

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**SCENIC HIGHWAY
JOINT PARTICIPATION AGREEMENT**

Sample

ITEM-SEGMENT-PHASE-SEQUENCE	Fund: _____ Function: _____	SAMAS Approp: _____
Contract No: _____	Federal No: _____	SAMAS Obj.: _____
	Catalog of Federal Domestic Assistance	Org. Code: _____
	Number: _____	Vendor No: _____

THIS AGREEMENT, made and entered into this _____ day of _____, 19_____,
by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida,
hereinafter referred to as the Department, and _____

hereinafter referred to as the AGENCY,

W I T N E S E T H:

WHEREAS, the Agency has the authority to enter into this Agreement and to undertake the project hereinafter described, and the Department is authorized under Sections 335.093, 339.08(2)(j), and 339.155(2)(a)4., Florida Statutes and Florida Administrative Code Chapter 14-12, to enter into this Agreement;

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

1.00 The Project: The Agency shall prepare a Corridor Management Plan (the "Plan") for the proposed designation of State Road _____ from _____ to _____ as a scenic highway, hereinafter referred to as the "Project." The Plan shall be prepared in accordance with the provisions of the version of the Department's Florida Scenic Highways Program Manual in effect as of the date of the execution of this Agreement (the "Manual"), which manual, including all appendices and other provisions thereof, is by this reference incorporated herein and made a part hereof.

2.00 Accomplishment of the Project:

2.10 General Requirements: The Agency shall commence, and complete the Project with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws.

2.20 Pursuant to Federal, State, and Local Law: 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.

2.40 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 may require as set forth in the Manual.

3.00 Project Cost: The total estimated cost of the Project is \$_____. The Agency agrees to bear all expenses in excess of the total estimated cost of the Project.

4.00 Department Participation: The Department agrees to maximum participation, including contingencies, in the Project in the amount of \$_____. The Agency agrees to bear all expenses in excess of the Department's participation.

5.00 Retainage: Retainage (is) (is not) applicable. If applicable, _____ percent of the Department's total share of participation as shown in paragraph 4.00 is to be held in retainage to be disbursed, at the Department's discretion, on or before the completion of the final Project audit.

6.00 Payment Provisions: 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.

7.00 Accounting Records:

7.10 Establishment and Maintenance of Accounting Records: The Agency shall establish for the Project, in conformity with requirements established by 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.

7.20 Funds Received Or Made Available for The Project: The 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 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.

7.30 Costs Incurred for the Project: The Agency shall charge to the Project account all eligible costs of the Project.

7.40 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.

7.50 Checks, Orders, and Vouchers: Any check or order drawn by the 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 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 all other such documents.

7.60 Audit Reports:

1. All 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 federal agency. State grant and aid funded grants are to be identified with the Financial Project Number (FPN) and contract number.
2. Audits shall be conducted under the guidelines of A-133, Section 216.349, Florida Statutes, and Chapter 10.600,

Rules of the Auditor General.

3. For fiscal years beginning after June 30, 1998, the reporting packages and data collection forms are to be submitted within the earlier of 30 days after the receipt of the auditor's report, or 9 months after the end of the subrecipient's (Agency's) fiscal year. The date the audit report was delivered to the subrecipient (Agency) must be indicated by the subrecipient (Agency) in correspondence accompanying the audit report, or reporting package, and data collection form.
4. The Agency shall follow up and take corrective action on audit findings. A-133 further requires the preparation of a summary schedule of prior audit findings and a corrective action plan for current year audit findings.
5. Project records shall be retained and available for at least three years after the final payment. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved.

Reports of audits conducted in accordance with OMB Circular A-133, and corresponding data collection forms shall be sent to:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jefferson, IN 47132

and the District Public Transportation Office
identified in paragraph 8.10 of this agreement.

Reports of audits conducted in accordance with Section 216.349, Florida Statutes, and Chapter 10.600 Rules of the Auditor General shall be sent to:

State of Florida Auditor General
P.O. Box 1735
Tallahassee, FL 32302-1735

and the District Public Transportation Office
identified in paragraph 8.10 of this agreement.

8.00 Requisitions and Payments:

8.10 Action by the Agency: In order to obtain any Department funds, the Agency shall file with the Department of Transportation, District _____ its requisition on a form or forms prescribed by the Department, and other data pertaining to the Project account (as defined in paragraph 7.10 hereof) to justify and support the payment requisitions.

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

8.12 Invoices for any travel expenses shall be submitted in accordance with Chapter 112.061, F.S. The Department may establish rates lower than the maximum provided in Chapter 112.061, Florida Statutes.

8.20 The Department's Obligations: Subject to other provisions hereof, the Department will honor such requisitions 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 on the Project if:

8.21 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 or data furnished therewith or pursuant hereto;

8.22 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;

8.23 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;

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

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

8.26 Federal Participation (If Applicable): Any federal agency providing federal financial assistance to the Project suspends or terminates federal financial assistance to the Project. In the event of suspension or termination of federal financial assistance, the Agency will reimburse the Department for all disallowed costs.

9.00 Termination or Suspension of Project:

9.10 Termination or Suspension Generally: If the Agency abandons or, before completion, finally discontinues the Project; or if, by reason of any of the events or conditions set forth in paragraphs 8.21 to 8.26 inclusive, or for any other reason, the commencement, prosecution, or timely completion of the Project by the Agency is rendered improbable, infeasible, impossible, or illegal, the Department will, 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 any or all of its obligations under this Agreement.

9.11 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: (1) 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 the minimum the costs 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 under the provisions of the Agreement. The approval of a remittance by the 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.

9.12 The Department reserves the right to unilaterally cancel this Agreement for refusal by the contractor or Agency 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.

10.00 Remission of Project Account Upon Completion of Project: Upon completion of the Project, and after payment, provision for payment, or reimbursement of all Project costs payable from the Project account is made, the Agency shall remit to the Department its share of any unexpended balance in the Project account.

11.00 Audit and Inspection: The 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 pertaining to the financing and development of the Project.

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12.00 Contracts of the Agency:

12.10 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 joint participation funds, including consultant, construction or purchase of commodities contracts or amendments thereto, with any third party with respect to the Project without full compliance with the applicable provisions of Chapter 287 of the Florida Statutes.

13.00 Restrictions, Prohibitions, Controls, and Labor Provisions:

13.10 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, creed, color, sex or national origin. 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, 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 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.

13.20 Title VI - Civil Rights Act of 1964: Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 Statute 252), the Regulations of the Federal Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

13.30 Title VIII - Civil Rights Act of 1968: Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VIII of the Civil Rights Act of 1968, 42 USC 3601, et seq., which among other things, prohibits discrimination in housing on the basis of race, color, national origin, religion, sex, disability and familial status.

13.40 Americans with Disabilities Act of 1990 (ADA): Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by the ADA, the regulations of the federal government issued thereunder, and the assurance by the Agency pursuant thereto.

13.50 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 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 Agency, the 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 Agency 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 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 Agency and its fiscal depositories, or to any agreement for utility services the rates for which are fixed or controlled by a Governmental agency.

13.60 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.

14.00 Miscellaneous Provisions:

14.10 Environmental Pollution: Execution of this Joint Participation Agreement constitutes a certification by the Agency that the Project will be carried out in conformance with all applicable environmental regulations including the securing of any applicable permits. The 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.

14.20 Department Not Obligated to Third Parties: The Department shall not be obligated or liable hereunder to any party other than the Agency.

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

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

14.50 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.

14.60 State or Territorial Law: Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision 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 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.

14.70 Contractual Indemnity: To the extent provided by law, the 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 Agency, its agents, or employees during the performance of the Agreement, except that neither the 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 either party receives a notice of claim for damages that may have been caused by the other party in the performance of services required under this Agreement, that party will immediately forward the claim to the other party. Each party will evaluate the claim and report its findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim.

15.00 Appropriation of Funds:

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15.10 The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

15.20 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 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 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 dollars and which have a term for a period of more than 1 year."

16.00 Expiration of Agreement: The Agency agrees to complete the Project on or before _____ . If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the District Secretary, District _____. Expiration of this Agreement will be considered termination of the Project and the procedure established in paragraph 9.00 of this Agreement shall be initiated.

16.10 Final Invoice: The 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.

17.00 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.

18.00 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 in the same instrument.

19.00 Restrictions on Lobbying: No funds received pursuant to this contract may be expended for lobbying the Legislature or a state agency.

20.00 Vendors Rights: Vendors (in this document identified as Agency) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has five (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 Banking and Finance. 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) will be due and payable, in addition to the invoice amount to the 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 (1) dollar will not be enforced unless the Agency requests payment. Invoices which have to be returned to an 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 Banking and Finance. 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 (904)488-2924 or by calling the State Comptroller's Hotline, 1-800-848-3792.

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21.00 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 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 s. 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list."

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

AGENCY

FDOT

NAME: _____

See attached Encumbrance Form for date of Funding Approval by Comptroller

BY: _____

LEGAL APPROVAL
DEPARTMENT OF TRANSPORTATION

TITLE: _____

DEPARTMENT OF TRANSPORTATION

TITLE