

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PORT ST. LUCIE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDMENT TO THE JOINT PARTICIPATION AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF PORT ST. LUCIE; PROVIDING AND EFFECTIVE DATE

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WHEREAS, the DEPARTMENT and the CITY entered into a Joint Participation Agreement to make certain improvements in connection with Financial Management (FM) number 428299-1-58-01 (Funded in Fiscal Year 2009/2010) for the construction of pedestrian lighting on SR-716/Port St. Lucie Boulevard from Westmoreland Boulevard to US1 in St. Lucie County, Florida; and

WHEREAS, the improvements are in the interest of both the CITY and the DEPARTMENT and it would be more practical, expeditious, and economical for the CITY to perform such activities; and

WHEREAS, the DEPARTMENT and the CITY desire to amend the original Joint Participation Agreement to allow E-verify through the United States Department of Homeland Security; and

WHEREAS, the DEPARTMENT and the CITY desire to extend the project completion date from December 31, 2011 to December 31, 2012.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Port St. Lucie, Florida:

Section 1. The City Manager is authorized to execute the attached Joint Participation Agreement Amendment Number One on behalf of the City of Port St. Lucie.

Section 2. The City Clerk of the City of Port St. Lucie is hereby directed to send copies of this Resolution to the Department of Transportation and all other persons as directed by the Mayor and the City Council.

Section 3. This Resolution shall become effective immediately upon its adoption.

RESOLUTION NO. 11-R96

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this 12<sup>th</sup> day of December, 2011.

CITY COUNCIL  
CITY OF PORT ST. LUCIE

By: \_\_\_\_\_  
JoAnn M. Faiella, Mayor

ATTEST:

\_\_\_\_\_  
Karen A. Phillips, City Clerk

APPROVED AS TO FORM

By: \_\_\_\_\_  
Roger G. Orr, City Attorney

DUNS No.: 80-939-7102  
CSFA No.: 55.024

Contract No.: APX-86  
FM No.: 428299-1-58-01  
FEID No.: VF-596-000-445

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
AND  
CITY OF PORT ST. LUCIE  
JOINT PARTICIPATION AGREEMENT  
AMENDMENT NUMBER ONE

THIS Amendment Number One made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and City of Port St. Lucie, located at 121 S.W. Port St Lucie Boulevard, Port St Lucie, Florida 34984, hereinafter referred to as the PARTICIPANT.

WITNESSETH

WHEREAS, on May 25, 2010 the parties entered into a Joint Participation Agreement, hereinafter referred to as the AGREEMENT, wherein the PARTICIPANT agreed to provide certain improvements in connection with Financial Management (FM) Number 428299-1-58-01 for construction of pedestrian lighting on SR-716/ Port St. Lucie Boulevard from Westmoreland Boulevard to US-1in St. Lucie County, Florida, hereinafter referred to as Project; and

WHEREAS, the parties desire to amend the Agreement; and

WHEREAS, the parties hereto mutually agree that this Amendment is in their best interest;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree to amend that certain Joint Participation Agreement dated May 25, 2010, as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The Agreement is amended to add the following provision:

The PARTICIPANT/ Vendor/ Contractor:

a. shall utilize the U.S. Department of Homeland's Security E-verify system to verify the employment eligibility of all new employees hired by the PARTICIPANT/ Vendor/ Contractor during the contract term; and

b. shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-verify system to verify the employment eligibility of all new employees hired by the subcontractors during the contract term.

3. Paragraph 12, of the Agreement, is amended to read as follows:

Except as otherwise set forth herein, this Agreement shall continue in effect and be binding to both the PARTICIPANT and the DEPARTMENT until the Project is completed as evidenced by the written acceptance of the DEPARTMENT or December 31, 2012, whichever occurs first.

All provisions, covenants, terms and conditions of the Agreement between the parties theretofore entered into of May 25, 2010, as originally set forth therein, which are not hereby expressly amended or modified and not in conflict with the terms hereof, are hereby ratified and confirmed and shall remain the same and be unaffected by these presents.

IN WITNESS WHEREOF, this Amendment is executed by the parties below for the purposes specified herein. Authorization has been give to enter into and execute this Amendment by Resolution No. \_\_\_\_\_, hereto attached.

CITY OF PORT ST. LUCIE

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: MAYOR

BY: \_\_\_\_\_  
GERRY O'REILLY, P.E.  
DIRECTOR OF TRANSPORTATION DEVELOPMENT

ATTEST:

LEGAL REVIEW:

\_\_\_\_\_  
CITY CLERK (SEAL)

BY: \_\_\_\_\_  
OFFICE OF THE GENERAL COUNSEL

APPROVED:

APPROVED:

BY: \_\_\_\_\_  
CITY ATTORNEY

BY: \_\_\_\_\_  
PROFESSIONAL SERVICES ADMINISTRATOR

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**MEMORANDUM**

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TO: JERRY A. BENTROTT, CITY MANAGER

THROUGH: ROGER G. ORR, CITY ATTORNEY 

FROM: PAM E. BOOKER HAKIM, SENIOR ASSISTANT CITY ATTORNEY 

DATE: DECEMBER 6, 2011

SUBJECT: FLORIDA DEPARTMENT OF TRANSPORTATION  
JOINT PARTICIPATION AGREEMENT  
WESTMORELAND BLVD. – PORT ST. LUCIE BLVD.  
AMENDMENT NUMBER ONE

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Attached please find an Amendment to the Joint Participation Agreement between the State of Florida Department of Transportation and the City of Port St. Lucie. The Amendment provides for E-verify through the U.S Department of Homeland and Security, and an extension until December 31, 2012, to complete the project. Please place this item on the next available City Council agenda for approval in substantially the form attached. Should you have any questions, please do not hesitate to contact me at 873-6525.

PBH/liw  
Attach.

c. Roxanne Chesser, P.E, Engineering Department

**RECEIVED**

DEC 06 2011

City Manager's Office



## Florida Department of Transportation

CHARLIE CRIST  
GOVERNOR

3400 West Commercial Boulevard  
Fort Lauderdale, FL 33309-3421

STEPHANIE C. KOPELOUSOS  
SECRETARY

May 25, 2010

Ms. Jennifer Gent  
City of Port St. Lucie  
Engineering Department  
121 S.W. Port St. Lucie Boulevard  
Port St. Lucie, FL 34984

**RE:** Joint Participation Agreement, APX-86  
**FM Number:** 428299-1-58-01  
**Description:** Construction of pedestrian lighting on SR-716/Port St. Lucie Blvd. from Westmoreland Blvd. to US-1 in St. Lucie County

Dear Ms. Gent:

Enclosed please find a copy of a fully executed Joint Participation Agreement (JPA) - with original signatures - for the above referenced project. Also included is a copy of the **Resolution No. 10-R33** in which the JPA referenced above was approved. Said documents are to be retained for your records.

If you have any questions, please do not hesitate to contact me. I can be reached at (954) 777-2285.

Sincerely,

A handwritten signature in black ink, reading "Leos A. Kennedy, Jr." with a stylized flourish at the end.

Leos A. Kennedy, Jr.  
Professional Services Unit  
District Four

lk/s

enc: JPA's  
copy: Thuc Le, Project Manager  
Antonette P. Adams, Program Development Manager  
Yanique Hopkins, JPA/LAP Program Coordinator  
District Financial Services  
File

DUNS No.: 12-271-4744  
CSFA No.: 55.029

Contract No.: APX-810  
FM No.: 428299-1-58-01  
FEID No.: VF-596-141-662

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
JOINT PARTICIPATION AGREEMENT

THIS Joint Participation Agreement (hereinafter referred to as "Agreement"), entered into this 25<sup>th</sup> day of May, 2010, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and the City of Port St. Lucie, located at 121 SW Port St. Lucie Boulevard, St. Lucie, Florida 34984, hereinafter referred to as the PARTICIPANT.

WITNESSETH

WHEREAS, the DEPARTMENT and the PARTICIPANT are desirous of having the PARTICIPANT make certain improvements in connection with Financial Management (FM) Number 428299-1-58-01 (Funded in Fiscal Year 2009/2010) for the construction of pedestrian lighting on SR-716/Port St. Lucie Boulevard from Westmoreland Boulevard to US1 in St. Lucie County, Florida. Refer to **Exhibit A** of this Agreement for a detailed Scope of Services attached hereto and made a part hereof; and,

WHEREAS, for purposes of this Agreement, improvements to be made as stated above are hereinafter referred to as the "PROJECT"; and,

WHEREAS, the improvements are in the interest of both the PARTICIPANT and the DEPARTMENT and it would be more practical, expeditious, and economical for the PARTICIPANT to perform such activities; and,

WHEREAS, the PARTICIPANT by Resolution No. 10-833 adopted on May 10<sup>th</sup>, 2010, a copy of which is attached hereto and made a part hereof, authorizes the proper officials to enter into this AGREEMENT.

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the PROJECT, the parties agree to the following:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The PARTICIPANT shall be responsible for assuring that the PROJECT complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards.

The PARTICIPANT shall also be responsible for providing a DEPARTMENT pre-qualified construction engineering inspection (CEI) consultant. The CEI consultant shall perform CEI services including administration and technical coordination required for the PROJECT.

The CEI services will be provided by hiring a DEPARTMENT prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Advanced Level Training. The CEI staff shall be present on the PROJECT at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida licensed Professional Engineer. The DEPARTMENT shall approve all CEI personnel.

3. The DEPARTMENT agrees to make all previous studies, maps, drawings, surveys and other data and information pertaining to the PROJECT available to the PARTICIPANT at no extra cost.
4. The PARTICIPANT shall have the sole responsibility for resolving claims and requests for additional work for the PROJECT. The PARTICIPANT will make best efforts to obtain the DEPARTMENT'S input in its decisions.
5. The DEPARTMENT agrees to pay the PARTICIPANT for the services described in **Exhibit A** of this Agreement. The cost of the Project is estimated to be ONE MILLION NINETY THOUSAND EIGHT HUNDRED SIXTY FOUR DOLLARS (\$1,090,864.00). The DEPARTMENT will pay the PARTICIPANT an amount not to exceed ONE MILLION TEN THOUSAND EIGHT HUNDRED SIXTY FOUR DOLLARS (\$1,010,864.00) for actual costs incurred as detailed in progress reports. The PARTICIPANT shall invoice the DEPARTMENT on a quarterly basis. If the actual cost of the PROJECT exceeds the DEPARTMENT'S participation of ONE MILLION TEN THOUSAND EIGHT HUNDRED SIXTY FOUR DOLLARS (\$1,010,864.00), any additional costs shall be the sole responsibility of the PARTICIPANT.

The remaining EIGHTY THOUSAND DOLLARS (\$80,000.00) is allocated for the reimbursement of actual costs incurred for contingency services. Contingency Services is hereinafter defined to mean possible work required to satisfactorily complete the Project within its intended scope of services. Upon determination that Contingency Services are needed in order to complete the Project, the PARTICIPANT shall prepare and submit such Contingency Services and a written cost estimate proposal for all related work required by the DEPARTMENT, for written approval. Upon approval by the DEPARTMENT'S District Four Director of Transportation Operations or designee, a Letter of Authorization (LOA) will be issued by the DEPARTMENT setting forth the Contingency Services to be performed and the maximum limiting amount associated with those services. The PARTICIPANT shall only perform Contingency Services as designated in a LOA. Any Contingency Services performed prior to receiving written authorization from the DEPARTMENT, will not be eligible for reimbursement.

- a. In order to receive payment for any such Contingency Services the PARTICIPANT shall submit an invoice to the DEPARTMENT for the LOA previously issued. The invoice shall provide the following:

- i. A copy of the issued LOA.
- ii. Invoice amount with supporting documentation acceptable to the DEPARTMENT.

The PARTICIPANT will comply with the Federal and State Audit provisions and the Single Audit Compliance Requirements set forth in **Exhibit B** and **Exhibit C**, respectively, which are attached hereto and made part of this Agreement.

6. The PARTICIPANT must submit the final invoice to the DEPARTMENT within 180 days after the final acceptance of the PROJECT. Invoices submitted after the 180-day time period will not be paid.
7. The PARTICIPANT shall apply for and obtain a general use permit from the DEPARTMENT prior to the commencement of any work.
8. The PARTICIPANT acknowledges and agrees that the DEPARTMENT'S obligation to pay the sum set forth herein is contingent upon an annual appropriation by the Florida Legislature.
9. In the event the PROJECT costs, PROJECT modifications, or changes to bid items occur that increase or exceed the amount authorized in paragraph 5, the DEPARTMENT and the PARTICIPANT shall meet and attempt to mutually agree to the amount and distribution of the additional funding needed to complete the PROJECT. Any funding increase or modifications to the PROJECT shall be added by means of an amendment to the original Agreement to be signed by both parties before work is undertaken. However, in the event the PARTICIPANT and the DEPARTMENT fail to negotiate an amendment for any reason whatsoever, then the increase in the PROJECT costs will be the sole responsibility of the PARTICIPANT.
10. In the event it becomes necessary for the DEPARTMENT or PARTICIPANT to institute suit for the enforcement of the provisions of this AGREEMENT, each party shall be responsible to pay their own attorney fees and court costs. Venue with respect to such litigation shall be in Broward County.
11. This AGREEMENT and any interest herein shall not be assigned, transferred or otherwise encumbered by the PARTICIPANT under any circumstances without the prior written consent of the DEPARTMENT. However, this AGREEMENT shall run to the DEPARTMENT and its successors.
12. Except as otherwise set forth herein, this AGREEMENT shall continue in effect and be binding to both the PARTICIPANT and the DEPARTMENT until the Project is completed as evidenced by the written acceptance of the DEPARTMENT or December 31, 2011, whichever occurs first.

13. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Department of Financial Services under Section 215.422(14), Florida Statutes, or by the Department's Comptroller under Section 334.044(29), Florida Statutes.
14. If this AGREEMENT involves units of deliverables, then such units must be received and accepted in writing by the Project Manager prior to payments. The DEPARTMENT will render a decision on the acceptability of services within ten (10) working days of receipt of a progress report. The DEPARTMENT reserves the right to withhold payments for work not completed, or work completed unsatisfactorily, or work that is deemed inadequate or untimely by the DEPARTMENT. Any payment withheld will be released and paid to the PARTICIPANT promptly when work is subsequently performed.
15. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.
16. PARTICIPANTS providing goods and services to the DEPARTMENT should be aware of the following time frames. Upon receipt, the DEPARTMENT has ten (10) 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.
17. 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, 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.
18. 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) 413-5516 or by calling the Department of Financial Services Hotline, 1-877-693-5236.
19. Records of costs incurred under the terms of this AGREEMENT shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this AGREEMENT and for 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 PARTICIPANT'S general accounting records and the project records, together with supporting documents 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.

20. In the event this contract is for services in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) 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 one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year."

21. The PARTICIPANT will comply with all federal, state, and local laws and ordinances applicable to work or payment for work thereof, and will not discriminate on the grounds of race, color, religion, sex, national origin, age, or disability in the performance of work under this AGREEMENT.
22. The PARTICIPANT warrants that it has not employed or obtained any company or person, other than bona fide employees of the PARTICIPANT, to solicit or secure this AGREEMENT, and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee employed by the PARTICIPANT. For breach or violation of this provision, the DEPARTMENT shall have the right to terminate the AGREEMENT without liability.
23. With respect to any of the PARTICIPANT'S agents, consultants, subconsultants, contractors, and/or sub-contractors, such party in any contract for this PROJECT shall agree to indemnify, defend, save and hold harmless the DEPARTMENT from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission or commission of such agents, consultants, subconsultants, contractors and/or subcontractors. The PARTICIPANT shall provide to the DEPARTMENT written evidence of the foregoing upon the request of the DEPARTMENT. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the DEPARTMENT for its own negligence.
24. This AGREEMENT is governed by and construed in accordance with the laws of the State of Florida.

25. 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. It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
26. Any or all notices (except invoices) given or required under this AGREEMENT shall be in writing and either personally delivered with receipt acknowledged or sent by certified mail, return receipt requested. All notices delivered shall be sent to the following addresses:

**If to the DEPARTMENT:**

Florida Department of Transportation - District Four  
 3400 West Commercial Blvd.  
 Fort Lauderdale, Florida 33309-3421  
 Attn: **Leos A. Kennedy, Jr.**  
 With a copy to: **Thuc Le**  
 A second copy to: Office of the General Counsel

**If to the PARTICIPANT:**

City of Port St. Lucie  
 121 S.W. Port St. Lucie Boulevard  
 Fort Pierce, FL 34984  
 Attn: **Jennifer Gent**  
 With a copy to: Attorney  
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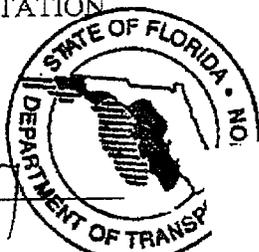
IN WITNESS WHEREOF, this Agreement is to be executed by the parties below for the purposes specified herein. Authorization has been given to enter into and execute this Agreement by Resolution No. 10-233, hereto attached.

CITY OF PORT ST. LUCIE

BY: *Patricia P. Christensen*  
 NAME: Patricia P. Christensen  
 TITLE: Mayor

STATE OF FLORIDA  
 DEPARTMENT OF TRANSPORTATION

BY: *Gerry O'Reilly*  
 GERRY O'REILLY, P.E.  
 DIRECTOR OF TRANSPORTATION DEVELOPMENT



ATTEST:

LEGAL REVIEW:

Karen A. Phillips  
CITY CLERK (SEAL)

BY: [Signature]  
OFFICE OF THE GENERAL COUNSEL

APPROVED:

APPROVED:

BY: [Signature]  
CITY ATTORNEY

BY: [Signature]  
PROFESSIONAL SERVICES ADMINISTRATOR



Exhibit "A"  
Scope of Services  
FM# 428299-1-58-01

Construct pedestrian lighting on the north side of SR-716/Port St. Lucie Blvd from Westmoreland Boulevard/Veterans Memorial Parkway to SR-5/US-1/Federal Highway. The PARTICIPANT shall perform all work associated with the installation of pedestrian lighting services including, but not limited to conduit, pull boxes, load centers, restoration, etc. The scope also includes the upgrade of pedestrian signal indications to incorporate a countdown display at all intersections within the Project limits and all associated work needed to construct, install, and operate the facilities.

**EXHIBIT "B"**  
**FEDERAL AND/OR STATE FUNDED CONTRACTS**

The administration of resources awarded by the Department to the CITY OF PORT ST. LUCIE 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, 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 CITY OF PORT ST. LUCIE regarding such audit. The CITY OF PORT ST. LUCIE further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the FDOT's Office of Inspector General (OIG) and 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 "C"** indicates Federal resources, if applicable, 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)(1), 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 "C" 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 FDOT, 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 the following:

- A. The Department at the following address:

Florida Department of Transportation  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Karen Maxon, District Single Audit Liaison

- 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 the following:

Florida Department of Transportation  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Karen Maxon, District Single Audit Liaison

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  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Karen Maxon, District Single Audit Liaison

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 the following address:

Florida Department of Transportation  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Karen Maxon, District Single Audit Liaison

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 the following address:

Florida Department of Transportation  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Karen Maxon, District Single Audit Liaison

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**

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, 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.

**EXHIBIT C**  
**SINGLE AUDIT COMPLIANCE REQUIREMENTS**

FEDERAL and/or STATE resources awarded to the recipient pursuant to this agreement should be listed below. If the resources awarded to the recipient represent more than one Federal or State program, provide the same information for each program and the total resources awarded. Compliance Requirements applicable to each State program should also be listed below. If the resources awarded to the recipient represent more than one program, list applicable compliance requirements for each program in the same manner as shown here:

**STATE RESOURCES**

<u>State Agency</u>	<u>Catalog of State Financial Assistance (Number &amp; Title)</u>	<u>Amount</u>
DOT (Department of Transportation)	55.029 County and School District Infrastructure Pilot Program	\$1,090,864.00

**Program Objectives:** Funding is provided to assist counties and school districts with transportation and infrastructure issues.

**Program Restrictions:** Funding is limited to counties that have at least a 3.75 percent average enrollment growth for the five year period ending with the 2007-08 school year.

RESOLUTION NO. 10-R33

COUNCIL ITEM 111  
DATE 5/10/10

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PORT ST. LUCIE AUTHORIZING THE CITY MANAGER TO ENTER INTO A JOINT PARTICIPATION AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF PORT ST. LUCIE; PROVIDING AN EFFECTIVE DATE

WHEREAS, the DEPARTMENT and the CITY are desirous of having the PARTICIPANT make certain improvements in connection with Financial Management (FM) number 428299-1-58-01 (Funded in Fiscal Year 2009/2010) for the construction of pedestrian lighting on SR-716/Port St. Lucie Boulevard from Westmoreland Boulevard to US1 in St. Lucie County, Florida; and

WHEREAS, the improvements are in the interest of both the CITY and the DEPARTMENT and it would be more practical, expeditious, and economical for the CITY to perform such activities; and

WHEREAS, the DEPARTMENT agrees to pay the CITY for services described in Exhibit A of the Agreement. The cost of the Project is estimated to be ONE MILLION NINETY THOUSAND EIGHT HUNDRED SIXTY FOUR DOLLARS (\$1,090,864.00). The DEPARTMENT will pay the CITY an amount not to exceed ONE MILLION TEN THOUSAND EIGHT HUNDRED SIXTY FOUR DOLLARS (\$1,010,864.00) for actual costs incurred as detailed in progress reports; and

WHEREAS, The CITY has agreed that it is in the best interest of the CITY and its residents that CITY provides pedestrians lighting on SR-7161/Port St. Lucie Boulevard from Westmoreland Boulevard to US1.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Port St. Lucie, Florida:

Section 1. The City manger is authorized to execute the attached Joint Participation Agreement on behalf of the City of Port St. Lucie.

Section 2. The City Clerk of the City of Port St. Lucie is hereby directed to send copies of this Resolution to the Department of Transportation and all other persons as directed by the Mayor and the City Council.

Section 3. This Resolution shall become effective immediately upon its adoption.

STATE OF FLORIDA  
ST. LUCIE COUNTY  
CITY OF PORT ST. LUCIE  
THIS IS TO CERTIFY THAT THIS  
IS A TRUE AND CORRECT COPY  
OF THE RECORDS ON FILE IN  
THIS OFFICE  
DATE 5-13-2010  
CITY CLERK  
BY: DEBBY STEIN  
CITY SEAL

RESOLUTION NO. 10-R33

PASSED AND APPROVED by the City Council of the City of Port St. Lucie,  
Florida, this 10<sup>TH</sup> day of May, 2010.

CITY COUNCIL  
CITY OF PORT ST. LUCIE

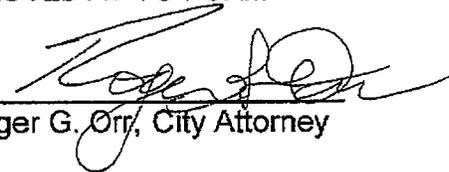
By:   
Patricia P. Christensen, Mayor

ATTEST:

  
Karen A. Phillips, City Clerk



APPROVED AS TO FORM

By:   
Roger G. Orr, City Attorney

**Kennedy, Leos**

**From:** The job FI989WMR  
**Sent:** Thursday, May 20, 2010 4:32 PM  
**To:** Kennedy, Leos  
**Subject:** FUNDS APPROVAL/REVIEWED FOR CONTRACT APX86

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
FUNDS APPROVAL

Contract #APX86 Contract Type: AK Method of Procurement: G  
Vendor Name: CITY OF PORT ST  
Vendor ID: VF596141662020  
Beginning date of this Agmt: 05/25/10  
Ending date of this Agmt: 12/31/11  
Contract Total/Budgetary Ceiling: ct = \$1,090,864.00

\*\*\*\*\*

Description:  
Construction of pedestrian lighting on SR-716/Port St. Lucie Blvd. from Westmoreland Blvd.  
to US-1

\*\*\*\*\*

ORG-CODE	*EO	*OBJECT	*AMOUNT	*FIN PROJECT	*FCT	*CFDA
(FISCAL YEAR)		*BUDGET ENTITY		*CATEGORY/CAT YEAR		
AMENDMENT ID		*SEQ.	*USER ASSIGNED ID	*ENC LINE(6S)/STATUS		

\*\*\*\*\*

Action: ORIGINAL Funds have been: APPROVED

55 043010452	*OM	*750034	*	1090864.00	*42829915801	*215	*
2010		*55150200			*088572/10		
0001		*00	*		*0001/04		

-----  
TOTAL AMOUNT: \*\$ 1,090,864.00 \*  
-----

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER  
DATE: 05/20/2010

DUNS No.: 12-271-4744  
CSFA No.: 55.029

Contract No.: \_\_\_\_\_  
FM No: 428299-1-58-01  
FEID No: VF-596-000-322

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
JOINT PARTICIPATION AGREEMENT

THIS Joint Participation Agreement (hereinafter referred to as "Agreement"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and the City of Port St. Lucie, located at 121 SW Port St. Lucie Boulevard, St. Lucie, Florida 34984, hereinafter referred to as the PARTICIPANT.

WITNESSETH

WHEREAS, the DEPARTMENT and the PARTICIPANT are desirous of having the PARTICIPANT make certain improvements in connection with Financial Management (FM) Number 428299-1-58-01 (Funded in Fiscal Year 2009/2010) for the construction of pedestrian lighting on SR-716/Port St. Lucie Boulevard from Westmoreland Boulevard to US1 in St. Lucie County, Florida. Refer to **Exhibit A** of this Agreement for a detailed Scope of Services attached hereto and made a part hereof; and,

WHEREAS, for purposes of this Agreement, improvements to be made as stated above are hereinafter referred to as the "PROJECT"; and,

WHEREAS, the improvements are in the interest of both the PARTICIPANT and the DEPARTMENT and it would be more practical, expeditious, and economical for the PARTICIPANT to perform such activities; and,

WHEREAS, the PARTICIPANT by Resolution No. 10-233 adopted on MAY 10<sup>th</sup>, 2010, a copy of which is attached hereto and made a part hereof, authorizes the proper officials to enter into this AGREEMENT.

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the PROJECT, the parties agree to the following:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The PARTICIPANT shall be responsible for assuring that the PROJECT complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards.

The PARTICIPANT shall also be responsible for providing a DEPARTMENT pre-qualified construction engineering inspection (CEI) consultant. The CEI consultant shall perform CEI services including administration and technical coordination required for the PROJECT.

DUNS No.: 12-271-4744  
CSFA No.: 55.029

Contract No.: \_\_\_\_\_  
FM No: 428299-1-58-01  
FEID No: VF-596-000-322

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
JOINT PARTICIPATION AGREEMENT

THIS Joint Participation Agreement (hereinafter referred to as "Agreement"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and the City of Port St. Lucie, located at 121 SW Port St. Lucie Boulevard, St. Lucie, Florida 34984, hereinafter referred to as the PARTICIPANT.

WITNESSETH

WHEREAS, the DEPARTMENT and the PARTICIPANT are desirous of having the PARTICIPANT make certain improvements in connection with Financial Management (FM) Number 428299-1-58-01 (Funded in Fiscal Year 2009/2010) for the construction of pedestrian lighting on SR-716/Port St. Lucie Boulevard from Westmoreland Boulevard to US1 in St. Lucie County, Florida. Refer to **Exhibit A** of this Agreement for a detailed Scope of Services attached hereto and made a part hereof; and,

WHEREAS, for purposes of this Agreement, improvements to be made as stated above are hereinafter referred to as the "PROJECT"; and,

WHEREAS, the improvements are in the interest of both the PARTICIPANT and the DEPARTMENT and it would be more practical, expeditious, and economical for the PARTICIPANT to perform such activities; and,

WHEREAS, the PARTICIPANT by Resolution No. 10-R33 adopted on May 10<sup>th</sup>, 2010, a copy of which is attached hereto and made a part hereof, authorizes the proper officials to enter into this AGREEMENT.

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the PROJECT, the parties agree to the following:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The PARTICIPANT shall be responsible for assuring that the PROJECT complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards.

The PARTICIPANT shall also be responsible for providing a DEPARTMENT pre-qualified construction engineering inspection (CEI) consultant. The CEI consultant shall perform CEI services including administration and technical coordination required for the PROJECT.

The CEI services will be provided by hiring a DEPARTMENT prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Advanced Level Training. The CEI staff shall be present on the PROJECT at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida licensed Professional Engineer. The DEPARTMENT shall approve all CEI personnel.

3. The DEPARTMENT agrees to make all previous studies, maps, drawings, surveys and other data and information pertaining to the PROJECT available to the PARTICIPANT at no extra cost.
4. The PARTICIPANT shall have the sole responsibility for resolving claims and requests for additional work for the PROJECT. The PARTICIPANT will make best efforts to obtain the DEPARTMENT'S input in its decisions.
5. The DEPARTMENT agrees to pay the PARTICIPANT for the services described in **Exhibit A** of this Agreement. The cost of the Project is estimated to be ONE MILLION NINETY THOUSAND EIGHT HUNDRED SIXTY FOUR DOLLARS (\$1,090,864.00). The DEPARTMENT will pay the PARTICIPANT an amount not to exceed ONE MILLION TEN THOUSAND EIGHT HUNDRED SIXTY FOUR DOLLARS (\$1,010,864.00) for actual costs incurred as detailed in progress reports. The PARTICIPANT shall invoice the DEPARTMENT on a quarterly basis. If the actual cost of the PROJECT exceeds the DEPARTMENT'S participation of ONE MILLION TEN THOUSAND EIGHT HUNDRED SIXTY FOUR DOLLARS (\$1,010,864.00), any additional costs shall be the sole responsibility of the PARTICIPANT.

The remaining EIGHTY THOUSAND DOLLARS (\$80,000.00) is allocated for the reimbursement of actual costs incurred for contingency services. Contingency Services is hereinafter defined to mean possible work required to satisfactorily complete the Project within its intended scope of services. Upon determination that Contingency Services are needed in order to complete the Project, the PARTICIPANT shall prepare and submit such Contingency Services and a written cost estimate proposal for all related work required by the DEPARTMENT, for written approval. Upon approval by the DEPARTMENT'S District Four Director of Transportation Operations or designee, a Letter of Authorization (LOA) will be issued by the DEPARTMENT setting forth the Contingency Services to be performed and the maximum limiting amount associated with those services. The PARTICIPANT shall only perform Contingency Services as designated in a LOA. Any Contingency Services performed prior to receiving written authorization from the DEPARTMENT, will not be eligible for reimbursement.

- a. In order to receive payment for any such Contingency Services the PARTICIPANT shall submit an invoice to the DEPARTMENT for the LOA previously issued. The invoice shall provide the following:

- i. A copy of the issued LOA.
- ii. Invoice amount with supporting documentation acceptable to the DEPARTMENT.

The PARTICIPANT will comply with the Federal and State Audit provisions and the Single Audit Compliance Requirements set forth in **Exhibit B** and **Exhibit C**, respectively, which are attached hereto and made part of this Agreement.

6. The PARTICIPANT must submit the final invoice to the DEPARTMENT within 180 days after the final acceptance of the PROJECT. Invoices submitted after the 180-day time period will not be paid.
7. The PARTICIPANT shall apply for and obtain a general use permit from the DEPARTMENT prior to the commencement of any work.
8. The PARTICIPANT acknowledges and agrees that the DEPARTMENT'S obligation to pay the sum set forth herein is contingent upon an annual appropriation by the Florida Legislature.
9. In the event the PROJECT costs, PROJECT modifications, or changes to bid items occur that increase or exceed the amount authorized in paragraph 5, the DEPARTMENT and the PARTICIPANT shall meet and attempt to mutually agree to the amount and distribution of the additional funding needed to complete the PROJECT. Any funding increase or modifications to the PROJECT shall be added by means of an amendment to the original Agreement to be signed by both parties before work is undertaken. However, in the event the PARTICIPANT and the DEPARTMENT fail to negotiate an amendment for any reason whatsoever, then the increase in the PROJECT costs will be the sole responsibility of the PARTICIPANT.
10. In the event it becomes necessary for the DEPARTMENT or PARTICIPANT to institute suit for the enforcement of the provisions of this AGREEMENT, each party shall be responsible to pay their own attorney fees and court costs. Venue with respect to such litigation shall be in Broward County.
11. This AGREEMENT and any interest herein shall not be assigned, transferred or otherwise encumbered by the PARTICIPANT under any circumstances without the prior written consent of the DEPARTMENT. However, this AGREEMENT shall run to the DEPARTMENT and its successors.
12. Except as otherwise set forth herein, this AGREEMENT shall continue in effect and be binding to both the PARTICIPANT and the DEPARTMENT until the Project is completed as evidenced by the written acceptance of the DEPARTMENT or December 31, 2011, whichever occurs first.

13. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Department of Financial Services under Section 215.422(14), Florida Statutes, or by the Department's Comptroller under Section 334.044(29), Florida Statutes.
14. If this AGREEMENT involves units of deliverables, then such units must be received and accepted in writing by the Project Manager prior to payments. The DEPARTMENT will render a decision on the acceptability of services within ten (10) working days of receipt of a progress report. The DEPARTMENT reserves the right to withhold payments for work not completed, or work completed unsatisfactorily, or work that is deemed inadequate or untimely by the DEPARTMENT. Any payment withheld will be released and paid to the PARTICIPANT promptly when work is subsequently performed.
15. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.
16. PARTICIPANTS providing goods and services to the DEPARTMENT should be aware of the following time frames. Upon receipt, the DEPARTMENT has ten (10) 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.
17. 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, 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.
18. 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) 413-5516 or by calling the Department of Financial Services Hotline, 1-877-693-5236.
19. Records of costs incurred under the terms of this AGREEMENT shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this AGREEMENT and for 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 PARTICIPANT'S general accounting records and the project records, together with supporting documents 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.

20. In the event this contract is for services in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) 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 one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year."

21. The PARTICIPANT will comply with all federal, state, and local laws and ordinances applicable to work or payment for work thereof, and will not discriminate on the grounds of race, color, religion, sex, national origin, age, or disability in the performance of work under this AGREEMENT.
22. The PARTICIPANT warrants that it has not employed or obtained any company or person, other than bona fide employees of the PARTICIPANT, to solicit or secure this AGREEMENT, and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee employed by the PARTICIPANT. For breach or violation of this provision, the DEPARTMENT shall have the right to terminate the AGREEMENT without liability.
23. With respect to any of the PARTICIPANT'S agents, consultants, subconsultants, contractors, and/or sub-contractors, such party in any contract for this PROJECT shall agree to indemnify, defend, save and hold harmless the DEPARTMENT from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission or commission of such agents, consultants, subconsultants, contractors and/or subcontractors. The PARTICIPANT shall provide to the DEPARTMENT written evidence of the foregoing upon the request of the DEPARTMENT. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the DEPARTMENT for its own negligence.
24. This AGREEMENT is governed by and construed in accordance with the laws of the State of Florida.

**RECEIVED**

APR 22 2010

**ENGINEERING**

10-R33

*originals for  
Florida signature from  
Lisa P  
Transportation*

CHARLIE CRIST  
GOVERNOR

Fort Lauderdale, FL 33309-3421  
April 21, 2010

STEPHANIE C. KOPELOUSOS  
SECRETARY

Ms. Jennifer Gent  
City of Port St. Lucie  
Engineering Department  
121 S.W. Port St. Lucie Boulevard  
Port St. Lucie, FL 34984

RE: Joint Participation Agreement  
FM Number: 428299-1-58-01  
Description: Construction of pedestrian lighting on SR-716/Port St. Lucie Blvd. from Westmoreland Blvd. to US-1 in St. Lucie County

Dear Ms. Gent:

I am enclosing five (5) copies of the Joint Participation Agreement (JPA) for the above referenced project.

Please **DO NOT** fill in the date of the contract. The date of the contract shall be completed by our staff upon execution by the Department of Transportation's Director of Transport Development. A fully executed copy will then be forwarded to you for your files.

In addition to returning the five signed original amendment agreements, please forward:

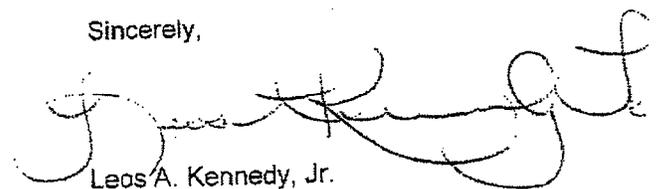
- Two (2) original and three (3) certified copies of the Commission resolution that authorizes the execution of the JPA Agreement.

If it is not possible to obtain the resolutions, please forward:

- Five (5) certified copies of the minutes of the Commission meeting at which this Agreement was approved for execution.

Should you have any questions, please contact me at 954-777-2285.

Sincerely,



Leos A. Kennedy, Jr.  
Professional Services Unit

Enclosure: JPA Agreement (5)  
Copy: Thuc Le, P.E.- FDOT Project Manager  
File

25. 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. It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
26. Any or all notices (except invoices) given or required under this AGREEMENT shall be in writing and either personally delivered with receipt acknowledged or sent by certified mail, return receipt requested. All notices delivered shall be sent to the following addresses:

**If to the DEPARTMENT:**

Florida Department of Transportation - District Four  
3400 West Commercial Blvd.  
Fort Lauderdale, Florida 33309-3421  
Attn: **Leos A. Kennedy, Jr.**  
With a copy to: **Thuc Le**  
A second copy to: Office of the General Counsel

**If to the PARTICIPANT:**

City of Port St. Lucie  
121 S.W. Port St. Lucie Boulevard  
Fort Pierce, FL 34984  
Attn: **Jennifer Gent**  
With a copy to: Attorney

\*\*\*

IN WITNESS WHEREOF, this Agreement is to be executed by the parties below for the purposes specified herein. Authorization has been given to enter into and execute this Agreement by Resolution No. 10-233, hereto attached.

CITY OF PORT ST. LUCIE



BY: \_\_\_\_\_  
NAME: Patricia P. Christenson  
TITLE: Mayor

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
GERRY O'REILLY, P.E.  
DIRECTOR OF TRANSPORTATION DEVELOPMENT

ATTEST:

LEGAL REVIEW:

*Fauna Phillips*  
CITY CLERK (SEAL)

BY: \_\_\_\_\_  
OFFICE OF THE GENERAL COUNSEL

APPROVED:

APPROVED:

BY: *[Signature]*  
CITY ATTORNEY

BY: \_\_\_\_\_  
PROFESSIONAL SERVICES ADMINISTRATOR



Exhibit "A"  
Scope of Services  
FM# 428299-1-58-01

Construct pedestrian lighting on the north side of SR-716/Port St. Lucie Blvd from Westmoreland Boulevard/Veterans Memorial Parkway to SR-5/US-1/Federal Highway. The PARTICIPANT shall perform all work associated with the installation of pedestrian lighting services including, but not limited to conduit, pull boxes, load centers, restoration, etc. The scope also includes the upgrade of pedestrian signal indications to incorporate a countdown display at all intersections within the Project limits and all associated work needed to construct, install, and operate the facilities.

**EXHIBIT "B"**  
**FEDERAL AND/OR STATE FUNDED CONTRACTS**

The administration of resources awarded by the Department to the CITY OF PORT ST. LUCIE 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, 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 CITY OF PORT ST. LUCIE regarding such audit. The CITY OF PORT ST. LUCIE further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the FDOT's Office of Inspector General (OIG) and 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 "C"** indicates Federal resources, if applicable, 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)(1), 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 "C"** 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 FDOT, 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 the following:

- A. The Department at the following address:

Florida Department of Transportation  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Karen Maxon, District Single Audit Liaison

- 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 the following:

Florida Department of Transportation  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Karen Maxon, District Single Audit Liaison

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  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Karen Maxon, District Single Audit Liaison

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 the following address:

Florida Department of Transportation  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Karen Maxon, District Single Audit Liaison

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 the following address:

Florida Department of Transportation  
3400 W. Commercial Blvd.  
Ft. Lauderdale, FL 33309  
Karen Maxon, District Single Audit Liaison

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**

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, 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.

**EXHIBIT C**  
**SINGLE AUDIT COMPLIANCE REQUIREMENTS**

FEDERAL and/or STATE resources awarded to the recipient pursuant to this agreement should be listed below. If the resources awarded to the recipient represent more than one Federal or State program, provide the same information for each program and the total resources awarded. **Compliance Requirements** applicable to each State program should also be listed below. If the resources awarded to the recipient represent more than one program, list applicable compliance requirements for each program in the same manner as shown here:

**STATE RESOURCES**

<u>State Agency</u>	<u>Catalog of State Financial Assistance (Number &amp; Title)</u>	<u>Amount</u>
DOT (Department of Transportation)	55.029 County and School District Infrastructure Pilot Program	\$1,090,864.00

**Program Objectives:** Funding is provided to assist counties and school districts with transportation and infrastructure issues.

**Program Restrictions:** Funding is limited to counties that have at least a 3.75 percent average enrollment growth for the five year period ending with the 2007-08 school year.