

RESOLUTION NO. 10-218

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING A LOCAL AGENCY PROGRAM (LAP) AGREEMENT BETWEEN THE CITY OF KEY WEST AND FDOT IN THE AMOUNT OF \$437,726.00 FOR SAFE ROUTES TO SCHOOL-POINCIANA ELEMENTARY SCHOOL SIDEWALK INSTALLATION (FM# 425854-1/EN11-1); PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the City Manager is authorized to execute the attached Local Area Program (LAP) grant agreement with the State of Florida Department of Transportation (FDOT) for improvements in the amount of \$437,726.00.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 20 day of July, 2010.

Authenticated by the presiding officer and Clerk of the

Commission on July 21, 2010.

Filed with the Clerk July 21, 2010.

  
\_\_\_\_\_  
CRAIG CATES, MAYOR

ATTEST:

  
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CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

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## EXECUTIVE SUMMARY

**TO:** Jim Scholl, City Manager  
E. David Fernandez, Asst. City Manager

**FROM:** Doug Bradshaw, Interim Senior Project Manager

**DATE:** June 30, 2010

**SUBJECT:** Approving a Local Agency Program (LAP) Agreement between the City of Key West and the Florida Department of Transportation (FDOT) in the amount of \$437,726 for sidewalk installation in the Safe Routes to School – Poinciana Elementary School project (FM# 425854-1 / EN1101); authorizing the City Manager to enter into the LAP Agreement and execute all required documents

### ACTION STATEMENT:

This resolution will approve a Local Agency Program (LAP) Agreement between the City of Key West and the Florida Department of Transportation (FDOT) in the amount of \$437,726 for sidewalk installation in the Safe Routes to School – Poinciana Elementary School project (FM# 425854-1).

City Staff also requests the City Manager be authorized to execute the LAP Agreement attached hereto for the amount previously listed.

### BACKGROUND:

The State FDOT has numerous grant opportunities to offer to municipalities and their partners. In 2007, the federal government initiated a program through state DOT'S to improve routes within walking distance to schools. The program is for elementary and middle schools and offers 100% funding for proposed sidewalks and other infrastructure as well as training in the schools and assessment of the project upon completion to determine if the project has increased walking and biking to school or decreased accidents.

*Key to the Caribbean – Average yearly temperature 77° F.*

In an effort to obtain such infrastructure funding, City Staff met with then School Board Superintendent Randy Acevedo and his team in early 2008 to formulate a partnership to create a Safe Routes to School program. That meeting resulted in an agreement to form a partnership between the City and the School Board along with the University of Miami Ryder Trauma Hospital (who will supply the teacher training and performance measure portion of the projects). The application process in the Safe Routes to Schools program is such that the School Board is the applicant and the City is the recipient of the grant funding through a LAP Agreement between FDOT and the City.

On March 18, 2008, the Commission passed Resolution 08-090 supporting the concept of a partnership among the City of Key West, the Monroe County School Board and Ryder Trauma Hospital for the purpose of submitting an application to FDOT for the Safe Routes to Schools 2009 Grants Program for sidewalks and traffic safety improvements near Gerald Adams and Poinciana School. A LAP Agreement is already in place for Gerald Adams Elementary School (please refer to Resolution 09-217 (not attached) for that particular LAP Agreement).

Shortly after, City Staff submitted applications to FDOT to obtain infrastructure funds for new sidewalks and traffic safety improvements for both schools. The projects were approved and placed in FDOT's work program.

#### **PURPOSE & JUSTIFICATION:**

The Safe Routes to School – Poinciana Elementary School project will involve installing new sidewalks along Duck Avenue from 17<sup>th</sup> Street to Glynn Archer Drive as well as on 12<sup>th</sup> Street from Staples Avenue to Seidenberg Avenue and will provide bicyclists and pedestrians a safer route of travel to the school. FDOT has budgeted a total of \$437,726 in their work program for the design, construction and construction engineering & inspection (CEI) of this project. No local match on this funding is required.

#### **OPTIONS:**

1. Approve the Local Agency Program (LAP) Agreement between the City of Key West and the Florida Department of Transportation (FDOT) in the amount of \$437,726 and authorize the City Manager to execute the agreement. This will allow the City to provide new sidewalks and a safer route to Poinciana Elementary School utilizing FDOT funds up to \$437,726 without a local match.
2. Do not approve the Local Agency Program (LAP) Agreement. Without an executed LAP Agreement, the City will not be able to utilize \$437,726 in funding programmed by FDOT for the Safe Routes to School – Poinciana Elementary School project. Inactive projects in FDOT's work program risk loss of funding.

#### **FINANCIAL IMPACT:**

This project will be funded through budget line item 102-4104-541-63. The Safe Routes to School – Poinciana Elementary School project is included in the General Services' FY 2011 capital improvement plan, project EN1101.

The construction for this project will be reimbursed up to \$437,726 through an FDOT Local Agency Program (LAP) grant.

The LAP Agreement in place for this project includes design funds in the amount of \$65,659; construction funds in the amount of \$306,408; and Construction Engineering and Inspection (CEI) in the amount of \$65,659 for a total grant amount of \$437,726 (no City match required). These grant funds are budgeted in Revenue Account 102-0000-334-49-01.

Funding for this project is as follows:

FDOT LAP Grant (100%).....	\$ 437,726.00
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Total funds	\$ 437,726.00

**RECOMMENDATION:**

Staff recommends the City Commission select option 1, approve the LAP Agreement between the City of Key West and FDOT in the amount of \$437,726 so that we may proceed with the Safe Routes to School – Poinciana Elementary School project.

DB/cds

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FPN: 425854-1	Fund: _____	FLAIR Approp: _____
Federal No: <u>SRTS 140</u>	Org Code: <u>55063030649</u>	FLAIR Obj: <u>790089</u>
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
FPN: _____	Fund: _____	FLAIR Approp: _____
Federal No: _____	Org Code: _____	FLAIR Obj: _____
County No: <u>Monroe</u>	Contract No: <u>AQ244</u>	Vendor No: <u>VF596000346038</u>
Data Universal Number System (DUNS) No: 80-939-7102		
Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction		

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THIS AGREEMENT, made and entered into this 23<sup>rd</sup> day of September, 2010 by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the Department, and The City of Key West located at 525 Angela Street, Key West, Florida 33041 hereinafter called the Agency.

**WITNESSETH:**

WHEREAS, the 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 Section 339.12, Florida Statutes, to enter into this Agreement;

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

**1.00 Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in sidewalk installation as part of the Safe Routes to School Program at Poinciana Elementary School and as further described in Exhibit "A" attached hereto and by this reference made a part hereof, hereinafter called the "project," and to provide Department financial assistance to the Agency and 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.

**1.01 Attachments:** Exhibit(s) A,B,1 are attached and made a part hereof.

**2.01 General Requirements:** The Agency shall complete the project as described in Exhibit "A" with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Agency Program Manual, which by this reference is made a part hereof as if fully set forth herein. Time is of the essence as to each and every obligation under this Agreement.

A full time employee of the Agency, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in charge of each project.

**Removal of Any Unbilled Funds**

If Agency fails to timely perform its obligations in submitting invoices and documents necessary for the close out of the project, and said failure results in a loss of the remaining unbilled funding either by Federal withdrawal of funds or loss of State appropriation authority (which may include both federal funds and state funds, if any state funds are on the project), Agency will be responsible for the remaining unbilled funds on the project. No other funds will be provided by the Department. Agency waives the right to contest such removal of funds by the Department, if said removal is directly related to Federal (FHWA) withdrawal of funds or loss of State appropriation authority due to Local Agency's failure or nonperformance. In addition to loss of funding, the Department will consider de-certification of said Agency for future LAP projects.

## **Removal of All Funds**

If all funds are removed from the project, including amounts previously billed to the Department and reimbursed to the Agency, and the project is off the state highway system, then the department will have to request repayment for the previously billed amounts from the Local Agency. No state funds can be used on off-system projects.

**2.02 Expiration of Agreement:** The Agency agrees to complete the project on or before July 31, 2013. If the Agency does not complete the project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the project. The cost of any work performed after the expiration date of this Agreement will not be reimbursed by the Department.

**2.03 Pursuant to Federal, State, and Local Laws:** In the event that any election, referendum, approval, permit, notice or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the project hereunder or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

**2.04 Agency Funds:** The Agency shall initiate and prosecute to completion all proceedings necessary, including federal-aid requirements, to enable the Agency to provide the necessary funds for completion of the project.

**2.05 Submission of Proceedings, Contracts, and Other Documents:** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the project as the Department and the Federal Highway Administration (FHWA) may require.

## **3.00 Project Cost:**

**3.01 Total Cost:** The total cost of the project is \$ 437,726.00. This amount is based upon the schedule of funding in Exhibit "B." The Agency agrees to bear all expenses in excess of the total cost of the project and any deficits involved. The schedule of funding may be modified by mutual agreement as provided for in paragraph 4.00.

**3.02 Department Participation:** The Department agrees to participate, including contingencies, in the project cost to the extent provided in Exhibit "B." This amount includes federal-aid funds which are limited to the actual amount of federal-aid participation.

**3.03 Limits on Department Funds:** Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible project costs 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 paragraphs 3.04 and 3.05 of this Agreement;
- c) Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
- d) Department approval of the project scope and budget at the time appropriation authority becomes available.

**3.04 Appropriation of Funds:** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this project is in multiple fiscal years, funds approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See Exhibit "B" for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.

**3.05 Multi-Year Commitment:** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

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"(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 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

**3.06 Notice-to-Proceed:** No cost may be incurred under this Agreement until the Agency has received a written Notice-to-Proceed from the Department.

**3.07 Limits on Federal Participation:** Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the project or part thereof involving such cost (23 C.F.R. 1.9 (a)). If FHWA or the Department determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, Federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or project costs in part or in total.

For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Agency shall promptly reimburse the Department for all such amounts within 90 days of written notice.

**4.00 Project Estimate and Disbursement Schedule:** Prior to the execution of this Agreement, a project schedule of funding shall be prepared by the Agency and approved by the Department. The Agency shall maintain said schedule of funding, carry out the project, and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved schedule of funding for the project. The schedule of funding may be revised by mutual written agreement between the Department and the Agency. If revised, a copy of the revision should be forwarded to the Department's Comptroller and to the Department's Federal-aid Program Office. No increase or decrease shall be effective unless it complies with fund participation requirements of this Agreement and is approved by the Department's Comptroller.

**5.00 Records:**

**5.01 Establishment and Maintenance of Accounting Records:** 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 5 years after the final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the project records, together with supporting documents and records of the Agency and all subcontractors performing work on the project and all other records of the Agency and subcontractors considered necessary by the Department for a proper audit of costs. If any litigation, claim or audit is started before the expiration of the 5-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

**5.02 Costs Incurred for Project:** The Agency shall charge to the project account all eligible costs of the project except costs agreed to be borne by the Agency or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

**5.03 Documentation of Project Costs:** All costs charged to the project, including any approved services contributed by the 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.

**5.04 Audit Reports:** Recipients of federal and state funds are to have audits done annually using the following criteria:



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The administration of resources awarded by the Department to the Agency may be subject to audits and/or monitoring by the Department, as described in this section.

**Monitoring:** In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, Florida Statutes, as revised (see "Audits" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department staff to the Agency regarding such audit. The Agency 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 the 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 "1" of this Agreement indicates federal resources awarded through the Department by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department. The determination of amounts of federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1 the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than federal entities).
4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

**Part II - State Funded:** Recipients of state funds (i.e., a non-state entity as defined by Section 215.97(2) (l), Florida Statutes) are to have audits done annually using the following criteria:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, 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 Executive Office of the Governor and the CFO, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "1" to this Agreement indicates state financial assistance awarded through the Department by this Agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other non-state entities. State financial assistance does not include federal direct or pass-through awards and resources received by a non-state 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.

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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 audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

**Part III - Other Audit Requirements:** The recipient shall follow up and take corrective action on audit findings. Preparation of a Summary Schedule of Prior Year Audit Findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

Records related to unresolved audit findings, appeals or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the Department, the Department of Financial Services, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

**Part IV - Report Submission:**

1. Copies of financial reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Part I of this Agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:
  - a) The Department at each of the following address(es):

District Six LAP Administrator  
Florida Department of Transportation  
1000 N.W. 111 Avenue  
Miami, Florida 33172
  - 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), 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 financial reporting package required by Part I of this Agreement and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the Department for reasons pursuant to Section .320 (e)(2), OMB Circular A-133, as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited Schedule of Expenditures of Federal Awards directly to each of the following:

District Six LAP Administrator  
Florida Department of Transportation  
1000 N.W. 111 Avenue  
Miami, Florida 33172

In addition, pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the financial reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any Management Letters issued by the auditor, to the Department at each of the following addresses:

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District Six LAP Administrator  
Florida Department of Transportation  
1000 N.W. 111 Avenue  
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3. Copies of the financial reporting package required by Part II of this Agreement shall be submitted by or on behalf of the recipient directly to each of the following:

- a) The Department at each of the following address(es):

District Six LAP Administrator  
Florida Department of Transportation  
1000 N.W. 111 Avenue  
Miami, Florida 33172

- b) The Auditor General's Office at the following address:

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

4. Copies of reports or the Management Letter required by Part III of this Agreement shall be submitted by or on behalf of the recipient directly to:

- a) The Department at each of the following address(es):

District Six LAP Administrator  
Florida Department of Transportation  
1000 N.W. 111 Avenue  
Miami, Florida 33172

5. Any reports, Management Letters, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted in a timely manner in accordance with OMB Circular A-133, as revised, 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, as revised, 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 financial reporting package was delivered to the recipient in correspondence accompanying the financial reporting package.

**Part V - Record Retention:** The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of at least 5 years from the date the audit report is issued and shall allow the Department or its designee, the state CFO or Auditor General access to such records upon request. The recipient shall ensure that the independent audit documentation is made available to the Department, or its designee, the state CFO or Auditor General upon request for a period of at least 5 years from the date the audit report is issued, unless extended in writing by the Department.

**5.05 Inspection:** The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives and authorized agents of FHWA to inspect all work, workmanship, materials, payrolls, and records and to audit the books, records, and accounts pertaining to the financing and development of the project.

The Department reserves the right to unilaterally cancel this Agreement for refusal by the Agency or any contractor, sub-contractor or materials vendor to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement (Section 287.058(1) (c), Florida Statutes).

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**5.06 Uniform Relocation Assistance and Real Property Statistical Report:** For any project requiring additional right-of-way, the Agency must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of each year.

**6.00 Requisitions and Payments:** Requests for reimbursement for fees or other compensation for services or expenses incurred shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof (Section 287.058(1)(a), Florida Statutes).

All recipients of funds from this Agreement, including those contracted by the Agency, must submit bills for any travel expenses, when authorized by the terms of this Agreement, in accordance with Section 112.061, Florida Statutes, and Chapter 3-"Travel" of the Department's Disbursement Operations Manual, Topic 350-030-400 (Section 287.058(1)(b), Florida Statutes).

If, after project completion, any claim is made 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 agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

**7.00 Department Obligations:** Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department to be proper 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 payment if:

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

**7.02 Litigation:** There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the project, the Agreement or payments to the project;

**7.03 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 expenditure or incurred related obligations without having been advised by the Department that same are approved;

**7.04 Conflict of Interests:** There has been any violation of the conflict of interest provisions contained here in paragraph 12.06 or 12.07.

**7.05 Default:** The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

**7.06 Federal Participation:** The Department may suspend or terminate payment for that portion of the project which the FHWA, or the Department acting in lieu of FHWA, may designate as ineligible for federal-aid.

**7.07 Disallowed Costs:** In determining the amount of the payment, the Department will exclude all projects costs incurred by the Agency prior to the effective date of this Agreement or the date of authorization, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in Exhibit "B" for the project, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

**7.08 Final Invoices:** The Agency must submit the final invoice on the project to the Department within 120 days after the completion of the project. Invoices submitted after the 120-day time period may not be paid.

**8.00 Termination or Suspension of Project:**

**8.01 Termination or Suspension Generally:** The Department may, by written notice to the 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 this Agreement in whole or in part at any time the interest of the Department requires such termination.

(a) If the Department determines that the performance of the Agency is not satisfactory, the Department shall notify the Agency of the deficiency in writing with a requirement that the deficiency be corrected within thirty (30) days of such notice. Such notice shall provide reasonable specificity to the Agency of the deficiency that requires correction. If the deficiency is not corrected within such time period, the Department may either (1) immediately terminate the Agreement as set forth in paragraph 8.(b) below, or (2) take whatever action is deemed appropriate by the Department to correct the deficiency. In the event the Department chooses to take action and not terminate the Agreement, the Agency shall, upon demand, promptly reimburse the Department for any and all costs and expenses incurred by the Department in correcting the deficiency.

(b) If the Department terminates the Agreement, the Department shall notify the Agency of such termination in writing, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

(c) If the Agreement is terminated before the project is completed, the Agency shall be paid only for the percentage of the project satisfactorily performed for which costs can be substantiated. Such payment, however, shall not exceed the equivalent percentage of the contract price. All work in progress will become the property of the Department and will be turned over promptly by the Agency.

**8.02 Action Subsequent to Notice-of-Termination or Suspension:** Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (a) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to a minimum the costs upon the basis of which the financing is to be computed; (b) furnish a statement of the project activities and contracts and other undertakings the cost of which are otherwise includable as project costs. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and cost as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and estimate within a reasonable time. 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.

## **9.00 Contracts of Agency:**

**9.01 Third Party Agreements:** Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction 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. 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.

**9.02 Compliance with Consultants' Competitive Negotiation Act:** It is understood and agreed by the parties hereto that participation by the Department in a project with the Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency's complying in full with provisions of Section 287.055, 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 projects. 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.

**10.00 Disadvantaged Business Enterprise (DBE) Policy and Obligation:** It is the policy of the Department that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Agency and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with

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applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement. Furthermore, the Agency agrees that:

(a) Each financial assistance agreement signed with a US-DOT operating administration (or a primary recipient) must include the following assurance:

"The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. Part 26. The recipient shall take all necessary and reasonable steps under 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 C.F.R. Part 26 and as approved by Department, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.)."

(b) Each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

"The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate."

**11.00 Compliance with Conditions and Laws:** The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this project. Execution of this Agreement constitutes a certification that the Agency is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," in 49 C.F.R. Part 29, when applicable.

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

**12.01 Equal Employment Opportunity:** In connection with the carrying out of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. 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 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 the 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 improvement or similar work, the 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.

**12.02 Title VI - Civil Rights Act of 1964:** The Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

The Agency shall include provisions in all contracts with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.

**12.03 Americans with Disabilities Act of 1990 (ADA):** The Agency will comply with all the requirements as imposed by the ADA, the regulations of the Federal government issued thereunder, and assurance by the Agency pursuant thereto.

**12.04 Public Entity Crime:** 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.

**12.05 Discrimination:** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide 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.

**12.06 Suspension, Revocation, Denial of Qualification or Determination of Contractor Non-Responsibility:** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

**12.07 Prohibited Interests:** Neither the 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 Agency or the locality during tenure or for 2 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 tenure any such interest, and if such interest is immediately disclosed to the Agency, the Agency, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Agency or the locality relating to such contract, subcontract or arrangement.

The 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 Agency or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the Agency and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

**12.08 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 this Agreement or any benefit arising therefrom.

### **13.00 Miscellaneous Provisions:**

**13.01 Environmental Regulations:** The Agency will be solely responsible for compliance with all the applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Agency will be responsible for securing any applicable permits.

**13.02 Department Not Obligated to Third Parties:** The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.

**13.03 When Rights and Remedies Not Waived:** In no event shall the making by the Department of any payment to the 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 Agency and the making of such payment by the Department, while any such breach or default

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shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

**13.04 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. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

**13.05 Bonus or Commission:** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

**13.06 State Law:** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the project.

**13.07 Plans and Specifications:** In the event that this Agreement involves constructing and equipping of facilities on the State Highway System, the 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 Agency a written approval with any approved portions of the project and comments or recommendations covering 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 Agency a written approval with said remainder of the project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department. The Agency will physically include Form FHWA-1273 in all its contracts and subcontracts.

**13.08 Right-of-Way Certification:** Upon completion of right-of-way activities on the project, the Agency must certify compliance with all applicable federal and state requirements. Certification is required prior to advertisement for or solicitation of bids for construction of the project, including those projects for which no right-of-way is required.

**13.09 Agency Certification:** The Agency will certify in writing, prior to project closeout that the project was completed in accordance with applicable plans and specifications, is in place on the Agency's facility, adequate title is in the Agency's name, and the project is accepted by the Agency as suitable for the intended purpose.

**13.10 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.

**13.11 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 in the same instrument.

**13.12 Restrictions on Lobbying:**

**Federal:** The Agency agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the 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 federally-appropriated funds have been paid by the 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 Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Agency shall require that the language of this paragraph 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



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subrecipients shall certify and disclose accordingly.

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

**13.13 Maintenance:** The Agency agrees to maintain any project not on the State Highway System constructed under this Agreement. If the Agency constructs any improvement on Department right-of-way, the Agency  will  will not maintain the improvements made for their useful life.

**13.14 Vendors Rights:** Vendors (in this document identified as the Agency) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has 5 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 the 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 Agency. Interest penalties of less than one \$1 will not be enforced unless the Agency requests payment. Invoices which have to be returned to the Agency because of Agency 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 850-413-5516 or by calling the State Comptroller's Hotline, 877-693-5236.

**13.15 Reimbursement of Federal Funds:**


The Agency shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Agency and FHWA requires reimbursement of the funds, the Agency will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement. Federal Economic Stimulus awards do not exempt the Agency from adherence to federal guidelines, procedures, and regulations.


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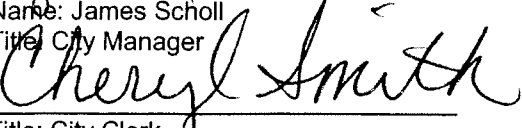
IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

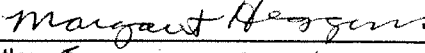
AGENCY CITY OF KEY WEST, FLORIDA

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By:   
Name: James Scholl  
Title: City Manager

By:   
Name: Gus Negro, P.E.  
Title: District Secretary

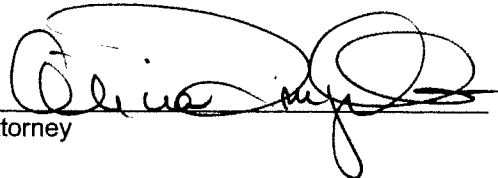
Attest:   
Title: City Clerk

Attest:   
Title: Executive Secretary

As to form:

  
Attorney

As to form:

  
District Attorney

See attached Encumbrance Form for date of funding approval by Comptroller.

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**EXHIBIT "A"**

**PROJECT DESCRIPTION AND RESPONSIBILITIES**

FPN: 425854-1

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and

The City of Key West

525 Angela Street, Key West, Florida 33041-1409

Dated \_\_\_\_\_

PROJECT LOCATION: Duck Avenue from 17<sup>th</sup> Street to Glynn Archer Drive  
12<sup>th</sup> Street from Staples Avenue to Seidenberg Avenue

The project \_\_\_ is X is not on the National Highway System.

The project \_\_\_ is X is not on the State Highway System.

**PROJECT DESCRIPTION:**

Safe Routes to School – Poinciana Elementary School

Duck Avenue from 17<sup>th</sup> Street to Glynn Archer Drive  
12<sup>th</sup> Street from Staples Avenue to Seidenberg Avenue

The project will include sidewalk installation.

**SPECIAL CONSIDERATIONS BY AGENCY:**

The audit report(s) required in the Agreement shall include a Schedule of Project Assistance that will reflect the Department's contract number, the Financial Project Number (FPN), the Federal Authorization Number (FAN), where applicable, the amount of state funding action (receipt and disbursement of funds), any federal or local funding action, and the funding action from any other source with respect to the project.

The Agency is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

The Agency shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

- a) Class of Action Determination Study to be completed by 9/15/2010.
- b) Design to be completed by 6/30/2011.
- c) Right-of-Way requirements identified and provided to the Department by 1/31/2011.
- d) Right-of-Way to be certified by 1/31/2010.
- e) Construction contract to be let by 10/15/2011.
- f) Construction to be completed by 7/31/2013.

If this schedule cannot be met, the Agency will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of federal funding.

**SPECIAL CONSIDERATIONS BY DEPARTMENT:**

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**EXHIBIT "B"**

**SCHEDULE OF FUNDING**

AGENCY NAME & BILLING ADDRESS City of Key West 525 Angela Street Key West, Florida 33041-1409	FPN: 425854-1
--	---------------

**PROJECT DESCRIPTION**

Name: Safe Routes to School – Poinciana Elementary School Length: \_\_\_\_\_

Termini: Duck Avenue From 17<sup>th</sup> Street to Glynn Archer Drive; 12<sup>th</sup> Street from Staples Avenue to Seidenberg Avenue

TYPE OF WORK By Fiscal Year	FUNDING		
	(1) TOTAL PROJECT FUNDS	(2) AGENCY FUNDS	(3) STATE & FEDERAL FUNDS
<b>Planning</b>			
2009-2010	_____	_____	_____
2010-2011	_____	_____	_____
2011-2012	_____	_____	_____
Total Planning Cost	_____	_____	_____
<b>Project Development &amp; Environment (PD&amp;E)</b>			
2009-2010	_____	_____	_____
2010-2011	_____	_____	_____
2011-2012	_____	_____	_____
Total PD&E Cost	_____	_____	_____
<b>Design</b>			
2009-2010	_____	_____	_____
2010-2011	\$ 65,659	_____	\$ 65,659
2011-2012	_____	_____	_____
Total Design Cost	\$ 65,659	_____	\$ 65,659
<b>Right-of-Way</b>			
2006-2007	_____	_____	_____
2007-2008	_____	_____	_____
2008-2009	_____	_____	_____
Total Right-of-Way Cost	_____	_____	_____
<b>Construction</b>			
2009-2010	_____	_____	_____
2010-2011	_____	_____	_____
2011-2012	\$ 306,408	_____	\$ 306,408
2012-2013	_____	_____	_____
Total Construction Cost	\$ 306,408	_____	\$ 306,408
<b>Construction Engineering and Inspection (CEI)</b>			
2009-2010	_____	_____	_____
2010-2011	_____	_____	_____
2011-2012	\$ 65,659	_____	\$ 65,659
Total CEI Cost	\$ 65,659	_____	\$ 65,659
Total Construction and CEI Costs	\$ 372,067	_____	\$ 372,067
<b>TOTAL COST OF THE PROJECT</b>	<b>\$ 437,726</b>	_____	<b>\$ 437,726</b>

The Department's fiscal year begins on July 1. For this project, funds are not projected to be available until after the 1st of July of each fiscal year. The Department will notify the Agency, in writing, when funds are available.

**EXHIBIT "1"**

**SINGLE AUDIT ACT**

**Federal Resources Awarded to the Recipient Pursuant to This Agreement Consist of the Following:**

**Federal Agency:** Federal Highway Administration

**CFDA #:** 20.205 Highway Planning and Construction

**Amount:** \$437,726.00

**Compliance Requirement:**

**Allowable Activities:** To be eligible, most projects must be located on public roads that are not functionally classified as local. The major exceptions are the Highway Bridge Replacement and Rehabilitation Program, which provides assistance for bridges on and off the federal-aid highways, highway safety activities, bicycle and pedestrian projects, transportation enhancement activities, the recreational trails program, and planning, research, development, and technology transfer. Proposed projects meeting these and other planning, design, environmental, safety, etc., requirements can be approved on the basis of state and local priorities within the limit of the funds apportioned or allocated to each state.

**Allowable Costs:** Eligible activities and allowable costs will be determined in accordance with Title 23 and Title 49 C.F.R. and the OMB cost principles applicable to the recipient/sub-recipient.

**Eligibility:** By law, the federal-aid highway program is a federally assisted state program that requires each state to have a suitably equipped and organized transportation department. Therefore, most projects are administered by or through State Departments of Transportation (State DOTs). Projects to be funded under the federal-aid highway program are generally selected by state DOTs or Metropolitan Planning Organizations (MPOs), in cooperation with appropriate local officials, as specified in 23 U.S.C. and implementing regulations. Territorial highway projects are funded in the same manner as other federal-aid highway projects, with the territorial transportation agency functioning in a manner similar to a state DOT. Most Federal Land Highway Program (FLHP) projects are administered by the Federal Highway Administration (FHWA) Office of Federal Lands Highway and its Divisions or by the various Florida Land Management Agencies (FLMAs). Under the FLHP, projects in the Indian Reservation Road (IRR) Program are selected by Tribal Governments and are approved by the Bureau of Indian Affairs (BIA) and the FHWA. Due to recent legislation, Tribal Governments meeting certain requirements may now administer various IRR projects on behalf of the BIA and FHWA. The Fish and Wildlife Service (FWS) and the National Park Service (NPS) select projects in the Refuge Road and Park Roads and Parkways Programs, respectively. For the Forest Highway Program, the Forest Service, the States and the FHWA jointly select projects.

**Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to This Agreement Are As Follows:** The recipient of Local Agency Program (LAP) funding must comply with the statutory requirements in Sections 112.061, 215.422, 339.12, and 339.135, Florida Statutes, and Title 23 and Title 49, C.F.R.

RESOLUTION NO. 08-090

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, SUPPORTING THE CONCEPT OF A PARTNERSHIP AMONG THE CITY OF KEY WEST, THE MONROE COUNTY SCHOOL BOARD AND RYDER TRAUMA HOSPITAL FOR THE PURPOSE OF SUBMITTING AN APPLICATION TO THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR THE "SAFE ROUTES TO SCHOOLS 2009 GRANTS PROGRAM" FOR SIDEWALKS AND TRAFFIC SAFETY IMPROVEMENTS NEAR GERALD ADAMS AND POINCIANA SCHOOL; PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City of Key West, in partnership with the Monroe County School Board recognizes that safety is a primary concern for the citizens of Key West; and

WHEREAS, the City and the School Board desire to work with safety experts from Ryder Trauma Hospital to provide training and performance measures for safety improvement projects for which funding is sought;

WHEREAS, funding through the FDOT's "Safe Routes to Schools 2009 Grants Program" could provide the City and the School Board with an opportunity to improve and enhance the safety of pedestrian routes commonly used by children who attend Gerald Adams and Poinciana Elementary schools;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That a partnership among the City of Key West, the Monroe County School Board and Ryder Trauma Hospital for purposes of preparing and submitting an application for funding through FDOT's "Safe Routes to Schools 2009 Grants Program" is hereby supported for three projects: (1) 12th Street at Staples and Seidenberg; (2) College Road sidewalks; and (3) Duck Avenue sidewalks.

Section 2: That the School Board is urged to submit the required grant application with the full assistance of the City of Key West.

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.


Passed and adopted by the City Commission at a meeting held this 18th day of March, 2008.

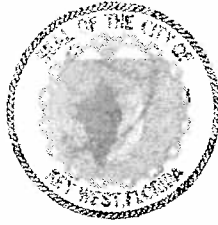
Authenticated by the presiding officer and Clerk of the Commission on March 19, 2008.

Filed with the Clerk March 19, 2008.

  
MORGAN McPHERSON, MAYOR

ATTEST:

  
CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

MEMORANDUM

TO: Jim Scholl, City Manager

FROM: Annalise Mannix, P.E., Environmental Programs Manager

DATE: March 5, 2008

REFERENCE: Florida Department of Transportation Safe Routes to School Grant Funding

**ACTION STATEMENT:** Resolution supporting the Partnership of the City of Key West, the Monroe County School Board and Ryder Trauma Hospital for the application to the Florida Department of Transportation (FDOT) Safe Routes to Schools 2009 grant program for three grants for new sidewalks and traffic safety improvements near Gerald Adams School and Poinciana School, fully funded by the FDOT.

**STRATEGIC PLAN INITIATIVE**

The maintenance and improvement of our sidewalks system is essential to protecting the health and safety of our citizens and visitors. Improving sidewalks and streets is a key goal in the City's strategic and Business Plan. If awarded any of these grants the citizens would see thousands of new feet of sidewalks and bike lanes as well as other traffic calming and safety measures.

**BACKGROUND:**

The State FDOT has numerous grant opportunities to offer to municipalities and their partners. Last year the federal government initiated a new program through state DOT's to improve routes with in walking distance to schools. The program is for elementary and middle schools and offers 100% funding for proposed sidewalks and other infrastructure as well as training in the schools and assessment of the project upon completion to determine if the project has increased walking and biking to school or decreased accidents. Staff hopes to apply for and receive grants over the next few years to address each school in the City.

Staff has met with School Board Superintendant Randy Acevedo and his team to formulate a partnership to create a Safe Routes to School program. We agreed to partner together along with the University of Miami Ryder Trauma Center who will supply the teacher training and performance measure portion of the projects. The partnership will provide the best opportunity for us to score high on a grant application. The School Board officially must make the application, however the project funding is provided to the municipality.

The state requires municipalities to have a resolution supporting the project. Attached please find a copy of the application that we will be filling out as information is gathered by each partner.

*Key to the Caribbean – average yearly temperature 77 ° Fahrenheit.*





## THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

MEMORANDUM

### **PURPOSE & JUSTIFICATION:**

Our first applications will be for three projects: 1. Enhancements on 12<sup>th</sup> Street near Staples and Siedenburg to improve access for Poinciana students there; 2. Sidewalks on College Road toward Gerald Adams School from the west starting by the marina/residences and from toward the school from the east near the golf course. 3. New sidewalks and possibly bike lanes on Duck Avenue from 19<sup>th</sup> Street to Glenn Archer Drive (14<sup>th</sup> street).

Each of these areas sorely need improvements or sidewalks. In addition, the city's American's with Disability Act (ADA) lawsuit settlement specifically states that we must install accessible routes with in 1000 feet of all government buildings. This grant opportunity may assist us in meeting that goal ahead of schedule.

### **OPTIONS:**

There are a few options for this project. We may agree to partner with the group to obtain a higher ranking on the grant, we may not partner, or we may not apply for these 100% federal funds.

Staff believes the city will best be served by partnering on this project and moving forward.

### **FINANCIAL IMPACT:**

The total estimated expected project costs, including design, construction and construction engineering and inspection (CEI) has been estimated but the City's Engineering Services Department as:

1. 12<sup>th</sup> Street at Staples and Seidenberg: \$88,000
2. College Road – Sidewalks  
East Side, Golf Course to School: \$285,000  
West Side, Marina Residences to College Sidewalk: \$312,000
3. Duck Avenue – 14<sup>th</sup> Street to 19<sup>th</sup> Street  
Sidewalk, Both Sides (No Repairs): \$510,000  
Bike Lane, Both Sides: \$141,000

The project will have limited addition annual maintenance costs since property owners are responsible for maintaining their sidewalks. Addition signage for safety reasons will need to be replace every ten years or so.

The project is 100% funded by the FDOT.

### **RECOMMENDATION:**

Support the project and the partnership.

*Key to the Caribbean – average yearly temperature 77 ° Fahrenheit.*



# Instructions for Florida's Safe Routes to School Infrastructure Application



## Notes

- Florida's Safe Routes to School (SRTS) Program, administered by the Florida Department of Transportation (FDOT), is a competitive program designed to offer assistance in making it easier and safer for Florida's children in grades K-8 to walk or bicycle from home to and from public and private schools.
- This application was designed to help FDOT learn as much about your proposed project and current situation as possible. Please answer all sections completely and concisely.
- Before filling out your application, please read the current Safe Routes to School Guidelines posted on our website: [www.srtsfl.org](http://www.srtsfl.org). This website also identifies your District Safe Routes to School contacts, who are available to help you in the application process.
- Proposed projects must be within the school's attendance area and a two-mile radius from the school, on existing right of way. Preference will be given to projects closest to the school.
- In most FDOT Districts, infrastructure projects are constructed using the Local Agency Program (LAP) process, under which a local government constructs the project to federal and state standards, and is then reimbursed. For more information, call your District SRTS contact and see: [www.dot.state.fl.us/projectmanagementoffice/lap/default.htm](http://www.dot.state.fl.us/projectmanagementoffice/lap/default.htm)
- Completed applications are submitted to the District Safe Routes to School contacts, who rank and forward projects to the State Safe Routes to School Coordinator for approval.
- This Call for Applications is for Fiscal Year 2010 funds, contingent on the renewal of the Safe Routes to School Program in the next federal Transportation Bill. Although not guaranteed, we expect the program to continue beyond the current 2005-2009 cycle.

## Important Dates for this Cycle

- |   |                   |
|---|-------------------|
| • Call for Applications opens             | November 30, 2007 |
| • Deadline for submission of Applications | April 30, 2008    |
| • Notification of selection               | by November, 2008 |

## Application Guidance

1. The Infrastructure application is in Microsoft Word and is designed to be filled in electronically. Answer blocks will expand as needed. An alternate Adobe Acrobat version is available for those who do not have access to Microsoft Word. If using this version, please type your answers in the spaces provided.
2. Applications are limited to 20 pages, including all attachments.
3. Maps and/or aerial photographs may be 8 ½" x 11" or 11" x 17". These should be in color and show the location of the project school or schools, as well as the names of all streets relevant to walking and/or bicycling routes in your application.
4. Include a map and/or aerial photograph, and color digital photographs showing the existing conditions (sidewalks, bike lanes, crosswalks, school zones, traffic engineering, etc).
5. Include a separate map and/or aerial photograph showing the proposed improvements.
6. If not included in the two maps or aerial photographs described above, include one or more maps and/or aerial photographs showing 1) the location of the school 2) the school's attendance area, 3) a two-mile radius around the school, 4) the adopted school walking map (optional) and 5) a map showing where children attending the school live (optional).
7. Send 1) the original stapled application and 2) if possible, a CD with a pdf copy and scanned signatures, to the appropriate District Safety Office, by the submission deadline.



# Florida's Safe Routes to School Infrastructure Application



## Notes

- All applicable parts of Section 1 must be completed.
- Signatures confirm the commitment of the Applicant and Maintaining Agency to follow the Guidelines of the Federal Highway Administration and Florida's Safe Routes to School Program.
- The Maintaining Agency is generally responsible for entering into a Local Agency Program (LAP) agreement with the FDOT to design, construct, and maintain the project. Districts have the option to design and/or construct the project, but the Maintaining Agency is always responsible for maintaining the project.

Section 1 – School, Applicant & Maintaining Agency Information			
Name of school: SUNNY		County:	
<b>The Applicant must be one of the agencies or organizations listed below:</b>			
<input type="checkbox"/> School Board	<input type="checkbox"/> Private School	<input type="checkbox"/> Community Traffic Safety Team	
Agency/Organization Name:			
Contact Person:		Title:	
Daytime Phone:	Fax:	E-mail:	
Mailing Address:			
City:	State: Florida	Zip:	
Signature:	Typed name:	Date:	
<b>Signature of School Board or school representative required when different from applicant:</b>			
Signature:	Typed name:	Date:	
<b>The Maintaining Agency must be one of the agencies listed below:</b>			
<input type="checkbox"/> City	<input checked="" type="checkbox"/> County	<input type="checkbox"/> Florida Department of Transportation	
Agency/Organization Name: CITY OF KEY WEST			
Contact Person: JIM SCHOLL		Title: CITY MANAGER	
Daytime Phone:	Fax:	E-mail:	
Mailing Address:			
City:	State: Florida	Zip:	
Your signature indicates your agency's willingness to enter into a formal agreement with FDOT to complete the project if selected for funding.			
Signature:	Typed name:	Date:	
<b>MPO Support: If the city or county is located within an MPO urban area boundary, the MPO must also sign this application to indicate support for the proposed project.</b>			
Agency/Organization Name: NO MPO			
Contact Person:		Title:	
Daytime Phone:	Fax:	E-mail:	
Mailing Address:			
City:	State: Florida	Zip:	
Signature:	Typed name:	Date:	
<b>Designated Contact: Check below the primary contact (the one the District should coordinate with):</b>			
<input type="checkbox"/> Applicant	<input type="checkbox"/> Maintaining Agency	<input type="checkbox"/> MPO	

## Section 2 – Eligibility Criteria

This section will help FDOT determine the feasibility of the proposed project.  
 Except for question 6, answering "No" does not constitute elimination from project consideration.

1. Does the project have public support?  Yes  No

*If yes, attach up to 10 letters of support (on official letterhead) from organizations such as Parent Teacher Associations, Law Enforcement, Citizen's Advisory Committees & Bicycle/Pedestrian Advisory Councils. The letters should indicate why and how they can support the project and SRTS.*

2. Is the Maintaining Agency Local Agency Program (LAP) Certified? (i.e., willing to enter into a State agreement requiring the agency to design, construct, and/or maintain the project, abiding by Federal, State, and local requirements)  Yes  No

*If no, are they willing to become LAP Certified?*  Yes  No

3. Who do you propose to be responsible for each phase of the project?

Design:  City  County  Other, including FDOT (explain below):

Construction:  City  County  Other, including FDOT (explain below):

Maintenance:  City  County  Other, including FDOT (explain below):

Explanation of Other responsible party, including who you have been talking to about this:

4. Is the County/City/MPO willing to enter into an agreement with FDOT to do the following, if the District decides this is the best way to get the project completed:

Install and/or maintain any traffic engineering equipment included in this project?  Yes  No

Construct and maintain the project on a state road?  Yes  No

5. Is sufficient existing public right of way available to support this project?  Yes  No

*If yes, describe its width and condition:* **ENGINEERING**

*If no, is acquisition or dedication of a permanent public access planned?*  Yes  No

*If applicable, please explain these plans:*

6. If the project is funded, does the applicant agree to provide required data before and after the project is built, using the student travel and parent survey forms developed by the National Center for Safe Routes to School (<http://www.saferoutesinfo.org/resources/index.cfm>) and following the schedule provided by the District?  Yes  No

**Section 3A: Background Information Planning**

SRTS projects are most successful as part of a comprehensive planning process. Has your school used the Florida Safe Ways to School Tool Kit, or a similar planning process to develop its proposals? (see [http://www.dcp.ufl.edu/centers/trafficSafetyEd/html\\_safe-ways.html](http://www.dcp.ufl.edu/centers/trafficSafetyEd/html_safe-ways.html))

Yes       No

*If yes, explain below the planning process and who participated in it.*

SUNNY

*If no, explain below your plans for a SRTS planning process.*

**Section 3B – Background Information: Five E's**

SRTS is designed to be a comprehensive program, encompassing the Five E's listed below. Describe what efforts your school has made to address the identified problem through each E so far, and what is planned in the future. Each box must be filled in.

<b>Past</b>	<b>Future</b>
<b>Engineering:</b> SUNNY. ANNALISE TO SUPPLY BUZ WORDS	<b>Engineering:</b>

If your school has taught or plans to teach the Florida Traffic and Bicycle Safety Education Program (FTBSEP) or similar program, please provide details in the Past Education box. For more information on FTBSEP, see <http://www.dcp.ufl.edu/centers/trafficSafetyEd/>

<b>Education:</b>	<b>Education:</b>
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<b>Encouragement:</b>	<b>Encouragement:</b>
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<b>Enforcement:</b> JIM MALCOLM/KWPD TRAFFIC OFFICER	<b>Enforcement:</b>
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<b>Evaluation:</b>	<b>Evaluation:</b>
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**Section 4 – Problem Identification**

Explain below what obstacles exist to prevent children walking and bicycling to/from your school

JIM MALCOLM

Provide a brief history of the neighborhood traffic issues to provide background for the proposed project.

JIM MALCOLM

Provide demographic information on the affected student population. For example, what percent of students are eligible for the free or reduced lunch program? Do the students come from two-parent households, or not? Are one or both parents working?

SUNNY

Provide any additional information that helps describe the problem.

**Section 4 - Current Conditions**

**LOCATION**

#1 Street Name: \_\_\_\_\_ From: \_\_\_\_\_ To: \_\_\_\_\_

Maintaining Agency:  City  County  State

#2 Street Name: \_\_\_\_\_ From: \_\_\_\_\_ To: \_\_\_\_\_

Maintaining Agency:  City  County  State

Project begins how far from the school? (attach a map illustrating the area)

0 to 1/2 mile  1/2 to 1 mile  1 to 1 1/2 miles  1 1/2 to 2 miles

Discuss below the project's proximity (within 2 miles) to other facilities (other schools or colleges, parks or playgrounds, libraries, or other pedestrian destinations) which might also benefit from the project.

ENGINEERING

**ROADWAY CHARACTERISTICS**

Roadway Type:  Urban (curb & gutter)  Rural (check shoulder type):  Paved  Grass

Shoulder Type:  Grass  Paved  Curb

Shoulder Grade:  Flat  Steep-Up  Steep-Down

Drainage:  Swale  Concrete Ditch  Curb/Gutter

Status of walking surface:  No walking surface, paved or unpaved  Unpaved surface  
 Paved surface with gaps  Continuous paved sidewalks

Write below your comments on status of the current walking surface:

JIM MALCOLM

Write below your comments on other existing facilities (bike lanes, multi-use paths, school zone signs & markings, marked crosswalks, bike parking, etc):

JIM MALCOLM

**TRAFFIC CONTROLS**

Mark all that apply in regard to traffic control devices:

- We need pedestrian features  We need other school-related signals  
 We need traffic signs  We need marked crosswalks  
 We need other roadway markings  We have what we need

**DATA**

**Traffic Conditions**

Average Annual Daily Traffic (AADT): \_\_\_\_\_ Posted Speed Limit: \_\_\_\_\_ Operating Speed: \_\_\_\_\_

**Crash History in Study Area (all ages)**

Provide as much crash data history as you can. Your FDOT District Safety Engineer and/or local law enforcement agency should be able to help you get this data.

Year	2002	2003	2004	2005	2006
Ped injuries	ANNALISE				
Ped fatalities					
Bike injuries					
Bike fatalities					
<b>Totals</b>					



**Section 6 - Specific Infrastructure Improvement(s) Requested**

Request #1 Street Name: SUNNY/ANNALISE

From: \_\_\_\_\_ To: \_\_\_\_\_

Number of K to 8<sup>th</sup> grade children using route or facility: \_\_\_\_\_ Current: \_\_\_\_\_ Potential\*: \_\_\_\_\_

Request #2 Street Name: \_\_\_\_\_

From: \_\_\_\_\_ To: \_\_\_\_\_

Number of K to 8<sup>th</sup> grade children using route or facility: \_\_\_\_\_ Current: \_\_\_\_\_ Potential\*: \_\_\_\_\_

*\*Potential applies only to those along or within ¼ mile of proposed route*

**Sidewalk, Bike Lane, Paved Shoulder, or Shared Use Path**

Continuation of Existing Sidewalk  New Sidewalk

Continuation of Existing Bike Lane  New Bike Lane (includes re-striping or reconstruction)

Continuation of Paved Shoulder  New Paved Shoulder

Continuation of Shared Use Path  New Shared Use Path

Comments: describe below your requests in detail, including location, length, side of road, etc.

JIM MALCOLM/KAREN OLSEN

**Traffic Control (signs, signals, crosswalks, school zone signs, roadway markings, etc.)**

Within school zone or school area  Outside of school zone or school area

Is your Traffic Control request based on a Traffic or Engineering Study?  Yes  No

Comments: describe below your requested traffic control changes (signs, signals, roadway markings, crosswalks, school zones, etc.)

?

**Other Requests (includes bike parking, traffic calming, or other improvements not listed above)**

Describe below the location and project characteristics of this request. If bike parking is requested, include the current and potential numbers of K-8 students who could use the facilities. If traffic calming is requested, describe the posted speed, operating speed, whether a speed study has been done, and your efforts to work with law enforcement and the community to solve the speeding problems.

JOE APRIL/JIM MALCOLM

**Other Information**

Add below any other relevant information that you believe further supports funding (for example, it's an identified missing link in a local Bike/Ped Plan or it allows both bike and pedestrian usage)

JIM MALCOLM

### Section 7 A- Cost Estimate

**Notes:**

- This Cost Estimate is designed to give FDOT a reasonable estimate of the cost of your proposed project.
- This FDOT website gives various resources, including FDOT District contacts who can help you with your cost estimate: <http://www.dot.state.fl.us/planning/policy/costs/default.asp>
- If your project is seriously considered for funding, your District will prepare a detailed cost estimate which may be different from the one below
- Some Districts may choose to do the design work themselves or ask the local agencies to use their own resources to design low cost projects. Contact your District Safety Engineer to find out how your District intends to handle this issue.

Construction Cost	KAREN OLSEN
Maintenance of Traffic (MOT)	
Mobilization	
Subtotal	
Contingency (15% of Subtotal)	
Total Construction Cost	
Professional Engineering Design (15% of Total)	
Construction Engineering and Inspection (CEI) (15% of Total)	
<b>Grand Total</b>	

### Section 7 B- Cost Estimate Narrative

Explain below :

- 1) who figured the Cost Estimate and
- 2) how you arrived at the estimated amounts. If you can, include a breakdown of the construction cost by pay item.

1) ENGINEERING

2)

## **Application Check List**

*(Keep for your records)*

Your completed application must include:

- A cover letter or letter of introduction
- Application fully completed and signed by the Applicant, Maintaining Agency, and MPO if applicable
- Color maps and/or aerial photographs showing the following (some of these can be shown on the same maps or aerial photographs)
  - Existing conditions (sidewalks and gaps, bike lanes, multi-use paths, marked crosswalks, school zones, traffic engineering, bicycle parking, etc)
  - Proposed improvements
  - Location of the school
  - The school's attendance area
  - A two-mile radius around the school

These additional attachments are not required but please include as much information as possible to give the reviewers the information they need to evaluate your proposal:

- Adopted school walking map
- Map showing where children attending the school live
- Color digital photographs showing the existing conditions (sidewalks, bike lanes, crosswalks, school zones, traffic engineering, etc).
- Detailed crash data reports
- Traffic or engineering reports evaluating the problems and proposing solutions
- Up to 10 letters of support, on official letterhead, from community support agencies or organizations, explaining:
  - 1) Why they support the project and
  - 2) How they can provide specific support to the school's SRTS program.