
**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Adoption of a Resolution and Approval of a Locally Funded Agreement with the State of Florida Department of Transportation to Facilitate Acquisition of Right-of-Way for the Widening of State Road 46 from Mellonville Avenue to State Road 415. (FDOT Financial Management No. 240216-3-43-01)

DEPARTMENT: Public Works

DIVISION: Engineering

AUTHORIZED BY: Gary Johnson

CONTACT: Brett Blackadar

EXT: 5702

MOTION/RECOMMENDATION:

Adopt the Resolution and authorize the Chairman to execute a Locally Funded Agreement with the State of Florida Department of Transportation to Facilitate Acquisition of Right-of-Way for the Widening of State Road 46 from Mellonville Avenue to State Road 415. (FDOT Financial Management No. 240216-3-43-01)

Authorize issuance of a check in the amount of \$1,027,746 from funds in the County's proposed 2009/2010 Fiscal Year Budget to be paid to the Florida Department of Transportation by November 1, 2009.

Authorize issuance of a check in the amount of \$2,400,000 from funds in the County's proposed 2010/2011 Fiscal Year Budget to be paid to the Florida Department of Transportation by November 1, 2010.

District 5 Brenda Carey

Jerry McCollum

BACKGROUND:

The Florida Department of Transportation (FDOT) is managing the design, right-of-way acquisition and construction of the widening of State Road 46 from two (2) to four (4) lanes between Mellonville Avenue and State Road 415. The final design plans are complete as of April 2009, and right-of-way acquisition will begin in FDOT's Fiscal Year 2009/2010. The project is not yet funded for construction.

In order to expedite right-of-way acquisition (total advanced cost \$8,390,492) for this project, the County received a matching 50% County Incentive Grant Program (CIGP) grant from FDOT which is being administered through the attached Locally Funded Agreement (LFA). The County is responsible for matching funds of \$3,427,746 of the total CIGP funds of \$6,855,492. FDOT provides the other \$3,427,746 of CIGP funds. In addition, there are \$475,000 of State funds and \$1,060,000 of Federal earmark funds allocated to this project which make up the total advanced cost of \$8,390.492. This first payment will be in the amount of \$1,027,746 from funds in the County's proposed 2009/2010 Fiscal Year Budget and the second payment will be in the amount of \$2,400,000 from funds in the County's proposed 2010/2011 Fiscal Year Budget (Capital Improvement Project Number 00205402).

The payments for this project are maximum lump sum amounts and Seminole County will not

be responsible for any increases in right-of-way acquisition costs above the estimates contained in this agreement.

STAFF RECOMMENDATION:

Staff recommends that the Board adopt the Resolution and authorize the Chairman to execute the Locally Funded Agreement with the State of Florida Department of Transportation to Facilitate Acquisition of Right-of-Way for the Widening of State Road 46 from Mellonville Avenue to State Road 415. (FDOT Financial Management No. 240216-3-43-01)

Authorize issuance of a check in the amount of \$1,027,746 from funds in the County's proposed 2009/2010 Fiscal Year Budget to be paid to the Florida Department of Transportation by November 1, 2009.

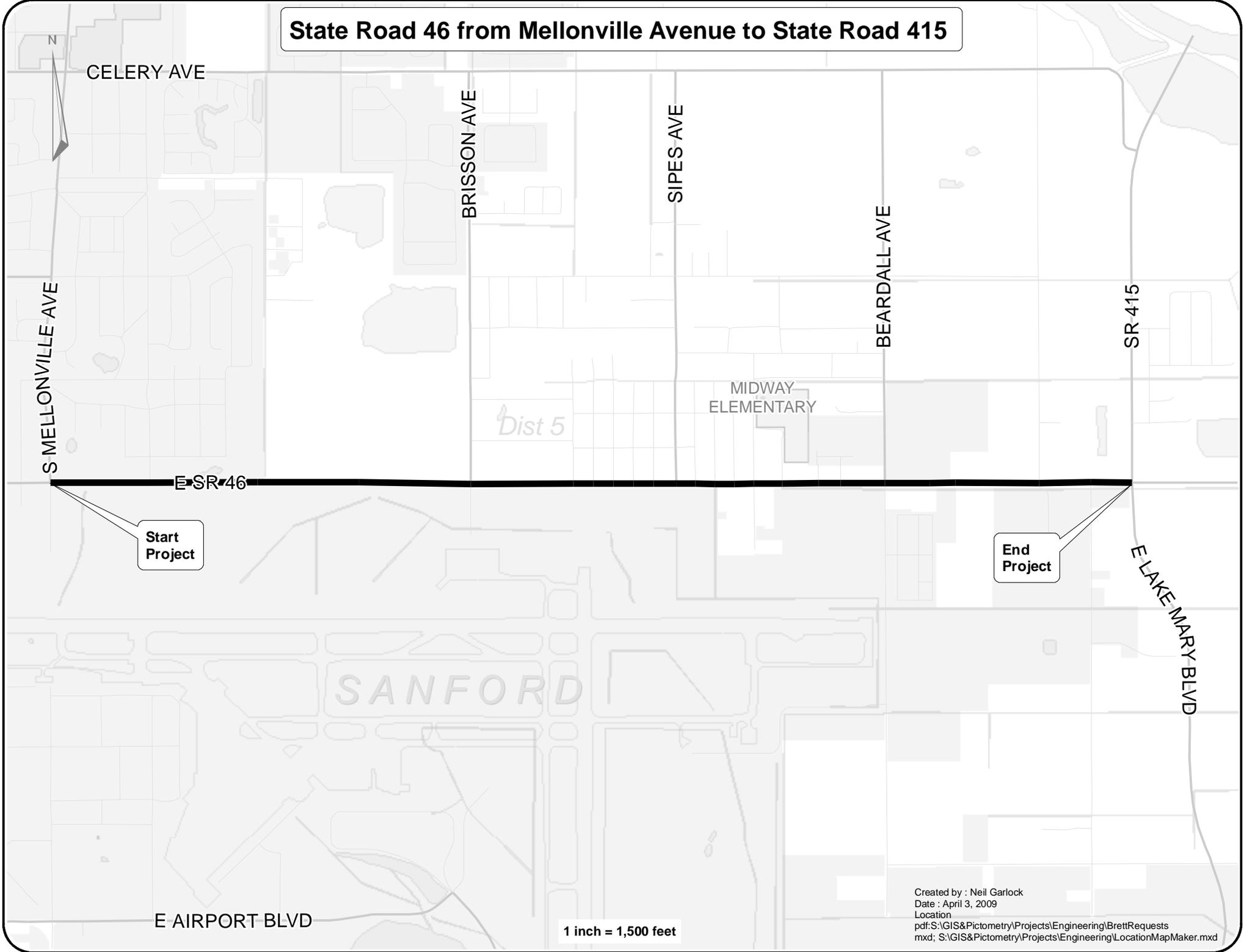
Authorize issuance of a check in the amount of \$2,400,000 from funds in the County's proposed 2010/2011 Fiscal Year Budget to be paid to the Florida Department of Transportation by November 1, 2010.

ATTACHMENTS:

1. Location Map
2. Resolution
3. Locally Funded Agreement - State Road 46 - Right-of-Way Acquisition

Additionally Reviewed By:
<input checked="" type="checkbox"/> Budget Review (Fredrik Coulter, Lisa Spriggs)
<input checked="" type="checkbox"/> County Attorney Review (Matthew Minter)

State Road 46 from Mellonville Avenue to State Road 415



Start Project

End Project

1 inch = 1,500 feet

Created by : Neil Garlock
Date : April 3, 2009
Location
pdf: S:\GIS\Pictometry\Projects\Engineering\BrettRequests
mxd; S:\GIS\Pictometry\Projects\Engineering\LocationMapMaker.mxd

RESOLUTION NO. 2009 - R - _____

SEMINOLE COUNTY, FLORIDA

RESOLUTION

THE FOLLOWING RESOLUTION WAS ADOPTED AT THE REGULAR MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA, ON THE 25th DAY OF August, 2009.

WHEREAS, the State of Florida Department of Transportation and Seminole County desire to facilitate the widening of State Road 46 from Mellonville Avenue to State Road 415; 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 Locally Funded Agreement for the aforementioned project (FDOT Financial Management Number 240216-3-43-01).

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 Locally Funded Agreement for the aforementioned project (FDOT Financial Management Number 240216-3-43-01).

ADOPTED THIS 25th DAY OF August, 2009.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY**

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

Bob Dallari, Chairman

County: Seminole County Vendor No.: F596000856-065	Fund: LFP Seminole County Funds: \$3,427,746	Financial Management No: 240216-3-43-01
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**LOCALLY FUNDED AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
SEMINOLE COUNTY**

This **AGREEMENT**, made and entered into this ____ day of _____, 2009, 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 COUNTY),

WITNESSETH:

WHEREAS, the Parties have been granted specific legislative authority to enter into this Agreement pursuant to Section 339.12, Florida Statutes; and

WHEREAS, the COUNTY, by Resolution/Minutes, 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 authorized to contract with local governmental entities to the maximum extent possible for performance of its transportation responsibilities; and

WHEREAS, the DEPARTMENT is currently under design for the Project described as the "Right-of-Way Acquisition for the Widening of SR 46 from Mellonville Avenue to SR 415", hereinafter referred to as the "Project"; and more specifically described in Exhibit "A", attached hereto and made a binding part hereof by this reference; and

WHEREAS, this Project is not revenue producing and is contained in the Adopted Five Year Work Program; and

WHEREAS, the implementation of the Project is in the best interests of both the DEPARTMENT and the COUNTY and it would be most practical, expeditious, and economical for COUNTY to provide the funds for the 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 and shall remain in full force and effect through completion of all services required of the

COUNTY and the DEPARTMENT. The DEPARTMENT may, at any time and at any stage, amend or terminate the Project in whole or in part if the DEPARTMENT determines that such action is in the best interests of the public.

2. The purpose of this Agreement is for the DEPARTMENT to commence and complete the Project services as described in Exhibit "A", attached hereto and by this reference made a part hereof in accordance with all applicable documents which form a part of the Project.

3. The DEPARTMENT shall be responsible to acquire and clear the Right-of-Way necessary to construct the Project for the widening of State Road 46 from Mellonville Avenue to East of SR 415. The Department shall acquire title to all real property necessary for the Project in the name of the State of Florida Department of Transportation. The necessary Right-of-Way shall be defined by the Design Plans and Right-of-Way Maps.

4. Nothing herein shall be construed as requiring the DEPARTMENT to perform any activity which is outside the scope of the Project as previously defined. Except as specifically stated otherwise in this Agreement, all such activities shall be performed by such entities, at such times, in such manner, under such conditions, and pursuant to such standards as the DEPARTMENT, in its sole discretion, deems appropriate. The COUNTY shall not have any jurisdiction or control over the DEPARTMENT's activities, except as specifically stated in this Agreement. The COUNTY shall be entitled to be advised of the progress of the Project at reasonable intervals upon request.

5. Participation by the COUNTY and the DEPARTMENT of the funding for the acquisition phases of the Project shall be made as follows:

(A) The DEPARTMENT'S current estimated cost for the acquisition phase of the Project is **\$8,390,492.00 (Eight Million Three Hundred Ninety Thousand Four Hundred Ninety Two Dollars and No/100)**.

(B) The DEPARTMENT will provide CIGP funding in an amount not to exceed **\$3,427,746.00 (Three Million Four Hundred Twenty Seven Thousand Seven Hundred Forty Six Dollars and No/100)**, State Funding in the amount of **\$475,000.00 (Four Hundred Seventy Five Thousand Dollars and No/100)** and Federal Earmark Funding in the amount of **\$1,060,000.00 (One Million Sixty Thousand Dollars and No/100)** which is subject to Legislative approval and appropriation.

(C) The COUNTY understands that they are required to match the CIGP funding by 50 percent. The COUNTY agrees to provide the DEPARTMENT an advance deposit, in the amount of **\$3,427,746.00 (Three Million Four Hundred Twenty Seven Thousand**

Seven Hundred Forty Six Dollars and No/100). The COUNTY will furnish the DEPARTMENT an initial advance deposit, in the amount of **\$1,027,746.00 (One Million Twenty Seven Thousand Seven Hundred Forty Six Dollars and No/100)** due and payable no later than November 1, 2009. The remaining deposit from the COUNTY in the amount of **\$2,400,000.00 (Two Million Four Hundred Thousand Dollars and No/100)** is due and payable no later than November 1, 2010. The advance deposit shall be the total Project cost required of the COUNTY to match CIGP funding for the Project. The DEPARTMENT may utilize this deposit for payment of the cost of the Project.

(D) Both parties further agree that in the event the right-of-way is not acquired, or the Agreement is terminated prior to commencement of the acquisition of the Project, the funds provided by the COUNTY for the Project will be returned to the COUNTY.

(E) Both parties agree that in the event the final accounting of total Project costs, pursuant to the terms of this Agreement, determines that the matching funds required of the COUNTY is less than the total deposits to date, a refund of the excess deposit will be made by the DEPARTMENT to the COUNTY.

(F) The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty days (360) of final payment for land acquisition. The DEPARTMENT considers the Project complete when the final payment has been made. All Project cost records and accounts shall be subject to audit by a representative of the COUNTY for a period of three (3) years after final close out of the Project. The COUNTY will be notified of the final cost.

(G) The payment of funds under this Locally Funded Agreement will be made directly to the DEPARTMENT for deposit.

6. The DEPARTMENT'S performance and obligation to construct the Project 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 written notice to the COUNTY to that effect.

7. In the event this Agreement is for services in excess of \$25,000.00 (TWENTY FIVE THOUSAND DOLLARS) and a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

“The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any

contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 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 contacts 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.”

8. All tracings, 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 shall at all times be and remain the property of the DEPARTMENT without restriction or limitation on their use. The COUNTY may, however, inspect those materials upon providing reasonable advance notice to the DEPARTMENT.

9. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and 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.

10. 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 having 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.

11. 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:

Florida Department of Transportation

Shirley Matthews
JPA Coordinator/MS 4-549
719 South Woodland Boulevard
DeLand, Florida 32720-6834
PH: (386) 943-5452
shirley.matthews@dot.state.fl.us

Shirley Martin
Right of Way Manager, MS 551
719 South Woodland Boulevard
DeLand, Florida 32720-6834
PH: (386) 943-5029
shirley.martin@dot.state.fl.us

Seminole County

Brett Blackadar, P.E.
Seminole County Public Works Department
Engineering Division
520 West Lake Mary Boulevard
Sanford, Florida 32773
PH: (407) 665-5702
BBlackadar@seminolecountyfl.gov

IN WITNESS WHEREOF, the COUNTY has executed this Agreement this ____ day of _____, 2009 and the DEPARTMENT has executed this Agreement this ____ day of _____, 2009.

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

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____
Name: Bob Dallari, Chairman

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

Date: _____

As authorized for execution by the Board of County Commissioners at their _____, 2009 regular meeting.

Attest:

Attest:

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

Executive Secretary

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

Legal Review:

County Attorney

Financial Provision Approval by
Department Comptroller on:

Exhibit “A”

Scope of Services

Right of Way Acquisition

Financial Management Number: 240216-3-43-01

Project Description:

Right-of-Way acquisition for the reconstruction of the existing 2-lane undivided rural roadway to a 4-lane divided urban roadway along SR 46, from Mellonville Avenue to East of SR 415. The proposed four-lane curb and gutter roadway will include two 12-foot travel lanes and one 4-foot undesignated bike lane in each direction, separated by a 22-foot grassed median. Also included in the Project is a 5-foot sidewalk along the south side and an 8-foot sidewalk along the north side of SR 46.

Purpose of the Agreement:

This Locally Funded Agreement is for the transfer of local funds from Seminole County to match CIGP funding for the right-of-way acquisition phase for the Project. The acquisition phase of the Project is programmed in the Department's Work Program in FY 2010 and 2011. The specific parcel numbers and acquisition areas will be defined by right-of-way mapping.

EXHIBIT “B”

RESOLUTION/MINUTES

Financial Management Number: 240216-3-43-01