

RESOLUTION NO. 2008-272

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING AND AUTHORIZING THE EXECUTION OF THE COUNTY INCENTIVE GRANT PROGRAM AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND ST. JOHNS COUNTY PERTAINING TO THE CONSTRUCTION OF W. KING STREET FROM WHITNEY STREET TO US 1; PROVIDING DIRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida Department of Transportation (the "DEPARTMENT"), and St. Johns County (the "COUNTY") desire to enter into the "County Incentive Grant Program Agreement" dated October 28, 2008, Designated by the COUNTY as Agreement/Contract No. APB 26 (the "CIGP Agreement"); and

WHEREAS, the CIGP Agreement bears the DEPARTMENT Financial Project I.D. Number 424025-1-58-01 and pertains to a project located in St. Johns County, Florida, known as the Corridor and Intersection Improvements on West King Street from Whitney Street to US 1, (the "PROJECT"); and

WHEREAS, the CIGP Agreement is attached and incorporated to this Resolution; and

WHEREAS, the COUNTY has reviewed the terms, provisions, and requirements of the CIGP Agreement, and has determined that accepting the terms of the CIGP Agreement, will service the interests of the County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

Section 2. The Board of County Commissioners hereby approves the terms, conditions, provisions, and requirements of the attached CIGP Agreement (bearing the Financial Project Number 424025-1-58-01 between the State of Florida Department of Transportation and St. Johns County, Florida, concerning Corridor and Intersection Improvements on West King Street From Whitney Street to US 1, and authorizes the County Administrator, or designee, to execute the CIGP Agreement, on behalf of the County.

Section 3. The Board of County Commissioners authorizes the County Administrator, or designee, to execute any other paperwork associated with, or necessary to accomplish, the overall goal set forth in the CIGP Agreement.

Section 5. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 30 day of September, 2008.

**BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA**

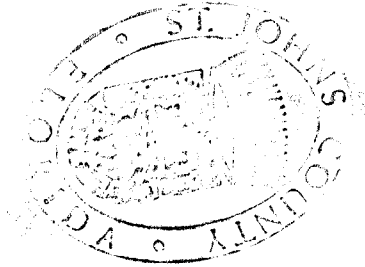
ATTEST:

Pam Halterman
Deputy Clerk

BY:

Thomas G. Manuel
Thomas G. Manuel--Chairman

RENDITION DATE 10/1/08



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
COUNTY INCENTIVE GRANT PROGRAM AGREEMENT
(ST. JOHNS COUNTY)

This is an Agreement by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT," and St. Johns County Board of County Commissioners, **on behalf of St. Johns County, Florida**, hereinafter referred to as the "COUNTY."

WITNESSETH

WHEREAS, the DEPARTMENT has the authority, under Section 334.044, Florida Statutes, to enter into this Agreement; 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 COUNTY has certified to the DEPARTMENT that it has met the eligibility requirements of said Section 339.2817, Florida Statutes; and

WHEREAS, the DEPARTMENT is willing to provide the COUNTY with financial assistance under Financial Project No: **424025-1-58-01** for corridor and intersection improvements on West King Street from Whitney Street to US 1 in St. Johns County, Florida, hereinafter referred to as the PROJECT; and

WHEREAS, the COUNTY by Resolution No. _____ dated the ____ day of _____, _____, a copy of which is attached hereto as **Exhibit "B"** and made a part hereof, has authorized the Chairman of its Board of Commissioners to enter into this Agreement; and

WHEREAS, the project provides Single Audit Information as further described in **Exhibit "1"** and made a part hereof.

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

1-EFFECT OF RECITALS

The above Recitals are hereby incorporated into the body of this Agreement, and are adopted as Findings of Fact.

2-SERVICES AND PERFORMANCE

A. The COUNTY shall furnish the services with which to construct the PROJECT. Said PROJECT consists of: corridor and intersection improvements on West King Street from Whitney Street to US 1 in St. Johns County, Florida, as further described in **Exhibit "A,"** attached hereto and made a part here of.

B. The COUNTY agrees to undertake the construction of the PROJECT in

accordance with all applicable federal, state and local statutes, rules and regulations, and standards. The COUNTY shall be responsible for obtaining clearances/permits required for the construction of the PROJECT from the appropriate permitting authorities. Upon completion of the PROJECT, the COUNTY shall certify to the DEPARTMENT that the PROJECT has been completed in accordance with the applicable standards, statutes, rules and regulations in writing.

C. The DEPARTMENT will be entitled at all times to be advised, at its request, as to the status of work being done by the COUNTY and of the details thereof. Coordination shall be maintained by the COUNTY with representatives of the DEPARTMENT. COUNTY shall provide the DEPARTMENT with quarterly progress reports.

D. i) For projects located on the State Highway System, the DEPARTMENT must approve any consultant and/or contractor scope of services including project budget. COUNTY shall obtain DEPARTMENT approval of plans and specifications prior to bidding the project. This provision applies only to projects located on the State Highway System.

ii) The COUNTY must certify that the consultant has been selected in accordance with the Consultants Competitive Negotiation Act (Section 287.055, Florida Statutes). Contractor must be prequalified by the DEPARTMENT as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2000), as amended.

E. The COUNTY shall not sublet, assign, or transfer any work under this Agreement without prior written consent of the DEPARTMENT.

F. All notices under this Agreement shall be directed to the following addresses:

TO DEPARTMENT:	TO COUNTY:
Ms. Katrina Sadler, Planning Programs Administrator District Two PLEMO – Planning Dept. 1109 South Marion Avenue Lake City, Florida 32025	The Honorable Thomas G. Manuel, Chairman St. Johns County Board of County Commissioners 4020 Lewis Speedway St. Augustine, FL 32084
Ms. Kim Evans, District JPA/LAP Coordinator District Two PLEMO – Planning Dept. 1109 South Marion Avenue Lake City, Florida 32025	Joe Stephenson, Public Works Director St. Johns County Public Works Department 1625 SR 16 St. Augustine, FL 32084

3-TERM

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

- a) Construction contract to be let on or before June 30, 2009.
- b) Construction to be completed on or before December 31, 2010.

B. This Agreement shall not be renewed. Any extension shall be in writing and executed by both parties, and shall be subject to the same terms and conditions set forth in this Agreement.

4-COMPENSATION AND PAYMENT

A. The parties agree that the DEPARTMENT's maximum participation of Five hundred thousand and no/100 (**\$500,000.00**) and all remaining costs of the project will be borne by the COUNTY.

i) The COUNTY shall submit one invoice (3 copies) plus supporting documentation required by the DEPARTMENT to the Project Manager for approval and processing:

 - monthly, or

 x - quarterly, or

 - once the PROJECT has been accepted by the COUNTY and approved by the DEPARTMENT.

ii) Any provisions for an advance payment are provided in an Exhibit attached to this agreement.

iii) In the event the COUNTY proceeds with the design, construction, and construction engineering inspection services (CEI) of the PROJECT with its own forces, the COUNTY will only be reimbursed for direct costs (this excludes general and administrative overhead).

iv) All costs charged to the PROJECT shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges.

B. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the DEPARTMENT's Comptroller under Section 334.044 (29), Florida Statutes.

C. If this Agreement involves units of deliverables, then such units must be received and accepted in writing by the Contract Manager prior to payments.

D. The DEPARTMENT's obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

E. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

F. Travel costs will not be reimbursed.

G. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payments(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the Chief Financial Officer's Hotline, 1-800-848-3792.

H. Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred includes the COUNTY's general accounting records and the project records, together with supporting documents and records of the COUNTY and all subcontractors performing work on the project, and all other records of the COUNTY and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs.

I. The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

J. It is unlawful for the board of county commissioners to expend or contract for the expenditure in any fiscal year more than the amount budgeted in each fund's budget, except as provided herein, and in no case shall the total appropriations of any budget be exceeded, except as provided in s. 129.06, and any indebtedness contracted for any purpose against either of the funds enumerated in this chapter or for any purpose, the expenditure for which is chargeable to either of said funds, shall be null and void, and no suit or suits shall be prosecuted in any court in this state for the collection of same, and the members of the board of county commissioners voting for and contracting for such amounts and the bonds of such members of said boards also shall be liable for the excess indebtedness so contracted for Section 129.07, Florida Statutes.

K. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

5-INDEMNITY AND INSURANCE

A. i) To the extent allowed by law, the COUNTY shall indemnify, defend, and hold harmless the DEPARTMENT and all of its officers, agents, and employees from any claim, loss, damages, cost, charge, or expense arising out of act, error, omission, or negligent act by the COUNTY, its agents, or employees, during the performance of the Agreement, except that neither the COUNTY, its agents, or its employees will be liable under this paragraph for any claim, loss, damages, cost, charge, or expense arising out of act, error, omission, or negligent act by the DEPARTMENT, or any of its officers, agents, or employees, during the performance of the Agreement.

ii) When either party receives notice of claim for damages that may have been caused by the other party in the performance of services required under this Agreement, that party will immediately forward the claim to the other party. Each party will evaluate the claim, and report its findings to each other within fourteen (14) working days and jointly discuss options in defending the claim. A party's failure to promptly notify the other of a claim will not act as a waiver or any right herein.

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

connection with this Agreement:

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

B. **LIABILITY INSURANCE.** The COUNTY shall carry and keep in force during the period of this Agreement a general liability policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$100,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$50,000 each occurrence, for the services to be rendered in accordance with this Agreement. However, in the event the COUNTY maintains a self-insurance fund to cover such liability, the COUNTY agrees to maintain sufficient reserves in the fund to pay the above-described liability limits. In addition to any other forms of insurance or bonds required under the terms of this Agreement, the COUNTY must comply or cause its contractor to comply with Section 7-13 of the DEPARTMENT's Standard Specifications for Road and Bridge Construction (2000), as amended.

C. **WORKERS' COMPENSATION.** The COUNTY shall also carry and keep in force Workers' Compensation insurance as required for the State of Florida under the Workers' Compensation Law.

6. COMPLIANCE WITH LAWS

A. The COUNTY shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the COUNTY in conjunction with this Agreement. Failure by the COUNTY to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the DEPARTMENT.

B. The COUNTY shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex or national origin in the performance of work under this Agreement.

C. No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch, or a state agency.

D. The COUNTY and the DEPARTMENT agree that the COUNTY, its employees, and subcontractors are not agents of the DEPARTMENT as a result of this Agreement for purposes other than those set out in Section 337.274, Florida Statutes.

E. Recipients of state funds are to have audits done annually using the following criteria.

State awards will be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the awarding state agency.

In the event that a recipient expends \$500,000 or more in State awards during its fiscal year, the recipient must have a state single or program specific audit conducted in accordance with Section 215.97, Florida Statutes, and Chapter 10.550, Rules of the Auditor General.

If a recipient expends less than \$500,000 in State awards during its fiscal year, an audit conducted in accordance with Section 215.97, Florida Statutes, and Chapter 10.550, Rules of the Auditor General is not required. If a recipient expends less than \$500,000 in State awards during its fiscal year and elects to have an audit conducted in accordance with Section 215.97, Florida Statutes, and Chapter 10.550, Rules of the Auditor General, the cost of the audit must be paid from non-State funds.

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.

Reporting Packages and management letters generated from audits conducted in accordance with Section 215.97, Florida Statutes, and Chapter 10.550, Rules of the Auditor General shall be submitted to the awarding DEPARTMENT office, by the recipient, within 30 days of receiving it. The afore mentioned items are to be received by the appropriate DEPARTMENT office no later than 9 months after the end of the recipient's fiscal year.

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 finding is required. Current year audit findings require corrective action and status of finding.

Project records shall be retained and available for at least 3 years from the date the audit report is issued. 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 Office of the Comptroller, and the Office of the Auditor General.

The recipient shall submit required audit documentation as follows:

A Financial Reporting Package of audits conducted in accordance with Section 215.97, Florida Statutes, and Chapter 10.550, Rules of the Auditor General shall be sent to:

**Auditor General's Office
Room 401, Pepper Building
111 West Madison Street
Tallahassee, FL 32399-1450**

The Department of each of the following addresses:

**Department of Transportation
District PLEMO Office – MS 2014
Attn: Kim Evans, District JPA/LAP Coordinator
1109 South Marion Avenue
Lake City, Florida 32052**

7-TERMINATION AND DEFAULT

A. This Agreement may be canceled by either the CITY or the DEPARTMENT upon sixty (60) days written notice.

B. If the DEPARTMENT determines that the performance of the COUNTY is not satisfactory, the DEPARTMENT shall have the option of (a) immediately terminating the

Agreement, or (b) notifying the COUNTY of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or (c) taking whatever action is deemed appropriate by the DEPARTMENT.

C. If the DEPARTMENT requires termination of the Agreement for reasons other than unsatisfactory performance of the COUNTY, the DEPARTMENT shall notify the COUNTY of such termination, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

D. If the Agreement is terminated before performance is completed, the COUNTY shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress will become the property of the DEPARTMENT and will be turned over promptly by the COUNTY.

8-MISCELLANEOUS

A. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

B. The DEPARTMENT shall not be obligated or liable hereunder to any party other than the COUNTY.

C. In no event shall the making by the DEPARTMENT of any payment to the COUNTY constitute or be construed as a waiver by the DEPARTMENT of any breach of covenant or any default which may then exist, on the part of the COUNTY, and the making of such payment by the DEPARTMENT while any such breach or default exists shall in no way impair or prejudice any right or remedy available to the DEPARTMENT with respect to such breach or default.

D. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, 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 or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

E. If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.

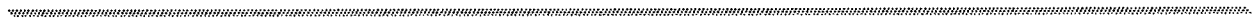
F. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue of any judicial proceedings arising out of this Agreement shall be in Leon County, Florida.

G. This Agreement shall be effective upon execution by both parties and shall continue in effect and be binding on the parties until the PROJECT is completed and accepted and payment made by the DEPARTMENT or terminated in accordance with Section 6.

H. An entity or affiliate which has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

The County has requested a waiver and waiver has been granted.

IN WITNESS WHEREOF, the COUNTY has caused this Agreement to be executed in its behalf this ____ day of _____, _____, by the Chairman of the Board of Commissioners, authorized to enter into and execute same by Resolution Number _____ of the Board on the ____ day of _____, _____, and the DEPARTMENT has executed this Agreement through its District Secretary for District _____, Florida Department of Transportation, this ____ day of _____, _____.



ST JOHNS COUNTY, FLORIDA

ATTEST: _____ (SEAL)
CLERK

BY: _____
CHAIRMAN, BOARD OF
COUNTY COMMISSIONERS

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST: _____ (SEAL)
EXECUTIVE SECRETARY

BY: _____
DISTRICT SECRETARY
DISTRICT _____

NAME: _____

DOT Legal Review:

Availability of Funds Approval:

(Date)

EXHIBIT "A"
PROJECT DESCRIPTION AND RESPONSIBILITIES

This exhibit forms an integral part of that certain Reimbursement Agreement between the State of Florida Department of Transportation and the St. Johns County Board of County Commissioners dated _____.

PROJECT LOCATION:

West King Street from Whitney Street to US 1 in St. Johns County, Florida

PROJECT DESCRIPTION:

The project is referred to as corridor and intersection improvements on West King Street from Whitney Street to US 1 in St. Johns County, Florida.

AGENCY RESPONSIBILITIES:

The Agency is required to provide a copy of the design plans for the Department's file.

The Department's maximum participation is not to exceed **\$500,000.00**.

Exhibit "B"
Resolution

Exhibit "1"
Florida Single Audit Information

CSFA Number: 55.008

State Project Title: COUNTY INCENTIVE GRANT PROGRAM

Agency: Department of Transportation

Program: 55150000 - Transportation Systems Operations

Budget Entity: 55150200 - Highway Operations

Specific Appropriation: GAA 2021

Appropriation Category: 088572

Related CFDA Code:

Authorization: Section 339.2817, Florida Statutes

Objectives: 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.

Types Of Assistance: Grants

Applicant Type: Local Government

Restrictions: Eligible projects may include transit and other modes, and must improve a facility on the State Highway System or relieve congestion on the State Highway System. Each project must be consistent to the maximum extent feasible with the Florida Transportation Plan, any existing metropolitan planning organization (MPO) plan, and any local government comprehensive plan.

The department shall provide 50 percent of project costs for eligible projects.

Application Procedures: Counties are to submit a separate letter of application for each eligible project for which state matching funds are requested. Applications should be submitted to the District Office for the county in which the project is located. The district reviews the application and notifies the applicant in writing of any apparent errors or omissions and may request additional information needed to properly assess the application.

Award Procedures: Projects to be included in this program are selected in order of rank from the most recent District rank-order listing to the extent that adequate funds are made available by appropriation. Projects selected are made part of the Adopted Work Program and are adopted in accordance with Sections 339.135(5) and (7), Florida Statutes.

Deadlines: Information regarding deadlines may be obtained from the INFORMATION CONTACT below.

Other: N/A

Information Contact: Department of Transportation
Office of Policy Planning, MS 28
Yvonne Arens – CIGP and TRIP Coordinator
650 Suwannee Street
Tallahassee, FL 32399
Phone: (850) 414-4816 SUNCOM: 994-4816