreement is to establish the terms and conditions of the funding and the production of this PROJECT; and

NOW, THEREFORE, in consideration of the mutual benefits to be derived from the joint participation of this Agreement, the parties agree as follows:

1. The term of this Agreement shall begin upon the date of signature of the last party to sign. The LOCAL GOVERNMENT agrees to complete the Project in accordance with the schedule described and contained in Exhibit "C", Schedule of Services. If the LOCAL GOVERNMENT does not maintain or complete the Project in accordance with the schedule, the DEPARTMENT may terminate this Agreement unless an adjustment to the schedule is requested by the LOCAL GOVERNMENT and granted in writing by the DEPARTMENT prior to the expiration of the Agreement.

2. The DEPARTMENT shall perform necessary preliminary engineering, prepare all design plans for the State Road 415 portion of the PROJECT suitable for reproduction on 11 inch by 17 inch sheets, together with a complete set of specifications and provide to the LOCAL GOVERNMENT. The LOCAL GOVERNMENT shall perform necessary preliminary engineering, prepare all design plans for the Midway Regional Stormwater Facility portion of the PROJECT suitable for reproduction on 11 inch by 17 inch sheets, together with a complete set of specifications covering all construction requirements for the PROJECT, perform the construction, provide all

necessary engineering supervision, and otherwise perform all other necessary work to complete the Project, as specified in Exhibit "A" attached hereto and by this reference made a part hereof. Nothing herein shall be construed as requiring the LOCAL GOVERNMENT to perform any activity, which is outside of the scope of services of the Project. Except as specifically stated otherwise in this Agreement, all such activities shall be performed at such times, in such manner, and under such conditions as the LOCAL GOVERNMENT, in its sole discretion, deems appropriate. The DEPARTMENT shall not have any jurisdiction or control over LOCAL GOVERNMENT activities, except as specifically stated in this Agreement.

3. In relation to construction of the PROJECT, the parties agree on the following:

(A) The LOCAL GOVERNMENT shall hire a contractor using the LOCAL GOVERNMENT'S normal bid procedures to perform the construction work for the PROJECT.

(B) The LOCAL GOVERNMENT shall utilize only a DEPARTMENT pre-qualified contractor ("Contractor") and a DEPARTMENT qualified construction engineering and inspection firm ("CEI") to perform the work on the PROJECT.

(C) The LOCAL GOVERNMENT shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable DEPARTMENT standards and that the work is performed in accordance with the terms and conditions contained in Exhibit "D".

(D) If the LOCAL GOVERNMENT utilizes its own work force for any services for the PROJECT, all costs and expenses thereof shall be considered LOCAL GOVERNMENT overhead, which shall not be subject to reimbursement.

(E) Upon request, the LOCAL GOVERNMENT agrees to provide progress reports to the DEPARTMENT in the standard format used by the LOCAL GOVERNMENT and at intervals established by the DEPARTMENT. The DEPARTMENT will be entitled at all times to be advised, at its request, as to the status of work being done by the LOCAL GOVERNMENT and of details thereof. Either party to the Agreement may request and shall, within a reasonable time thereafter be granted a conference with the other party.

(F) This Agreement shall serve as a permit to allow the LOCAL GOVERNMENT access to the DEPARTMENT'S right-of-way to perform all necessary work as required under this Agreement.

4. The estimated total cost for construction of the PROJECT is **\$6,128,742.00 (Six Million One Hundred Twenty Eight Thousand Seven Hundred Forty Two And No/100 Dollars)**.

5. The DEPARTMENT agrees to reimburse the LOCAL GOVERNMENT its actual direct costs, excluding LOCAL GOVERNMENT overhead, in an amount not to exceed **\$3,528,742.00 (Three Million Five Hundred Twenty Eight Thousand Seven Hundred Forty Two And No/100 Dollars)**. The funding for this PROJECT is subject to annual Legislative approval and appropriation. If the construction and inspection costs are greater than the estimated \$6,128,742.00, the parties agree to: 1) meet to discuss funding participation and amend this Agreement, or 2) terminate the PROJECT.

6. Actual direct costs are limited to the LOCAL GOVERNMENT'S direct payments to its contractor as required for completion of the PROJECT.

7. Reimbursement herein is conditioned on the following:

(A) Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof (including an Invoice Summary Sheet, supporting documentation to justify the charges and for the final payment, the Notice of Completion); and

(B) All payments from the DEPARTMENT to the LOCAL GOVERNMENT are conditioned upon the completion of the PROJECT in a manner consistent with the PROJECT construction plans by the LOCAL GOVERNMENT'S contractor;

(C) The LOCAL GOVERNMENT may receive progress payments for services that have been completed and accepted to the satisfaction of the DEPARTMENT when properly supported by invoices or other acceptable evidence of payment. The LOCAL GOVERNMENT will be reimbursed for each invoice at a rate of 50% of the total costs incurred as of the date of the invoice. The remaining balance due under this Agreement will be due upon proper submission of invoices and upon the completion and approval of all PROJECT services.

(D) Within 30 days after completion of the work authorized by this Agreement, the LOCAL GOVERNMENT shall notify the DEPARTMENT in writing of the completion; this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, Exhibit "E". The Certification shall state that work has been

completed in compliance with the PROJECT construction plans and specifications. If any substantial and material deviations are found from the approved plans, the certification shall include a list of all said deviations, along with an explanation that justifies the reason to accept each deviation.

(E) The LOCAL GOVERNMENT shall provide documentation of the final costs for the PROJECT that the LOCAL GOVERNMENT has incurred for the services performed under this Agreement.

8. The LOCAL GOVERNMENT which is providing goods and services to the DEPARTMENT should be aware of the following time frames. Upon receipt of an invoice, the DEPARTMENT has twenty (20) working days to inspect and approve the goods and services. The DEPARTMENT has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved. If a payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount. Interest penalties of less than one dollar (\$1.00) will not be enforced unless the LOCAL GOVERNMENT requests payment. Invoices which have to be returned to LOCAL GOVERNMENT because of LOCAL GOVERNMENT 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 Contractors/vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the Department of Financial Services Hotline at 1-800-848-3792.

9. The LOCAL GOVERNMENT agrees to keep complete records and accounts in order to record complete and correct entries as to all costs, expenditures and other items incidental to the work for this PROJECT. All cost records and accounts shall be subject to audit by a representative of the DEPARTMENT at all times during the period of this Agreement and for a period of five (5) years after final payment is made. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred include the LOCAL GOVERNMENT'S general accounting records and the project records, together with supporting documentation and records, of the contractor and all subcontractors performing work on the project, and all other

records of the contractor and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs.

10. In the event this AGREEMENT is in excess of \$25,000.00 (TWENTY FIVE THOUSAND AND NO/100 DOLLARS) 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 as follows:

“The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the Department that 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 a period 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 \$25,000.00 and which have a term for a period of more than 1 year.”

11. The State of Florida’s performance and obligation to pay under this contract is contingent upon an annual appropriation by the legislature. The parties agree that in the event funds are not appropriated to the DEPARTMENT for the PROJECT, this Agreement may be terminated, which shall be effective upon the DEPARTMENT giving notice to the LOCAL GOVERNMENT to that effect.

12. Audits: 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.

## 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 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 Inspector General (OIG) and Florida's 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 "F" to 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 nonstate 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, 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 "F" 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 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.

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

3. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. However, if the recipient elects to have 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).

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 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 addresses:

Florida Department of Transportation  
Attn: Dianne Peek-Audit Analyst  
719 South Woodland Blvd. MS 4-549  
DeLand, Florida 32720

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, should be submitted to the Federal Audit Clearinghouse), 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 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 each of the following:

Florida Department of Transportation  
Attn: Dianne Peek-Audit Analyst  
719 South Woodland Blvd. MS 4-549  
DeLand, Florida 32720

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 each of the following addresses:

Florida Department of Transportation  
Attn: Dianne Peek-Audit Analyst  
719 South Woodland Blvd. MS 4-549  
DeLand, Florida 32720

3. Copies of financial reporting packages 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 addresses:

Florida Department of Transportation  
Attn: Dianne Peek-Audit Analyst  
719 South Woodland Blvd. MS 4-549  
DeLand, Florida 32720

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 addresses:

Florida Department of Transportation  
Attn: Dianne Peek-Audit Analyst  
719 South Woodland Blvd. MS 4-549  
DeLand, Florida 32720

5. 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.

6. 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.

#### 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 five (5) years from the date the audit report is issued, and shall allow the Department, or its designee, CFO, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department, or its designee, 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.

13. All tracing, plans specifications, maps, models, reports, or other work product prepared or obtained under this Agreement shall be considered works made for hire for the DEPARTMENT and the LOCAL GOVERNMENT and shall at all times be and remain the property of the DEPARTMENT and the LOCAL GOVERNMENT without restriction or limitation on their use. The LOCAL GOVERNMENT will prepare a construction plans package in a format determined by the LOCAL GOVERNMENT that is suitable for reproduction.

14. After written notice and a reasonable opportunity to cure, either party may unilaterally cancel this Agreement for refusal by the other party 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 by such party in conjunction with this Agreement.

15. This Agreement, except as noted in Paragraph 6, shall continue in effect and be binding on the parties until the PROJECT is completed, any subsequent litigation is complete and terminated, final costs are known, and legislatively appropriated reimbursements, if approved, are made by the DEPARTMENT.

16. The Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof, and incorporates and includes all prior negotiations, correspondence, conversation, agreements, or understanding applicable to the matters contain herein. The parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not 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.

17. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. Any provision herein determined by a court of competent jurisdiction, or any other legally constituted body have jurisdiction, to be invalid or unenforceable shall be severable and the remainder of this Agreement shall remain in full force and effect, provided that the invalidated or unenforceable provision is not material to the intended operation of this Agreement

18. All notices required pursuant to the terms hereof shall be sent by First Class United States Mail. Unless prior written notification of an alternate address for notices is sent, all notices shall be sent to the following addresses:

**DEPARTMENT**

Holly Lopenski Contract Specialist MS 4-549 719 South Woodland Boulevard DeLand, Florida 32720-6834 PH: (386) 943-5520 <a href="mailto:holly.lopenski@dot.state.fl.us">holly.lopenski@dot.state.fl.us</a>	Vince Vacchiano Construction Project Manager 719 South Woodland Boulevard DeLand, Florida 32720-6834 PH: (386) 943-5406 <a href="mailto:vincent.vacchiano@dot.state.fl.us">vincent.vacchiano@dot.state.fl.us</a>
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Sam Letcher  
Project Manager, MS 2-542  
719 South Woodland Boulevard  
Deland, Florida 32720-6834  
PH: (386) 943-5408  
[sam.letcher@dot.state.fl.us](mailto:sam.letcher@dot.state.fl.us)

**SEMINOLE COUNTY**

Robert Walter, P.E.  
Seminole County Engineering Department  
520 West Lake Mary Boulevard  
Sanford, Florida 32773  
[rwalter@seminolecountyfl.gov](mailto:rwalter@seminolecountyfl.gov)

19. PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT: 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, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. An entity or affiliate who 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.

IN WITNESS WHEREOF, the LOCAL GOVERNMENT has executed this Agreement this 22 day of April, 2008, and the DEPARTMENT has executed this Agreement this 6<sup>th</sup> day of May, 2008.

**BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA**

**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION**

By: Brenda Carey  
Name: Brenda Carey  
Title: Chairman - BOCC

By: George S. Lovett  
Name: George S. Lovett  
Title: Director of Transportation Development

As authorized for execution by the Board of County Commissioners at their 4/22, 2008 regular meeting.

Attest:

Attest:

Maryanne Morse  
MARYANNE MORSE, Clerk to the Board of County Commissioners of Seminole County, Florida.

James Griffin  
Executive Secretary

For use and reliance of Seminole County only.  
Approved as to form and legal sufficiency.

Legal Review

Legal Review:

Matthew G. Winter  
County Attorney

[Signature]

Financial Provision Approval by  
Department of Comptroller on:

4-4-2008

Authorization Received From the Comptroller's  
Office as to Availability of Funds:

5-2-2008

## **EXHIBIT "A"**

### **SCOPE OF SERVICES**

#### **Financial Management Number: 407355-6-58-01**

##### **Advanced Surcharge Plans SR 415 from Seminole County Line to Reed Ellis Road**

#### **1.0 PURPOSE**

This exhibit defines and describes the services required to complete this project successfully.

#### **2.0 PROJECT DESCRIPTION**

This project is to advance the placement of the surcharge embankment for the SR415 project (FDOT Financial Project No. 407355-3-52-01). The limits of the construction activities extend from the Seminole County Line to Reed Ellis Road, Volusia County.

#### **3.0 CONSTRUCTION ACTIVITIES**

Construction activities include placement of embankment material in accordance with the plans and specifications per FDOT Financial Project No. 407355-6-58-01. Additional construction activities include temporary drainage, temporary sheet pile walls along the bents of the existing St. Johns River Bridge, sodding, silt fence, and relocation of the existing fence along the westerly R/W line.

#### **4.0 "GOES WITH" CONSTRUCTION PLANS**

This project is to be let for construction in conjunction with the Midway Regional Stormwater Facility Plans prepared by Seminole County Public Works Department. Material excavated from the stormwater pond will be transported to the SR415 project and utilized as the surcharge embankment. The excavation of the material shall be in accordance with the plans and specifications per the Midway Regional Stormwater and Recreational Facility Plans and specifications.

#### **5.0 POST DESIGN SERVICES**

Post design services shall include monitoring of the settlement plates in accordance with the plans and specifications per FDOT Financial Project No. 407355-6-58-01. These activities are to be completed by the Florida Department of Transportation.

**EXHIBIT "B"**

**RESOLUTION/MINUTES**  
**Financial Management Number: 407355-6-58-01**

RESOLUTION

THE FOLLOWING RESOLUTION WAS ADOPTED AT THE REGULAR MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA, ON THE 22nd DAY OF APRIL, 2008.

**WHEREAS**, the State of Florida Department of Transportation and Seminole County desire to facilitate the construction of State Road 415 from the Seminole County Line to Reed Ellis Road in conjunction with the Midway Regional Storm Water Facility; and

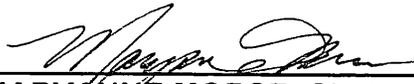
**WHEREAS**, The State of Florida Department of Transportation has requested Seminole County to execute and deliver to the State of Florida Department of Transportation a County Incentive Grant Program Agreement for the aforementioned project, (FDOT Financial Project # 407355-6-58-01).

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Seminole County, Florida, that the Chairman is hereby authorized to make, execute and deliver to the State of Florida Department of Transportation a County Incentive Grant Program Agreement for the aforementioned project, (FDOT Financial Project # 407355-6-58-01).

ADOPTED THIS 22nd DAY OF APRIL, 2008.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY

  
\_\_\_\_\_  
MARYANNE MORSE, Clerk to the  
Board of County Commissioners in  
and for Seminole County, Florida.

  
\_\_\_\_\_  
Brenda Carey, Chairman

**EXHIBIT "C"**

**ESTIMATED SCHEDULE OF SERVICES**  
**Financial Management Number: 407355-6-58-01**

407355-6 SR 415:SEMINOLE C/L:REED ELLIS RD (SURCHARGE)						FY2008		FY2009	
Activity ID	Activity Name	Dur	Start	Finish	Total Pkgs				
CAM LETCHER									
407355-6		196	01-Oct-07 A	30-Jun-08	0				
250010	P.E. BEGIN	1	01-Oct-07 A	01-Oct-07 A	5				
113010	INITIAL ROADWAY PLANS (PHASE II)	22	02-Oct-07 A	31-Oct-07 A		PLANS (PHASE II)			
228010	SUBMIT UTILITY DATA	1	30-Nov-07 A	30-Nov-07 A		UTILITY DATA			
113020	FINAL ROADWAY PLANS (PHASE III)	13	03-Dec-07 A	20-Dec-07 A		ROADWAY PLANS (PHASE III)			
264010	UTILITY CONTACT	13	03-Dec-07 A	20-Dec-07 A		CONTACT			
303010	FINAL PLANS REVIEW (PHASE III)	30	21-Dec-07 A	31-Jan-08 A		FINAL PLANS REVIEW (PHASE III)			
264020	UTILITY DOCS TO DUO / RUE	1	21-Dec-07 A	21-Dec-07 A		DOCS TO DUO / RUE			
266010	UTILITIES CERTIFIED	1	31-Jan-08 A	31-Jan-08 A		UTILITIES CERTIFIED			
222010	ALL PERMITS CLEAR (EXEMPT)	1	31-Jan-08 A	31-Jan-08 A		ALL PERMITS CLEAR (EXEMPT)			
201010	PLANS COMPLETED	1	31-Jan-08 A	31-Jan-08 A		PLANS COMPLETED			
187010	NO R/W CERTIFICATION REQUIRED	1	31-Jan-08 A	31-Jan-08 A		NO R/W CERTIFICATION REQUIRED			
279010	RAILROAD CLEAR MEMO	1	01-Feb-08 A	01-Feb-08 A		RAILROAD CLEAR MEMO			
204010	PRODUCTION DATE	1	31-Mar-08	31-Mar-08	0	PRODUCTION DATE			
370010	PLANS TO SEMINOLE CO. CONTRACTS	1	02-Apr-08	02-Apr-08	63	PLANS TO SEMINOLE CO. CONTRACTS			
980010	SEMINOLE CO. LETTING (BID OPENING)	1	30-Jun-08	30-Jun-08	0	SEMINOLE CO. LETTING (BID OPENING)			

## Exhibit "D"

### **TERMS & CONDITIONS OF CONSTRUCTION**

1. The COUNTY is authorized, subject to the conditions set forth herein, to enter DEPARTMENT right-of-way to perform all activities necessary for the construction of the PROJECT (as described more fully in Exhibit "A"). The State Road 415 portion of the PROJECT shall be constructed in accordance with construction plans and specifications to be approved by the DEPARTMENT and consistent with the requirements of the DEPARTMENT. The plans shall include an appropriate plan for maintenance of traffic. Should any significant (as defined by §4-3 of Standard Specifications for Road and Bridge Construction, 2007, and as amended from time to time) changes to the plans be required during construction of the State Road 415 portion of the PROJECT, the COUNTY shall be required to notify the DEPARTMENT of the changes and receive approval from the DEPARTMENT prior to the changes being constructed. The DEPARTMENT reserves the right to adjust the State Road 415 portion of the plans to meet the requirements of permits. The COUNTY shall be responsible to maintain the area of the PROJECT at all times during construction of the PROJECT.

2. The work performed pursuant to this Agreement may require authorization under the Clean Water Act, by the U.S. Environmental Protection Agency for Storm Water Discharges from construction sites. The COUNTY is responsible for obtaining the National Pollutant Discharge Elimination System Permit and all other necessary permits for construction of the State Road portion of the PROJECT. When applicable, such permits will be processed in the name of the DEPARTMENT; however, in such event, the COUNTY will comply with all terms and conditions of such permit in construction of the subject facilities.

3. This Agreement shall act to supersede the normal requirements of separate DEPARTMENT permits for drive-way connection, right-of-way utilization, storm-water discharge and utilities and this Agreement is deemed to constitute such permits.

4. It is expressly agreed by the parties that this Agreement creates a permissive use only and that neither the granting of the permission herein to use DEPARTMENT and/or COUNTY right-of-way nor the placing of facilities upon DEPARTMENT and/or COUNTY land shall operate to create or vest any property right in the COUNTY except as otherwise provided in separate agreements.

5. The DEPARTMENT shall appoint and authorize a single individual to serve as the DEPARTMENT'S representative to coordinate and manage the DEPARTMENT review of COUNTY activities pursuant to this Agreement. The COUNTY shall provide a current construction schedule to the DEPARTMENT'S representative and shall notify the representative at least 48 hours in advance of starting proposed work and again immediately upon completion of work.

6. The COUNTY shall utilize only a DEPARTMENT prequalified prime contractor for the PROJECT.

7. The COUNTY shall require its DEPARTMENT prequalified Consultant CEI to perform quality control testing of the construction in accordance with the County Specifications

approved by the DEPARTMENT for the PROJECT. The DEPARTMENT shall have the right, but not the obligation, to perform such independent testing from time to time as it deems necessary during the course of the construction of the PROJECT.

8. The COUNTY shall not modify the intent of the design plans or the maintenance of traffic concept without appropriate submission by the Engineer of Record (the "Engineer") and approval by the DEPARTMENT. Provided, however, in the event of an emergency, the COUNTY shall immediately make any necessary changes and notify the DEPARTMENT and the COUNTY after the modifications.

9. The DEPARTMENT may request and shall be granted a conference with the COUNTY and at the COUNTY'S option, the COUNTY'S CEI firm, to discuss any part of the PROJECT activities that the DEPARTMENT determines to be inconsistent with the approved design plans and specifications. The COUNTY will monitor the corrective action and provide the DEPARTMENT status reports at such intervals as are reasonable, based on the corrective action undertaken, and the DEPARTMENT may, but is not obligated to, review independently the progress of the corrective action. Provided however, if the DEPARTMENT determines a condition exists which threatens the public's safety, the DEPARTMENT may, at its discretion, issue an immediate stop work order.

10. The COUNTY shall have the continuous obligation to monitor the maintenance of traffic and construction operation during the course of the PROJECT so that the safe and efficient movement of the traveling public is maintained. The COUNTY is further obligated to make such changes to the maintenance of traffic plans as may be necessary. During construction, the COUNTY shall take measures, including the placing and display of safety devices that are necessary in order to safely conduct the public through the PROJECT area in accordance with the latest and current version of the Federal Highway Administration Manual on Uniform Traffic Control Devices for Streets and Highways, and the DEPARTMENT'S 2007 Standard Specifications for Road and Bridge construction and the DEPARTMENT'S 2008 Roadway and Traffic Design Standards, and as those sources may be amended from time to time. The COUNTY may assign the responsibility of this paragraph to the Contractor or its' CEI for the construction of the PROJECT.

11. Prior to the PROJECT bidding, the COUNTY shall provide a project schedule that includes, at a minimum, the date the PROJECT will be advertised for bid, the bid opening date, the award date and the date of the preconstruction conference.

12. It is understood and agreed that the rights and privileges herein set out are granted only to the extent of the DEPARTMENT'S right, title and interest in the land to be entered upon and used by the COUNTY. Any additional right or privilege required to undertake and to complete construction of the PROJECT shall be secured by the COUNTY.

13. Upon completion of the work in accord with the Plans, the COUNTY shall furnish a set of "as-built" plans certified by the Engineer of Record/CEI that the necessary improvements have been completed in accordance with the Plans as the same may be modified in accord with the terms of this Agreement. This certification shall include a statement that necessary inspections, tests, and physical measurements have been made, and that all materials entering into the work conform to the Plans, conform to the applicable specifications contained in the Standard Specifications for Road and Bridge Construction, 2007 edition as amended, or otherwise conform to or meet generally accepted professional practices. Additionally, the COUNTY shall assure that

all post construction survey monumentation required by Florida Statutes is completed and evidence of such is provided to the DEPARTMENT in a manner acceptable to the DEPARTMENT. Upon acceptance of right-of-way documents as specified in Paragraph 12, then the PROJECT shall be deemed accepted by and turned over to the DEPARTMENT.

14. In the event contaminated soil is encountered by the COUNTY or anyone within the DEPARTMENT right of way, the COUNTY shall immediately cease work and notify the DEPARTMENT. The DEPARTMENT shall coordinate with the appropriate agencies and notify the COUNTY of any required action related thereto.

15. If applicable, the COUNTY shall assure that load ratings are submitted on any vehicular bridge prior to the final submission of the structure plans for DEPARTMENT review. Structures shall not be opened to traffic until a signed and sealed final bridge load rating that meets the Florida legal loads standard is complete.

**EXHIBIT "E"**

**NOTICE OF COMPLETION**

COUNTY INCENTIVE GRANT PROGRAM AGREEMENT  
Between  
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
And  
SEMINOLE COUNTY

PROJECT DESCRIPTION: "To Advance the Placement of the Surcharge Embankment for the State Road 415 Project from the Seminole County Line to Reed Ellis Road", in conjunction with the Midway Regional Storm Water Facility",

FINANCIAL MANAGEMENT ID# 407355-6-58-01

In accordance with the Terms and Conditions of the Agreement, the undersigned hereby provides notification that the work authorized by this Agreement is complete as of \_\_\_\_\_, 20\_\_\_\_\_.

**SEMINOLE COUNTY**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ENGINEER'S CERTIFICATION OF COMPLIANCE**

In accordance with the Terms and Conditions of the Agreement, the undersigned hereby certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the PROJECT construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification.

By: \_\_\_\_\_, P.E.

SEAL:

Name: \_\_\_\_\_

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

## EXHIBIT "F"

**STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

**SUBJECT TO SECTION 215.97, FLORIDA STATUTES:**

**State Project:** County Incentive Grant Program (C.I.P.G.)

**State Awarding Agency:** Florida Department of Transportation

**Catalog of State Financial Assistance (CSFA) Number:** 55-008

**Grant Amount:** \$3,528,742.00

**COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

**Allowed Activities:** The CIPG Program is intended to provide grants to counties, for improving transportation facilities which are located on the State Highway System or which relieve traffic congestion on the State Highway System.

**Eligibility:** 339.2817, Florida Statutes, establishes several minimum eligibility criteria in order to qualify for the CIPG funds. The project must:

1. Improve a facility on the State Highway System or relieve traffic congestion on the State Highway System. CIGP funds cannot be used for operational expenses.
2. Be consistent to the maximum extent feasible with the Florida Transportation Plan.
3. Be consistent to the maximum extent feasible, where appropriate, with the local Metropolitan Planning Organization
4. Be consistent with, to the maximum extent feasible, with any local comprehensive plans.\*

\*If the project is not in these plans, it must be amended into them within six months of application.

**Matching:** The percentage of matching funds provided for CIPG shall be a minimum of 50/50 percent of project cost.