

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Joint Participation Agreement Between the State of Florida Department of Transportation and Seminole County

**DEPARTMENT:** Public Works      **DIVISION:** Road Operations & Stormwater

**AUTHORIZED BY:** [Signature]      **CONTACT:** [Signature]      **EXT.** 5710  
Gary Johnson, P.E., Director      Kim Ornberg, P.E.  
Public Works Department      Road Operations/Stormwater Div

Agenda Date 1/13/04    Regular     Consent     Work Session     Briefing   
Public Hearing - 1:30       Public Hearing - 7:00

**MOTION/RECOMMENDATION:**

Approve and authorize Chairman to execute the JPA between FDOT (District 5) and Seminole County to provide funding to the County for NPDES MS4 permit compliance.

**BACKGROUND:**

As the lead permittee in the Seminole County NPDES MS4 permit, the County provides water quality monitoring, biological assessments, and educational outreach and illicit discharge reporting for the residents, for all of the co-permittees. The Seminole Watershed Atlas fulfills the educational outreach, illicit discharge reporting and water quality information components of the permit requirements. This JPA provides for the cost share from FDOT for those permit compliance requirements. The other co-permittees (7 cities) provide funding for the program through a separate interlocal agreement. The duration of the JPA coincides with the second NPDES MS4 permit period.

Reviewed by: \_\_\_\_\_  
Co Atty: [Signature]  
DFS: \_\_\_\_\_  
Other: \_\_\_\_\_  
DCM: [Signature]  
CM: [Signature]  
  
File No. CPWS02

<b>Financial Management No.:</b> 243844-1-74-06 <b>Agency:</b> Seminole County <b>Contract No:</b> ANB76	<b>Fund: D    Function: 037</b> <b>Federal No.:</b> NA <b>Catalog of Federal Domestic Assistance No.:</b> NA	<b>FLAIR Approp: 088712</b> <b>FLAIR Obj.:</b> 131313 <b>Org. Code:</b> 55054030511 <b>Vendor No.:</b> F596000856065
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**JOINT PARTICIPATION AGREEMENT**  
**BETWEEN**  
**THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**  
**AND**  
**SEMINOLE COUNTY**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, an agency of the State of Florida (hereinafter referred to as the "DEPARTMENT"), and **SEMINOLE COUNTY**, a political subdivision of the State of Florida, (hereinafter referred to as "PUBLIC AGENCY").

**WITNESSETH:**

WHEREAS, the PUBLIC AGENCY has the authority to enter into this AGREEMENT and to undertake the project hereinafter described, and the DEPARTMENT has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under Sections 403.0885, Florida Statutes, to enter into this AGREEMENT.

WHEREAS, the PUBLIC AGENCY, by the relevant minutes provided for the meeting held on \_\_\_\_\_, 200\_\_, a copy of which is attached hereto as Exhibit "C", and made a part hereof, has authorized its Chairman to execute this AGREEMENT on its behalf; and

WHEREAS, the DEPARTMENT is authorized to contract with local governmental entities to the maximum extent possible for performance of its transportation responsibilities; and

WHEREAS, the parties mutually agree that it is in their joint best interest to facilitate the transportation project known as the "National Pollutant Discharge Elimination System (NPDES) Permit FLS000038", hereafter referred to as the "PROJECT", and more specifically described in Exhibit "A".

WHEREAS, the PUBLIC AGENCY and the DEPARTMENT desire to protect and promote the public health, safety and general welfare of the quality monitoring program, public education program, and solicitation of public input for identification of illicit discharges, to satisfy requirements of the DEPARTMENT and the PUBLIC AGENCY's PROJECT.

WHEREAS, the PUBLIC AGENCY and the DEPARTMENT desire to maintain and assist in the improvement of water quality and to preserve and enhance the environmental quality of receiving waters; and

WHEREAS, pursuant to the Federal Clean Water Act (CWA), Section 402(p)(2), certain political entities are required to implement stormwater management programs within certain time frames; and

WHEREAS, pursuant to the Clean Water Act requirements, the United States Environmental Protection Agency (EPA) has developed regulations under the National Pollutant Discharge Elimination System (NPDES) permit program published as Part 40 of the Code of Federal Regulations (C.R.F.) Section 122.26 on November 16, 1990, 55 FR 48063; and

WHEREAS, Section 402(p)(2) of the CWA provides the storm water permits be required for large and medium municipal separate storm sewer systems, determined from the 1990 census, and Appendix I to Section 122 designates the PUBLIC AGENCY as a medium municipal separate storm sewer systems;

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

**1.00 Purpose of Agreement:**

The purpose of this AGREEMENT is to provide funds to the PUBLIC AGENCY (Seminole County Road Operations and Stormwater Division/Water Quality Section), to share in the costs associated with the water quality monitoring program, public education program, and solicitation of public input for identification of illicit discharges, to satisfy requirements of the FDOT and Co-permittees Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) permit FLS000038. The DEPARTMENT has determined that this PROJECT is in the best interests of the Department. Said PROJECT is further described in Exhibit "A", attached hereto and by this reference made a part hereof. The further purpose of this AGREEMENT is to provide Departmental financial assistance to the PUBLIC AGENCY, state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the PROJECT will be undertaken and completed.

**2.00 Accomplishment of the Project:**

**2.10 General Requirements:** The PUBLIC AGENCY shall commence and complete the PROJECT with all practicable dispatch, in a sound, economical and efficient manner, and in accordance with the provisions hereof, and all applicable laws.

**2.20 Compliance with Federal, State and Local Laws:** The PUBLIC AGENCY shall obtain or initiate, comply with and accomplish any election, referendum, approval, permit, notice, proceeding or authorization required by law to enable the PUBLIC AGENCY to enter into or perform this AGREEMENT or to undertake the PROJECT hereunder.

**2.30 Funds of the Agency:** The PUBLIC AGENCY shall initiate and prosecute to completion all proceedings, including those needed for federal aid requirements, to enable the PUBLIC AGENCY to obtain or provide the necessary funds for completion of the PROJECT.

**2.40 Submission of Proceedings, Contracts and Other Documents:** The PUBLIC AGENCY shall submit to the DEPARTMENT such data, reports, records, contracts and other documents relating to the PROJECT as the DEPARTMENT may reasonably require. This will include copies of monthly Progress Reports (2 copies) submitted to the DEPARTMENT within thirty (30) days after each month.

### **3.00 Project Cost:**

The total estimated cost of the PROJECT is **\$30,000.00** (Thirty Thousand and No/100 Dollars). The PUBLIC AGENCY will be reimbursed in accordance with Exhibit "B", the Payout Schedule. The PUBLIC AGENCY agrees to bear all expenses in excess of the total estimated cost of the PROJECT and any deficits involved.

**3.10 Project Cost Eligibility:** PROJECT costs eligible for reimbursement by the DEPARTMENT will be allowed only from the effective date of this AGREEMENT. It is understood that such reimbursement is subject to:

- (a) Legislative approval of the DEPARTMENT'S appropriation request in the work program year that the PROJECT is scheduled to be committed;
- (b) Availability of funds as stated in paragraph 3.00 of this AGREEMENT;
- (c) Approval by the DEPARTMENT of all plans, specifications, contracts and other obligating documents and all other terms of this AGREEMENT;
- (d) DEPARTMENT approval of the PROJECT at the time funding becomes available;
- (e) Fiscal approval and encumbrance approval of funds must be done prior to the execution of the AGREEMENT. Eligible project costs will only be allowed from the effective date of this AGREEMENT.

### **4.00 Appropriation of Funds:**

**4.10 Appropriation:** The State of Florida's performance and obligation to pay under this AGREEMENT is contingent upon an annual appropriation by the Legislature.

**4.20 Multi-year Commitment:** In the event this AGREEMENT is in excess of \$25,000.00 (TWENTY FIVE THOUSAND AND NO/100 DOLLARS) and has a term for a period of more than one year, the provisions of Chapter 339.135(6)(a), Florida Statutes, are hereby incorporated: "(a) 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; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of \$25,000.00 dollars and which have a term for a period of more than one year.”

#### **5.00 Project Budget and Payment Provisions:**

**5.10 The Project Budget:** A project budget shall be prepared by the PUBLIC AGENCY and approved by the DEPARTMENT. The PUBLIC AGENCY shall maintain said budget, carry out the PROJECT and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved budget for the PROJECT. No budget increase or decrease shall be effective unless it complies with fund participation requirements established in paragraph 3.00 of this AGREEMENT and is approved by the Department Comptroller.

**5.20 Payment Provisions:** Payment will begin in the year the PROJECT or PROJECT’S phase is scheduled in the work program as of the date of this AGREEMENT. Payment will be made for actual costs incurred as of the date the invoice is submitted with the final payment due upon receipt of a final invoice.

#### **6.00 Accounting Records:**

**6.10 Establishment and Maintenance of Accounting Records:** The PUBLIC AGENCY shall establish for the PROJECT, in conformity with requirements established by the DEPARTMENT’S program guidelines/procedures and “Principles for State and Local Governments”, separate accounts to be maintained within its existing accounting system or establish independent accounts. Such accounts are referred to herein collectively as the “PROJECT account”. Documentation of the PROJECT account shall be made available to the DEPARTMENT upon request any time during the period of the AGREEMENT and for three years after final payment is made.

**6.20 Funds Received or Made Available for the PROJECT:** The PUBLIC AGENCY shall appropriately record in the PROJECT account, and deposit in a bank or trust company which is a member of the Federal Deposit Insurance Corporation, all payments received by it from the DEPARTMENT pursuant to this AGREEMENT and all other funds provided for, accruing to, or otherwise received on account of the PROJECT, which DEPARTMENT payments and other funds are herein collectively referred to as “project funds”. The PUBLIC AGENCY shall require depositories of

project funds to secure continuously and fully all project funds in excess of the amounts insured under federal plans, or under State plans which have been approved for the deposit of project funds by the DEPARTMENT, by the deposit or setting aside of collateral of the types and in the manner as prescribed by State law for the security of public funds, or as approved by the DEPARTMENT.

**6.30 Cost Incurred for the Project:** The PUBLIC AGENCY shall charge to the project account all eligible costs of the PROJECT. Cost in excess of the latest approved budget or attributable to actions which have not received the required approval of the DEPARTMENT shall not be considered eligible costs.

**6.40 Documentation of PROJECT Cost:** All costs charged to the PROJECT including any approved services contributed by the PUBLIC AGENCY or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges.

**6.50 Checks, Orders and Vouchers:** Any check or order drawn by the PUBLIC AGENCY with respect to any item which is or will be chargeable against the PROJECT account will be drawn only in accordance with a properly signed voucher then on file in the office of the PUBLIC AGENCY stating in proper detail the purpose for which such check or order is drawn. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the PROJECT shall be clearly identified, readily accessible, and, to the extent feasible, kept separate and apart from unrelated documents.

**6.60 Audit Reports:** In addition to the requirements below, the PUBLIC AGENCY agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by the DEPARTMENT, including but not limited to site visits and limited-scope audits. The PUBLIC AGENCY further agrees to comply and cooperate with any inspections, review, investigations, or audits deemed necessary by the Department of Financial Services or Auditor General. The PUBLIC AGENCY shall retain sufficient records demonstrating its compliance with the terms of this AGREEMENT for a period of three years from the date the audit report is issued, and shall allow the DEPARTMENT access to such records and working papers upon request. The following requirements do 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 state agency inspector general, the Auditor General, or any other state official.

**6.61 Federal Audit:** In the event the PUBLIC AGENCY expends a total of \$300,000 or more in Federal awards in its fiscal year, the PUBLIC AGENCY must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133. 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. If the PUBLIC AGENCY expends less than \$300,000,

this audit is not required and if the PUBLIC AGENCY elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, the cost of the audit must be paid from non-federal funds.

The PUBLIC AGENCY agrees to allow the DEPARTMENT or an independent auditor of the DEPARTMENT, the Department of Financial Services, and the Auditor General such access to the PUBLIC AGENCY's records and financial statements as may be necessary for complying with the requirements of 31 U.S.C. 7501 et seq.

Pursuant to OMB Circular A-133, Subpart C, .320(d), the PUBLIC AGENCY shall provide a copy of the reporting package and any management letters to the DEPARTMENT, or copies of audit reports for audits conducted in accordance with OMB Circular A-133, to the DEPARTMENT and to:

Federal Audit Clearing House  
Bureau of the Census  
1201 East 10<sup>th</sup> Street  
Jeffersonville, IN 47132

- 6.62 State Audit:** In the event that the PUBLIC AGENCY expends a total of \$300,000 or more in State awards in its fiscal year, the PUBLIC AGENCY must have a State single audit or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes and the applicable rules of the Executive Office of the Governor, the Department of Financial Services, and the Auditor General. In determining the State awards expended in its fiscal year, the PUBLIC AGENCY shall consider all sources of State awards except State awards received for federal program matching requirements which shall be excluded from consideration. 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. If the PUBLIC AGENCY expends less than \$300,000, this audit is not required and if the PUBLIC AGENCY 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 non-State funds.

The PUBLIC AGENCY agrees to allow the DEPARTMENT, the Department of Financial Services, and the Auditor General such access to records and independent auditor's working papers, as may be necessary for complying with the requirements of Section 215.97, Florida Statutes. The PUBLIC AGENCY shall provide annual financial reporting package of audits prepared in accordance with Section 215.97, Florida Statutes, and applicable Rules of the Auditor General to the DEPARTMENT and to:

State of Florida Auditor General  
Room 574, Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32302-1450

**6.63 Other Requirements:** If an audit discloses any significant audit findings relating to any award, including material noncompliance with individual project compliance requirements or reportable conditions in internal controls of the PUBLIC AGENCY, the PUBLIC AGENCY shall submit as part of the audit package to the DEPARTMENT a plan for corrective action to eliminate such audit findings or a statement describing the reasons that corrective action is not necessary. The PUBLIC AGENCY shall take timely and appropriate corrective action to any audit findings, recommendations, and corrective action plans.

**6.70 Insurance:** Execution of this Joint Participation Agreement constitutes a certification that the PUBLIC AGENCY has and will maintain the ability to repair or replace any PROJECT equipment or facilities in the event of loss or damage due to any accident or casualty for the useful life of such equipment or facilities. In the event of the loss of such equipment or facilities, the PUBLIC AGENCY shall either replace the equipment or facilities or reimburse the DEPARTMENT to the extent of its interest in the lost equipment or facility.

In the event this AGREEMENT is for purchase of land or for the construction of infrastructure such as airport runways the DEPARTMENT may waive or modify this section with an exhibit to be annexed hereto by mutual agreement.

**7.00 Requisitions and Payments:**

**7.10 Action by the Agency:** In order to obtain any DEPARTMENT funds, the PUBLIC AGENCY shall file with the Florida Department of Transportation, District Five, Environmental Management Office, 719 South Woodland Boulevard, Florida 32720-6834, its requisition and any other data pertaining to the PROJECT account (as defined in paragraph 6.10 hereof) to justify and support the payment requisitions.

**7.11** Invoices for each advance must be submitted to the DEPARTMENT.

**7.12** Documentation of how funds were used on the prior advance, to the extent such advance was spent shall be submitted to the DEPARTMENT when requesting and receiving the next advance.

**7.13** In the event that there are remaining funds after the PROJECT is completed or if the PROJECT is terminated, the PUBLIC AGENCY shall refund the balance to the DEPARTMENT within forty (40) days of the completion or termination of the PROJECT. Interest at the rate established by Section 215.422 of the Florida Statutes

shall be paid by the PUBLIC AGENCY if the refund is not made within the required time.

**7.14** For real property acquired, submit;

- (1) the date the PUBLIC AGENCY acquired the real property,
- (2) a statement by the PUBLIC AGENCY certifying that the PUBLIC AGENCY has acquired said real property, and the actual consideration paid for real property,
- (3) a statement by the PUBLIC AGENCY certifying that the appraisal and acquisition of the real property together with any attendant relocation of occupants was accomplished in compliance with all federal laws, rules and procedures required by any federal oversight agency and with all State laws, rules and procedures that may apply to the PUBLIC AGENCY acquiring the real property.

**7.20 The DEPARTMENT'S Obligations:** Subject to other provisions hereof, the DEPARTMENT will honor such requisitions as the PUBLIC AGENCY is authorized to make under this Agreement to ensure the carrying out of the PROJECT and payment of the eligible costs. However, notwithstanding any other provision of this AGREEMENT, the DEPARTMENT may elect by notice in writing not to make a related payment or the related part of a payment if:

**7.21 Misrepresentation:** The PUBLIC AGENCY shall have made a misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

**7.22 Litigation:** There is then pending litigation with respect to the performance by the PUBLIC AGENCY of any of its duties or obligations which may jeopardize or adversely affect the PROJECT;

**7.23 Approval by Department:** The Agency shall have taken any action pertaining to the PROJECT which, under this AGREEMENT, requires the approval of the Department or has made related expenditures or incurred related obligations without having been advised by the Department that same are approved;

**7.24 Conflict of Interests:** There has been any violation of the conflict of interest provisions contained herein;

**7.25 Default:** The PUBLIC AGENCY has been determined by the DEPARTMENT to be in material default under any of the provisions of the AGREEMENT; or

**7.30 Disallowed Costs:** In determining the amount of the payment, the DEPARTMENT will exclude all projects costs incurred by the PUBLIC AGENCY prior to the effective date of this

AGREEMENT, costs which are not in the latest approved budget for the PROJECT, and costs attributable to goods and services received under a contract or other arrangements which have not been approved in writing by the DEPARTMENT.

**7.40 Payment Offset:** If, after PROJECT completion, any claim is proved by the DEPARTMENT resulting from an audit or for work or services performed pursuant to this AGREEMENT, the DEPARTMENT may offset such amount from payments due for work or services done under any public transportation joint participation agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the DEPARTMENT. Offsetting amounts shall not be considered a breach of contract by the DEPARTMENT.

#### **8.00 Termination or Suspension of Project:**

**8.10 Termination of Suspension Generally:** If the PUBLIC AGENCY abandons or, before completion, finally discontinues the PROJECT; or if, by reason of any of the events or conditions set forth in paragraphs 7.21 to 7.26 inclusive, or for any other reason, the commencement, prosecution, or timely completion of the PROJECT by the PUBLIC AGENCY is rendered improbable, infeasible, impossible or illegal, the DEPARTMENT will, by written notice to the PUBLIC AGENCY, suspend any or all of its obligations under this AGREEMENT until such time as the event or condition resulting in such suspension has ceased or been corrected, or the DEPARTMENT may terminate any or all obligations under this AGREEMENT.

**8.11 Action Subsequent to Notice of Termination or Suspension:** Upon receipt of any final termination or suspension notice under this Section, the PUBLIC AGENCY shall proceed promptly to carry out the actions required therein which may include any or all of the following: (1) necessary action to terminate or suspend project activities and contracts and such other action as may be required or desirable to keep to the minimum the cost upon the basis of which the financing is to be computed; (2) furnish a statement of the PROJECT activities and contracts, and other undertakings the cost of which are otherwise includable as project costs; and (3) remit to the DEPARTMENT such portion of the financing and any advance payment previously received as is determined by the DEPARTMENT to be due the DEPARTMENT under the provisions of the AGREEMENT. The termination or suspension shall be carried out in conformity with the latest schedule, plan and budget as approved by the DEPARTMENT or upon the basis of terms and conditions reasonably imposed by the DEPARTMENT upon the failure of the PUBLIC AGENCY to furnish the schedule,

plan and budget within a reasonable time. The approval of a remittance by the PUBLIC AGENCY or the closing out of federal financial participation in the PROJECT shall not constitute a waiver of any claim which the DEPARTMENT may otherwise have arising out of this AGREEMENT.

**8.12** The DEPARTMENT reserves the right to unilaterally cancel this AGREEMENT for refusal by the contractor or PUBLIC AGENCY to allow public access to all documents, papers, letters, or other material subject to disclosure under the provisions of Chapter 119, Florida Statutes and made or received in conjunction with this AGREEMENT.

**9.00 Audit and Inspection:** The PUBLIC AGENCY shall permit, and shall require its contractors to permit the DEPARTMENT's authorized representatives to inspect all work, materials, payrolls records; and to audit the books, records and accounts of the PUBLIC AGENCY pertaining to the financing and development of the PROJECT.

**10.00 Contracts of the Public Agency:**

**10.10 Third Party Agreements:** Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract obligate itself in any manner requiring the disbursement of Department joint participation funds, including consultant, construction, or purchase of commodities contracts or amendments thereto, with any third party with respect to the project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department as provided in paragraph 7.23. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same.

**10.20 Compliance with Consultants' Competitive Negotiation Act:** It is understood and agreed by the parties hereto that participation by the DEPARTMENT in a project with an Agency, where said project involves a consultant contract for engineering, architecture or surveying services, in contingent on the Agency complying in full with provisions of Chapter 287, Florida Statutes, Consultants' Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the Consultant Selection Process for all contracts. In all cases, the Agency's Attorney shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

**10.30 Disadvantaged Business Enterprise (DBE) Policy and Obligation:**

**10.31 DBE Policy:** It is the policy of the DEPARTMENT that disadvantaged business enterprises as defined in 49 CFR Part 26, as amended, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with DEPARTMENT funds under this AGREEMENT. The DBE requirement of 49 CFR Part 26, as amended, applies to this AGREEMENT.

**10.32 DBE Obligation:** The PUBLIC AGENCY and its contractors agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, as amended, have the maximum opportunity to participation in the performance of contracts and this AGREEMENT. In this regard, all recipients, and contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that the Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Grantees, recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of DEPARTMENT assisted contracts.

**11.00 Restrictions, Prohibitions, Controls and Labor Provisions:**

**11.10 Equal Employment Opportunity:** In connection with carrying out of any project, the PUBLIC AGENCY shall not discriminate against any employee or applicant for employment because of race, age, creed, color, sex or national origin. The PUBLIC AGENCY will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, creed, color, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The PUBLIC AGENCY shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development or operation of the PROJECT, except contracts for standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the PROJECT involves installation, construction, demolition, removal, site improvements, or similar work, the PUBLIC AGENCY shall post, in conspicuous places available to employees and applicants for employment for project work, notices to be provided by the DEPARTMENT setting forth the provisions of the nondiscrimination clause.

**11.20 Title VI – Civil Rights Act of 1964:** Execution of this Joint Participation Agreement constitutes a certification that the PUBLIC AGENCY will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et. seq.), the Regulations of the Federal Department of Transportation issued thereunder, and the assurance by the PUBLIC AGENCY pursuant thereto.

**11.30 Title VIII – Civil Rights Act of 1968:** Execution of this Joint Participation Agreement constitutes a certification that the PUBLIC AGENCY will comply with all the requirements imposed by Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601, et. seq.), which among other things, prohibits discrimination in housing on the basis of race, color, national origin, creed, sex and age.

**11.40 Americans with Disabilities Act of 1990 (ADA):** Execution of this Joint Participation Agreement constitutes a certification that the PUBLIC AGENCY will comply with all the requirements imposed by the ADA (42 U.S.C. 12102, et. seq.), the regulations of the federal government issued thereunder, and the assurance by the PUBLIC AGENCY pursuant thereto.

**11.50 Prohibited Interests:** Neither the PUBLIC AGENCY nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement in connection with the PROJECT or any property included or planned to be included in the PROJECT, in which any member, officer, or employee of the PUBLIC AGENCY during his tenure or for two years thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to the PUBLIC AGENCY, the PUBLIC AGENCY with prior approval of the DEPARTMENT, may waive the prohibition contained in this subsection: Provided, that any such present member, officer or employee shall not participate in any action by the PUBLIC AGENCY relating to such contract, subcontract, or arrangement. The PUBLIC AGENCY shall insert in all contracts entered into in connection with the PROJECT or any property included or planned to be included in any project, and shall require its contractors to insert in each of their subcontracts, the following provision:

“No member, officer, or employee of the PUBLIC AGENCY during his tenure or for two years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.”

The provisions of this subsection shall not be applicable to any agreement between the PUBLIC AGENCY and its fiscal depositories, or to any agreement for utility services the rates for which are fixed or controlled by a Governmental agency:

**11.60 Interest of Members of, or Delegates to, Congress:** No member or delegate to the Congress of the United States shall be admitted to any share or part of the AGREEMENT or any benefit arising therefrom.

**12.00 Miscellaneous Provisions:**

**12.10 Environmental Pollution:** Execution of this Joint Participation Agreement constitutes a certification by the PUBLIC AGENCY that the PROJECT will be carried out in conformance with all applicable environmental regulations including the securing of any applicable permits. The PUBLIC AGENCY will be solely responsible for any liability in the event of non-compliance with applicable environmental regulations, including the securing of any applicable permits, and will reimburse the DEPARTMENT for any loss incurred in connection therewith.

**12.20 Department Not Obligated to Third Parties:** The DEPARTMENT shall not be obligated or liable hereunder to any party other than the PUBLIC AGENCY.

**12.30 When Rights and Remedies Not Waived:** In no event shall the making by the DEPARTMENT of any payment to the PUBLIC AGENCY 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 PUBLIC AGENCY, and the making of such payment by the DEPARTMENT when any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the DEPARTMENT with respect to such breach or default.

**12.40 How Agreement is Affected by Provisions Being Held Invalid:** If any provision of this AGREEMENT is held invalid, the remainder of this AGREEMENT shall not be affected.

**12.50 Bonus or Commission:** By execution of the AGREEMENT the PUBLIC AGENCY represents that it has not paid and agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application to the DEPARTMENT for the financing hereunder.

**12.60 State or Territorial Law:** Nothing in this AGREEMENT shall require the PUBLIC AGENCY to observe or enforce compliance with any provisions thereof, perform any other act or do any other thing in contravention of any applicable State Law; provided, that if any of the provisions of the AGREEMENT violate any applicable State Law, the PUBLIC AGENCY will at once notify the DEPARTMENT in writing in order that appropriate changes and modifications may be made by the DEPARTMENT and the PUBLIC AGENCY to the end that the PUBLIC AGENCY may proceed as soon as possible with the PROJECT.

**12.70 Use and Maintenance of Project Facilities and Equipment:** The PUBLIC AGENCY agrees that the PROJECT facilities and equipment will be used by the PUBLIC AGENCY to provide or support public transportation for the period of the useful life of such facilities and equipment as determined in accordance with general accounting principles and approved by the DEPARTMENT. The PUBLIC AGENCY further agrees to maintain the PROJECT facilities and equipment in good working order for the useful life of said facilities or equipment.

**12.71 Property Records:** The PUBLIC AGENCY agrees to maintain property records, conduct physical inventories and develop control systems as required by 49 CFR Part 18, when applicable.

**12.80 Disposal of Project Facilities or Equipment:** If the PUBLIC AGENCY disposes of any project facility or equipment during its useful life for any purpose except its replacement with like facility or equipment for public transportation use, the PUBLIC AGENCY will comply with the terms of 49 CFR Part 18 relating to property management standards. The PUBLIC AGENCY agrees to remit to the DEPARTMENT a proportional amount of the proceeds from the disposal of the facility or equipment. Said proportional amount shall be determined on the basis of the proportion of the actual DEPARTMENT expenditures for the facility or equipment in relation to the total cost of the PROJECT to the PUBLIC AGENCY.

**12.90 Contractual Indemnity:** To the extent provided by law, the PUBLIC AGENCY shall indemnify, defend, and hold harmless the DEPARTMENT and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the PUBLIC AGENCY, its agents, or employees, during the performance of the AGREEMENT, except that neither the PUBLIC AGENCY, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the DEPARTMENT or any of its officers, agents, or employees during the performance of the AGREEMENT.

When the DEPARTMENT receives a notice of claim for damages that may have been caused by the PUBLIC AGENCY in the performance of services required under this AGREEMENT, the DEPARTMENT will immediately forward the claim to the PUBLIC AGENCY. The PUBLIC AGENCY and the DEPARTMENT will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the DEPARTMENT will determine whether to require the participation of the PUBLIC AGENCY in the defense of the claim or to require that the PUBLIC AGENCY defend the DEPARTMENT in such claim as described in this section. The DEPARTMENT'S failure to promptly notify the PUBLIC AGENCY of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by PUBLIC AGENCY. The DEPARTMENT and the PUBLIC AGENCY will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any. However, if only one part participates in the defense of the claim at trial, that party is responsible for all expenses at trial.

**13.00 Plans and Specifications:** In the event that this AGREEMENT involves the purchasing of capital equipment or the constructing and equipping of facilities, the PUBLIC AGENCY shall submit to the DEPARTMENT for approval all appropriate plans and specifications covering the PROJECT. The DEPARTMENT will review all plans and specifications and will issue to the PUBLIC AGENCY written approval with any approved portions of the PROJECT and comments or recommendations concerning any remainder of the PROJECT deemed appropriate. After resolution of these comments and recommendations to the DEPARTMENT'S satisfaction, the DEPARTMENT will issue to the PUBLIC AGENCY written approval with said remainder of the PROJECT. Failure to obtain this written approval shall be sufficient cause for nonpayment by the DEPARTMENT as provided in paragraph 7.23.

**14.00 Project Completion, Agency Certification:** The PUBLIC AGENCY will certify in writing on or attached to the final invoice, that the PROJECT was completed in accordance with applicable plans and specifications, is in place on the PUBLIC AGENCY facility, that adequate title is in the PUBLIC AGENCY and that the PROJECT is accepted by the PUBLIC AGENCY as suitable for the intended purpose.

**15.00 Expiration of Agreement:** The PUBLIC AGENCY agrees to complete the PROJECT on or before September 30, 2008. If the PUBLIC AGENCY does not complete the PROJECT within this time period, this AGREEMENT will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the

PUBLIC AGENCY and granted in writing by the DEPARTMENT prior to the expiration of the AGREEMENT. Expiration of this AGREEMENT will be considered termination of the PROJECT and the procedure established in paragraph 8.00 of this AGREEMENT shall be initiated.

**15.10 Final Invoice:** The PUBLIC AGENCY must submit the final invoice on this PROJECT to the DEPARTMENT within 120 days after the expiration of this AGREEMENT. Invoices submitted after the 120 day time period will not be paid.

**16.00 Agreement Format:** 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.

**17.00 Execution of Agreement:** This AGREEMENT may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one of the same instrument.

**18.00 Restrictions on Lobbying:**

**18.10 Federal:** The PUBLIC AGENCY agrees that no federal appropriated funds have been paid or will be paid by or on behalf of the PUBLIC AGENCY, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federal appropriated funds have been paid by the PUBLIC AGENCY to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Joint Participation Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The PUBLIC AGENCY shall require that the language of this section be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

**18.20 State:** No funds received pursuant to this contract may be expended for lobbying the Legislature or a state agency.

**19.00 Vendors Rights:** Vendors (in this document identified as PUBLIC AGENCY) 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, unless the bid specifications, purchase order or contract specifies otherwise. The

DEPARTMENT has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

If a payment is not available within 40 days after receipt of the invoice and receipt, inspection and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3)(b), Florida Statutes, will be due and payable, in addition to the invoice amount, to the PUBLIC AGENCY. The interest penalty provision applies after a 35 day time period to health care providers, as defined by rule. Interest penalties of less than one dollar (\$1.00) will not be enforced unless the PUBLIC AGENCY requests payment. Invoices which have to be returned to the PUBLIC AGENCY because of vendor preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the DEPARTMENT.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from the DEPARTMENT. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the Department of Financial Service's Hotline, 1-800-848-3792.

**20.00 Public Entity Crime:** Pursuant to 287.133(3)(a) F.S. the following is applicable to this AGREEMENT. 287.133(2)(a). "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 and 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 for 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 s. 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list."

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

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

**DEPARTMENT**

Florida Department of Transportation  
Attn: Mary Schoelzel, JPA Coordinator  
719 South Woodland Boulevard  
Mail State 4-548  
DeLand, Florida 32720-6834

**PUBLIC AGENCY**

Seminole County  
Roadway Operations/Stormwater Department  
Attn: Kim Ornberg  
520 W. Lake Mary Blvd, Suite 200  
Sanford, Florida 32773

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

ATTEST:

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

BY: \_\_\_\_\_  
MARANNE MORSE  
Clerk to the Board of County  
Commissioners of Seminole County,  
Florida

BY: \_\_\_\_\_  
DARYL G. McLAIN, Chairman

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

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

As authorized for execution by the Board  
of County Commissioners at its \_\_\_\_\_,  
2003, regular meeting.

 22 DEC 03

[Signatures continued on next page]

**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION**

\_\_\_\_\_  
Name: George Gilhooley  
Title: Director of Operations

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

Attest:

\_\_\_\_\_  
Executive Secretary (Seal)

Legal Review

\_\_\_\_\_  
General Counsel

Authorization Received From  
The Comptroller's Office As  
To Availability of Funds:

\_\_\_\_\_

**EXHIBIT "A"**  
**SCOPE OF WORK**  
**Financial Management Number: 243844-1-74-06**

The PUBLIC AGENCY shall provide for the annual contribution of funds by FDOT District Five (FDOT) to Seminole County Road Operations & Stormwater Division/Water Quality Section in order to share in the costs associated with the water quality monitoring program, public education program, and solicitation of public input for identification of illicit discharges, to satisfy requirements of the FDOT and Co-permittees Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) permit FLS000038.

The Services the PUBLIC AGENCY will provide are as follows:

- Item No. 1. Conduct water chemistry monitoring and biological assessment, which include staff time and analytical laboratory fees, as required by the permit.
- Item No. 2. Maintain the Seminole Watershed Atlas, which provides:
- Water quality educational outreach;
  - Reporting of illicit discharges by the public; and
  - Additional public educational outreach

**EXHIBIT "B"**  
**PAYOUT SCHEDULE**  
**Financial Management Number: 243844-1-74-06**

Associated Costs:

The annual payments should be made to the PUBLIC AGENCY by October 31 of each year. The amount of payment shall be \$10,000.00 for the first year (this JPA only) and \$5,000.00 per year for each of the following four years for a total of \$30,000.00. See Payout Schedule below:

**PAYOUT SCHEDULE**

Year	Item No. 1	Item No. 2	Total Disbursed Per Year
October 31, 2003	\$8,000.00	\$2,000.00	\$10,000.00
October 31, 2004	\$3,000.00	\$2,000.00	\$5,000.00
October 31, 2005	\$3,000.00	\$2,000.00	\$5,000.00
October 31, 2006	\$3,000.00	\$2,000.00	\$5,000.00
October 31, 2007	\$3,000.00	\$2,000.00	\$5,000.00
<b>TOTAL</b>			<b>\$30,000.00</b>

**EXHIBIT "C"**

**MINUTES OF PUBLIC AGENCY**

**Financial Management Number: 243844-1-74-06**